

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: January 19, 2022

CASE: 2021-00404R

Citation: Mistry v. Peel Common Elements Condominium Corporation No. 989, 2022 ONCAT 7

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

Member: Anne Gottlieb, Member

The Applicant,

Mr. Mukeshkumar Mistry

Self-Represented

The Respondent,

Peel Common Elements Condominium Corporation No. 989

Represented by Mr. Evan Holt, Counsel

DISMISSAL ORDER

- [1] A Request for Records dated October 20, 2021 was the basis of this matter before the Condominium Authority Tribunal (the "Tribunal"). The Applicant, Mukeshkumar Mistry requested proxies from the AGM (annual general meeting) of October 19, 2021 and a list of owners and mortgagees.
- [2] The Applicant acknowledged receipt of the redacted proxies. A tally of the voting results was also provided. The list of owners and mortgagees was uploaded by the Respondent during Stage 2 of the tribunal process, which the Applicant accepted.
- [3] The records requested were provided and a condition known to the parties was fulfilled. The Applicant asked for further information, by way of follow up. The Respondent was unwilling to impart the information to the Applicant. The Applicant sought permission to proceed to Stage 3. I provided an explanation of the jurisdiction of the Tribunal.
- [4] I posted a message in the CAT ODR system outlining Rule 19.1 of the Tribunal's Rules of Practice. A Notice of Intent to Dismiss was issued on January 12, 2022. Both parties were given an opportunity to respond. I carefully considered the comments of each party.

[5] Under Rule 19.1, the Tribunal can dismiss an application if it determines that it has no legal power to hear or decide the dispute. Rule 19.1 states:

19. Early Dismissal

19.1 The CAT can dismiss an Application or Case at any time in certain situations, including:

- (a) Where a Case is about issues that are so minor that it would be unfair to make the Respondent(s) go through the CAT process to respond to the applicant(s)'s concerns;
- (b) Where a case has no reasonable prospect of success;
- (c) Where a Case is about issues that the CAT has no legal power to hear or decide;
- (d) Where the Applicant(s) is using the CAT for an improper purpose (e.g., filing vexatious Applications);
- (e) Where the Applicant(s) has filed documents with the CAT that the Applicant(s) knew or ought to have known contain false or misleading information;
- (f) Where the CAT has found that the Applicant has abandoned their Case because the Applicant no longer wants to continue or is no longer actively involved in the Case; or
- (g) Where the Respondent has not joined the Case and the Applicant has either not delivered all of the Notices as required, or where the Applicant has delivered all of the required notices but has not moved the Case forward to Stage 3 – Tribunal Decision

[6] Although I am not unsympathetic to the desire of the Applicant for more information, the records requested by the Applicant were provided and a condition agreed upon was fulfilled. In any event, it appears that the Applicant may have obtained or verified the information sought, through other means.

[7] Based on the facts of this case, I find that there were grounds for the filing of this case and for it to proceed to Stage 2. However, I find that now Rule 19.1 (b) and (c) apply to this file. Accordingly, I order that this case be dismissed.

ORDER

[8] The Tribunal orders that this application be dismissed in Stage 2 under Rule 19.1 of the Tribunal's Rules of Practice.

Anne Gottlieb
Member, Condominium Authority Tribunal

Released on: January 19, 2022