

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: April 8, 2022

CASE: 2021-00132R

Citation: Harder v. Metropolitan Toronto Condominium Corporation No. 905, 2022 ONCAT 31

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

Member: Noeline Paul, Member

The Applicant,

Lucas Harder
Self-Represented

The Respondent,

Metropolitan Toronto Condominium Corporation No. 905
Represented by Greg Marley, Counsel

MOTION ORDER

A. OVERVIEW

- [1] On March 11, 2022, the Condominium Authority Tribunal ("CAT") issued a Decision and Order ("Final Decision") in the Applicant's case. On March 29, 2022, the Applicant sent email correspondence to the CAT requesting a minor change to correct this decision pursuant to Rule 46 of the CAT's Rules of Practice. This request is considered a motion and the CAT has decided this motion without a hearing or without submissions from the other party in this case.
- [2] In his email of March 29, 2022, the Applicant asked for what he considers to be a typographical correction to a quote in paragraph 7 of the Final Decision. Specifically, the Applicant requests that a sentence in this paragraph, which references one of his Request for Records forms ("Request #2"), be re-phrased so that the sentence includes the exact text beside a checklist box that he ticked off on the prescribed form and that it also includes the exact words and numbers that he wrote on the form. The Applicant is concerned that without this alleged typographical correction, the information indicated in Request #2 would be open to interpretation.
- [3] For the reasons below I have granted the request for correction in part.

B. ISSUES & ANALYSIS

[4] The CAT has jurisdiction to make minor changes to correct or clarify decisions where needed under Rule 46 and, under Rule 46.5, the CAT can do so without hearing from the other party or giving any reasons for its response. The relevant provisions of Rule 46 are set out as follows:

46.1 The CAT may at any time correct a typographical error, a calculation error, or similar error in its Order or Decision.

46.2 The CAT may at any time make minor changes to an Order or Decision to clarify wording that is unclear or incorrectly stated.

46.3 A Party has 30 days after receiving the Order or Decision to ask the CAT to make this kind of minor correction or clarification. The Party must deliver their request to the other Parties and to the CAT.

...

46.7 This Rule cannot be used to ask a CAT Member to make substantive changes to their Order or Decision. If a Party makes a request for substantive changes, the CAT may refuse it without providing any further reasons.

[5] The CAT's discretion to make changes under Rule 46 cannot be used for substantive changes to a decision. This discretion is also not intended to be used to re-phrase sentences in order to enhance a decision or to respond to a party's particular preference of writing or referencing. Decisions of the CAT are meant to be final.

[6] With respect to the Applicant's specific request, the Applicant correctly notes that he wrote "2020/12/31" under the "Request for core records" section of Request #2 and that paragraph 7 of the Final Decision references this text in quotation marks as "December 31, 2020". Given that quotation marks are used in this reference, I agree that this text should be accurately and precisely written in the Final Decision. Therefore, I find that the phrasing should be amended to either include the precise text that the Applicant wrote, or the quotation marks should be removed. I find that it is sufficient to remove the quotation marks in this case. While the Applicant would prefer that further information from the prescribed form be reproduced, I am not satisfied that such an amendment is necessary or appropriate. In addition, and without revisiting the substance of the Final Decision, I note that the details over which the Applicant raises concern are addressed further in the Final Decision.

[7] Based on the CAT's jurisdiction in Rule 46, I am granting this request in part and am correcting the Final Decision, such that the quotation marks appearing around

the text “December 31, 2020” be removed. I am not amending the Final Decision beyond this minor change.

C. CONCLUSION

- [8] After consideration of the Applicant’s request of March 29, 2022 to make changes to the Final Decision, I find that the CAT should exercise its jurisdiction to make a minor change to paragraph 7 of the Final Decision. Therefore, I am granting the Applicant’s request in part.

ORDER

- [9] The Tribunal orders that paragraph 7 of the Decision and Order issued on March 11, 2022 in this case (CAT 2021-00132R) be amended as follows:

In Request #2, the Applicant requested minutes of board meetings and monthly financial records. In terms of the date range, the Applicant indicated December 31, 2020 for the meeting minutes, and, for the monthly financial records, he indicated a date range of October 1, 2020, to February 1, 2021. The monthly financial records appear under the section of the request form for “non-core records”.

- [10] An amended decision and order, reflecting the changes set out above, shall be issued with this Motion Order.

Noeline Paul
Member, Condominium Authority Tribunal

Released on: April 8, 2022