

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 8, 2021

CASE: 2021-00146R

Citation: Niekraszewicz v. York Region Condominium Corporation No. 835, 2021 ONCAT 61

Order under Rule 4 of the Condominium Authority Tribunal's Rules of Practice.

Member: Marc Bhalla, Member

The Applicant,

John Niekraszewicz

Self-Represented

The Respondent,

York Region Condominium Corporation No. 835

MOTION ORDER

- [1] The Applicant is a condominium unit owner seeking records from the Respondent condominium corporation. The Stage 2 Summary and Order in this case refers to two Request for Records made in March 2021. The Applicant wants to include issues from three more records requests in the Stage 3 Tribunal Decision hearing, made in April and May 2021.
- [2] The requests of March 2021 ask for the condominium's insurance certificate and financial statements. The April 2021 request asks for the condominium's insurance application and the Record of Owners and Mortgagees. The May 9, 2021 request asks for Periodic Information Certificates, meeting minutes and notice of the termination of the condominium's insurance policy. The May 11, 2021 request asks for the reconciliation of bulk hydro billings. The central issue for all requests is if the Applicant is entitled to the records requested.
- [3] The Applicant submits that the Respondent has not fully addressed their requests. The Applicant has also indicated that the Respondent has not responded to their two requests of May 2021.
- [4] In deciding if more issues should be included in the hearing, I must balance efficiency, focus and fairness. This Tribunal's Rule 4.1 speaks to offering "a fair,

focused and efficient process". It would be efficient for the CAT to deal with the issues in all requests in one hearing. My consideration turns to fairness and focus.

- [5] I invited the parties to consider *Russell v. York Condominium Corporation No. 50, 2021 ONCAT 37* ("Russell"), where issues relating to a fourth Request for Records were added to the hearing. The Applicant submits that their records requests are all related and their motion is like Russell. The Respondent made no submissions.
- [6] In Russell, the respondent consented to adding further issues into the hearing. The Respondent has not consented to adding to the scope of issues of this hearing. As it did not take part, the Respondent has not objected either. In neither Russell nor this case were objections made to the merger of issues.
- [7] In considering how the Respondent may be affected if I granted the Applicant's motion and included more issues in this case:
1. The Applicant confirmed they remain open to mediating. If I were to grant the motion, there remains a chance for the Respondent to work with the Applicant. I encourage the Respondent to do so.
 2. Granting the motion would not affect the Respondent's chance to reply to the Applicant's records requests. More than 30 days passed for the Respondent to reply to each of the Applicant's Request for Records before I heard the motion.
 3. The main issue to be decided for all requested records is if the Applicant is entitled to them. Granting the motion would not change the scope, focus or nature of this case much.
- [8] I do not have anything before me that suggests granting the motion would prejudice the Respondent or lack fairness. Denying it would complicate addressing the issues between the parties.
- [9] The Applicant submits that their requests relate to the same underlying concern. It is clear how most of the requests are related. The Applicant is focused on obtaining specific records. A limited total number of records are sought. Denying the merger of all issues would make the Applicant have to file a separate case with the CAT, adding cost and delaying the resolution of the issues between the parties. It is practical and more effective for me to address all issues in this proceeding. I am satisfied that the Stage 3 Tribunal Decision hearing would be efficient, focused and fair if the Applicant's motion is granted. I find the five Request for Records to be related and merger of all issues therein to be appropriate.

ORDER

[10] I order that the Applicant's Request for Records of April 22, 2021, May 9, 2021 and May 11, 2021 be included in the issues to be addressed in the hearing of this case.

Marc Bhalla
Member, Condominium Authority Tribunal

Released on: July 8, 2021