

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: January 13, 2021

CASE: 2020-00365R

Citation: Baljak v. Halton Condominium Corporation No. 371, 2021 ONCAT 2

Order under section 1.41 of the *Condominium Act, 1998*.

Member: Ian Darling, Chair

The Applicant,

Nada Baljak

Self-Represented

The Respondent,

Halton Condominium Corporation No. 371

Represented by Andrea Kasneci, Agent

Hearing: Written Submissions - December 21, 2020 to December 30, 2020

MOTION ORDER

A. INTRODUCTION

- [1] On November 20, 2020, Nada Baljak (the “Applicant”) filed a case with Condominium Authority Tribunal (“CAT”) for an order directing Halton Condominium Corporation No. 371 (HCC 371) (the “Respondent”) to provide Board meeting minutes for a meeting held in August 2020, pursuant to the *Condominium Act, 1998* (the “Act”).
- [2] HCC 371 joined the case on December 10, 2020. On December 21, 2020, the Respondent submitted a motion to dismiss the case because the Applicant had sold their condominium unit on December 3, 2020 and was no longer entitled to obtain records under the Act.
- [3] Neither party has disputed that the Applicant was a unit owner of HCC 371 when the request was made. There is no dispute that the Applicant has sold their unit.
- [4] For the reasons set out below, I find that the Applicant is no longer a person entitled to obtain copies of condominium records under s. 55 of the Act. I grant the motion and dismiss the case.

B. ISSUE & ANALYSIS

[5] The Act grants the right to access of condominium records. Subsection 55(3) of the Act sets out who is entitled to examine or obtain records related to a condominium. This section states that:

The corporation shall permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing, to examine or obtain copies of the records of the corporation in accordance with the regulations...

[6] The regulation referred to in subsection 55(3) of the Act is Ontario Regulation 48/01. The Act and Regulation detail the method for an owner to request condominium records, and the responsibilities of the corporation to respond to the request.

[7] The issue of whether an applicant has standing to continue a case after a unit has been sold has previously been considered by the CATⁱ. In those cases, the applicants also sold their units while a CAT case was active. The respondent condominium corporations asked the CAT to dismiss the cases because the applicants were no longer entitled to access the records due to the sales of their units. In each of those instances, the CAT decided that the applicant lost their status to continue and dismissed the case.

[8] The Respondent brought this motion on the basis that the Applicant is not entitled to access records. HCC 371 submits that the Applicant lost the ability to continue the CAT case when the sale was completed.

[9] In their submissions, the Applicant focused on the unfairness of allowing the Respondent to delay releasing the records due to the sale. The Applicant stated that they would have received the minutes if the Respondent had responded to the request on time. Based on the evidence and submissions before me, I see that the Respondent provided all but one set of minutes that the Applicant requested. I cannot conclude that the Respondent ignored or delayed its response in order to run out the clock to avoid providing the record.

[10] Subsection 55(3) of the Act specifies that “an owner,…” is entitled to examine and obtain records of the corporation. The Act establishes that the person requesting the record must be an owner when the records are requested, and when they are examined or obtained. Therefore, the entitlement to examine or obtain the record does not extend past when the ownership ends.

C. CONCLUSION

[11] I find that the Applicant had standing to submit the case to the Tribunal when the case was filed. Since the case related to their entitlement to examine or obtain the records (section 55(3) of the Act), the entitlement to the records ends when the unit is sold. Therefore, HCC 371's motion is granted, and this case is dismissed.

ORDER

[12] The Tribunal orders that this motion is granted, and the case is dismissed. No order will be issued as to costs.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: January 13, 2021

ⁱ Nassios v. Grey Standard Condominium Corporation No. 46, 2019 ONCAT 26 ("Nassios 1"); Nassios v Grey Standard Condominium Corporation No. 46, 2019 ONCAT 33 ("Nassios 2"); Senchire v Metropolitan Toronto Condominium Corporation No.856, 2019 ONCAT 32; Varadi v Metro Toronto Condominium Corporation No. 614, 2019 ONCAT 41; and William Siudak v Wentworth Condominium Corporation No. 171, 2019 ONCAT 43.