

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** March 3, 2021

**CASE:** 2021-90000R

**Citation:** Yeung v. Metropolitan Toronto Condominium Corporation No. 1136, 2021 ONCAT 17

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

**Member:** Ian Darling, Chair

**The Applicant,**

Kai Sin Yeung  
Self-Represented

**The Respondent,**

Metropolitan Toronto Condominium Corporation No. 1136

**Hearing:** Written Submissions – January 26, 2021 to February 11, 2021.

### **MOTION DECISION**

#### **A. INTRODUCTION**

- [1] Kai Sin Yeung (“the Applicant”), is an owner in Metropolitan Toronto Condominium Corporation No. 1136 (“MTCC 1136” or “the Respondent”). In December 2020 the Tribunal dismissed two CAT cases filed by the Applicant and ordered that they must obtain permission from the Tribunal before filing any new applications ([Yeung v. Metropolitan Toronto Condominium Corporation No. 1136, 2020 ONCAT 45](#) (“ONCAT45”)).
- [2] On January 22, 2021, the Applicant requested permission to submit a new application. The CAT requested additional submissions from the Applicant. After reviewing the Applicant’s response, I determined that I could decide the issue without submissions from MTCC 1136.
- [3] For the reasons that follow, the request to submit a new application is denied.

#### **B. ISSUES & ANALYSIS**

##### **Should the CAT permit the applicant to file a new case?**

- [4] The Applicant stated that they should be allowed to file a new case because the condominium corporation did not fully respond to their record request made in November 2020. The request was for minutes from one meeting and for invoices

totalling \$9571.10 which would support a transfer of \$9571.10 from the reserve to operating accounts of the corporation to pay for four projects. MTCC 1136 provided the minutes and four invoices totalling \$9571.10. The Applicant stated that the invoices only related to two of the four projects identified in the minutes. The Applicant also indicated they needed to bring the case to the Tribunal because the board had stated that all the records had been provided. The Applicant asserts that they have not fulfilled the request because the invoices only relate to two of the four projects.

- [5] The Applicant's desired resolution was for the CAT to order MTCC 1136 to provide additional invoices for the remaining projects. On its face, I see that the Applicant requested and received invoices for work totalling \$9571.10. Rule 17 (a) of the CAT's Rules of Practice allows the Tribunal to dismiss an application if the issues in dispute are so minor that it would be unfair to make the Respondent go through the CAT process to respond to the Applicant's concerns.
- [6] In reviewing the request to file a case I find that the circumstances of the case are consistent with the intent of Rule 17 (a). The Applicant has invoices that match the amount of the transfer referenced in the minutes. I conclude the records match the request. There is no refusal to provide records, and therefore no basis for a penalty. I conclude that the issues in this case are so minor that it would be unfair and disproportionate to require MTCC 1136 to respond.
- [7] I note that the Applicant said that they are filing cases, not out of an intent to vex either MTCC 1136 or the Tribunal. They want to ensure that the corporation is properly managed. I recognize that this is may be a valid concern, but it cannot be separated from the finding that the previous cases were filed in a vexatious manner.
- [8] The Tribunal applied the criteria for vexatious conduct outlined in *Lang Michener et al v. Fabian et al* (1987) [1987 CanLII 172](#) (ON SC), 59 O.R. (2nd) 353 where the following criteria were established to identify a vexatious proceeding:
- bringing of one or more actions to determine an issue which has already been determined;
  - where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief;
  - bringing a proceeding for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;
  - rolling forward grounds and issues into subsequent actions; and
  - persistently taking unsuccessful appeals from judicial decisions.
- [9] In ONCAT 45, the Tribunal established that there was a pattern of conduct consistent with the criteria of vexatious conduct:

- The Applicant submitted several cases where it was obvious that the case cannot succeed.
- CAT Applications identified minor, or clerical issues, and requests for substantial penalties were brought for purposes other than the assertion of legitimate rights.
- Applications rolled forward grounds and issues into subsequent actions.
- The frequency of new Applications increased, and the Tribunal therefore concluded that without limiting new Applications, this pattern will continue.

[10] Based on the facts before me, I conclude that the basis for this request to submit a new case is consistent with the circumstances that led to the requirement that the Applicant seek permission from the CAT before filing any new Applications. The request to submit a new Application is denied.

**C. ORDER**

[11] The motion is denied.

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Ian Darling  
Chair, Condominium Authority Tribunal

Released on: March 3, 2021