

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 20, 2021

CASE: 2020-00340N

Citation: Kong v. Toronto Standard Condominium No. 1959, 2021 ONCAT 69

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

Member: Laurie Sanford, Member

The Applicant,
Merg Kong
Self-Represented

The Respondent,
Toronto Standard Condominium Corporation No. 1959
Represented by Bradley Chaplick, Counsel

The Intervenor,
Toronto Standard Condominium Corporation No. 1862
Represented by Evan Holt, Counsel

MOTION ORDER

- [1] Ms. Kong, a unit owner in Toronto Standard Condominium Corporation No. 1959 ("TSCC1959"), has applied to the Condominium Authority Tribunal (the "CAT") for an order directing TSCC1959 and Toronto Standard Condominium Corporation 1862 ("TSCC1862") to install, at their expense, an Electric Vehicle Charging Station ("EVCS") in their shared garage common area. She submits that the Declarations of TSCC1959 and TSCC1862 require them to do the installation. She also relies on the provisions of several statutes, including the *Human Rights Code*, R.S.O. 1990 c. H.19. She is requesting the EVCS be installed as an accommodation for her disability.
- [2] TSCC1959 has brought this motion for the late disclosure of security camera footage from its underground garage. The footage purports to show Ms. Kong carrying a golf bag with clubs through in the underground garage. TSCC1862 supports the motion and Ms. Kong contests it.
- [3] While there were disclosure deadlines set in this matter, the CAT can control its own processes, which includes the right to vary directions given to the parties. Under Rule 34.8 of the CAT Rules of Practice, effective September 21, 2020, the

CAT may allow late disclosure documents, information, or evidence.

- [4] In this case, the footage was taken on June 30, 2021, shortly before the deadline for disclosure. TSCC1959 submits that there were technical issues that prevented the footage from being available earlier. The evidence may be relevant as it may deal with the nature of Ms. Kong's disability. While Ms. Kong contests the motion, she does not appear to regard the footage as prejudicial. She submits that the golf bag and clubs are very light, that she is supposed to be getting exercise and that the walking motion that may be expected to be shown in the security camera footage is different from the sorts of motions she cannot easily do due to her disability.
- [5] The hearing of testimony in this case has not commenced. Ms. Kong has requested additional time to gather and disclose rebuttal evidence. I will grant her two weeks to assemble and post such evidence before hearing any testimony.
- [6] Ms. Kong submits that TSCC1959 has previously dismissed her video and pictorial evidence. However, Ms. Kong has disclosed photographic evidence in this proceeding and will be entitled to rely on it at the hearing.
- [7] For all the above reasons, I am granting this motion and permitting TSCC1959 to disclose the security camera footage.

ORDER

- [8] The motion for late disclosure of certain security camera footage is granted.
- [9] Ms. Kong will have two weeks from the release of this Order to upload any rebuttal evidence.

Laurie Sanford
Member, Condominium Authority Tribunal

Released on: July 20, 2021