

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: March 1, 2023

CASE: 2022-00732R

Citation: Faria v. Waterloo Standard Condominium Corporation No. 568, 2023 ONCAT 33

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

Member: Ian Darling, Chair

The Applicant,

Susan Faria

Self-Represented

The Respondent,

Waterloo Standard Condominium Corporation No. 568

Represented by Terry McDonald, Agent

DISMISSAL ORDER

- [1] The Applicant filed an application with the Condominium Authority Tribunal (CAT) on December 1, 2022. The case was accepted on December 19, 2022, and proceeded to Stage 1 - Negotiation on December 20, 2022. On January 25, 2023 the Respondent requested the CAT dismiss the case because the Applicant had sold their unit. Neither party has disputed that the Applicant was a unit owner when the request was made. There is no dispute that the Applicant has sold their unit.
- [2] Under Rule 19.1 of the CAT's Rules of Practice, the CAT can close a case in Stage 1 - Negotiation if the CAT determines that it has no legal power to hear or decide upon the dispute.
- [3] The *Condominium Act, 1998* (the Act) grants the right to access condominium records. Subsection 55(3) of the Act sets out who is entitled to examine or obtain records related to a condominium. This section states that:

The corporation shall permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing, to examine or obtain copies of the records of the corporation in accordance with the regulations...
- [4] The regulation referred to in subsection 55(3) of the Act is Ontario Regulation 48/01. The Act and Regulation detail the method for an owner to request condominium records, and the responsibilities of the corporation to respond to the request.

- [5] The CAT has previously considered if an applicant has standing to continue a case after a unit has been sold¹. In those cases, the applicants also sold their units while a CAT case was active. The respondent condominium corporations asked the CAT to dismiss the cases because the applicants were no longer entitled to access the records due to the sales of their units. In each of those instances, the CAT decided that the applicant lost their status to continue and dismissed the case.
- [6] The Respondent brought this motion to dismiss the case on the basis that the Applicant is not entitled to access records because the Applicant lost the ability to continue the CAT case when the sale was completed.
- [7] In their submissions, the Applicant focused on the unfairness of allowing the Respondent to delay releasing the records and then requesting to dismiss the case after the completion of the sale. The Applicant stated that the Request for Records was made when they were an owner, and the Respondent had replied that they would provide certain records, but had not actually sent them. The consequence was that the Applicant had to file a case with the Tribunal. The Applicant was an owner when the records were requested, when the Respondent consented to providing some of the records, when the case was filed, and when the negotiation stage commenced.
- [8] The Applicant also raised concerns that the Respondent had not participated in the negotiation in good faith during the month between the negotiation commenced, and the Respondent's motion to dismiss the case.
- [9] The Applicant stated that they would have received the records if the Respondent had responded to the request on time. In response to the Applicant's submissions, the Tribunal requested additional information from the Respondent regarding which records had been provided. In response, the Respondent provided the records that they had previously agreed to provide.
- [10] While I cannot directly conclude that the Respondent ignored or delayed its response in order to run out the clock to avoid providing the record, the timing of the response does raise some concerns.
- [11] Subsection 55(3) of the Act specifies that "an owner,..." is entitled to examine and obtain records of the corporation. The Act establishes that the person requesting the record must be an owner when the records are requested, and when they are examined or obtained. Therefore, the entitlement to examine or obtain the record

¹ Nassios v. Grey Standard Condominium Corporation No. 46, 2019 ONCAT 26 ("Nassios 1"); Nassios v Grey Standard Condominium Corporation No. 46, 2019 ONCAT 33 ("Nassios 2"); Senchire v Metropolitan Toronto Condominium Corporation No.856, 2019 ONCAT 32; Varadi v Metro Toronto Condominium Corporation No. 614, 2019 ONCAT 41; William Siudak v Wentworth Condominium Corporation No. 171, 2019 ONCAT 43; and Baljak v. Halton Condominium Corporation No. 371 2021 ONCAT 2

does not extend past when the ownership ends.

[12] In the case before me, the Applicant is no longer an owner, therefore they no longer have standing to bring the case before the CAT. Further, the entitlement to records also ended when the ownership was transferred. Therefore, I find that the issues that make up this dispute are not within the jurisdiction of the CAT. Accordingly, I order that this case be dismissed.

ORDER

[13] The Tribunal orders that:

1. This case is closed in Stage 1 - Negotiation under Rule 19.1 of the CAT's Rules of Practice.
2. Any documents and messages that have been shared for this Case in Stage 1 - Negotiation are private and confidential. That means that the Users cannot share, or tell anyone about, messages or documents they received from other Users during these stages without the permission of the other User.
3. The Users may share a copy of any document they received during the course of this case if required by law, such as to a government organization or a court.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: March 1, 2023