

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** July 20, 2023

**CASE:** 2023-00306N

**Citation:** Jimenez v. Toronto Standard Condominium Corporation No. 1791, 2023 ONCAT 96

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

**Member:** Ian Darling, Chair

**The Applicant,**  
Monica Jimenez  
Self-represented

**The Respondent,**  
Toronto Standard Condominium Corporation No. 1791

### **DISMISSAL ORDER**

- [1] The Applicant filed an application with the Condominium Authority Tribunal (CAT) on June 6, 2023. Under Rule 19.1 of the CAT's Rules of Practice, the CAT can close a case if the CAT determines that that it has no legal power to hear or decide upon the dispute.
- [2] The CAT proposed to dismiss this application, for the following reasons:
1. The CAT's jurisdiction is established by the Ontario Government. Ontario Regulation 179/17 ("the Regulation") contains the specific wording of the CAT's jurisdiction. The CAT does not have the legal authority to decide issues that are outside its jurisdiction.
  2. The application was filed as a dispute about a nuisance, annoyance or disruption that is prohibited, restricted or otherwise governed under the Condominium Act, 1998 (the "Act") or the condominium corporation's declaration, by-laws or rules (the "governing documents").
  3. This application was filed under section 1(1)(d)(iii.2) of the Regulation – where an activity that can be considered a nuisance, annoyance, or disruption is prohibited and/or restricted and/or otherwise governed by one or more provisions in the condominium's governing documents.
  4. In the application's problem description, the Applicant identified a provision from the corporation's governing documents which describes the "standard of care" required by directors when exercising their duties towards the

corporation. The applicant alleges that the directors have not exercised their responsibilities as set out in said provision, and is therefore not acting in a manner consistent with the governing documents. This does not relate to an activity that relates to section 1(1)(d)(iii.2) of the Regulation.

5. While the concerns regarding the board's duties and responsibilities may be real issues affecting the Applicant, they are outside the CAT jurisdiction as outlined under O. Reg. 179/17.
- [3] The CAT issued a Notice of Intent to Dismiss the application. The Applicant responded and stated that they attempted to file an application with respect to harassment, however, they were unable to secure copies of the corporation's anti-harassment policy. The Applicant stated that this is why they were unable to identify any relevant provisions in the governing documents.
- [4] The Applicant also referred to a request for related records before this application was submitted. According to the Applicant the Respondent did not provide the corporation's anti harassment policy because the Applicant had not specifically requested it. The Applicant stated that since they did not have the relevant records, they were unable to identify a specific provision in the corporation's governing documents that related to the dispute.
- [5] The Applicant's additional information provided useful context about the dispute and what happened before the application was filed. It did not however address the concerns about jurisdiction.
- [6] I make no assessment of the Applicant's entitlement to the records. I recommend the Applicant consult the Tribunal's website and determine if they want to submit a new request to the corporation for the specific record or a records case to the Tribunal based on the prior request. The current application cannot consider the records issues, as the Application relates to the Tribunal's nuisance jurisdiction.

## **ORDER**

1. The issues in dispute are not within the jurisdiction of the CAT. The application is dismissed.

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Ian Darling  
Chair, Condominium Authority Tribunal

Released on: July 20, 2023