

Corrected Motion

This motion was amended to update the corporation's legal name to Peel Condominium Corporation

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 26, 2023

CASE: 2022-00681N

Citation: S. v. Merdiu et al., 2023 ONCAT 101

Order under Rule 21.5 of the Condominium Authority Tribunal Rules of Practice.

Member: Dawn Wickett, Member

The Applicant,

K. S.

Represented by G. S., Agent

The Respondents,

Bahtijar Merdiu,

Represented by Jasmine Merdiu, Agent

Firdeze Merdiu,

Represented by Jasmine Merdiu, Agent

Avon Merdiu,

Represented by Jasmine Merdiu, Agent

Jasmine Merdiu,

Self-Represented

The Intervenor,

Peel Condominium Corporation

Represented by Jake Fine, Counsel

Submission Dates: June 1, 2023 to June 5, 2023

MOTION ORDER

- [1] On June 1, 2023, the Applicant's Agent submitted a motion requesting that all identifying information pertaining to themselves, and the Applicant be subject to a confidentiality order. The Intervenor did not contest this request.
- [2] The Respondents have joined the case but have not participated in the hearing.
- [3] The materials submitted by the Applicant and their Agent contains highly sensitive information that I have determined to be the appropriate subject matter of a confidentiality order.
- [4] The Applicant's Agent expressed concerns for their physical safety and mental health should any of their information be available to the public.
- [5] The Intervenor's Counsel submitted that he does not object to the Applicant and their Agent's request that their information be kept confidential, nor that their identities be anonymized in the Order. However, the Intervenor has requested that the final order not be sealed by confidentiality as it is their position that "any decision rendered by this Tribunal is important for the continuing catalogue of jurisprudence."
- [6] In *Sherman Estate v. Donovan*, 2021 SCC 25, the Supreme Court held that personal information disseminated in open court can be more than a source of discomfort and may result in an affront to a person's dignity. At paragraph 33 of its decision, the Court stated:

...A court can make an exception to the open court principle, notwithstanding the strong presumption in its favour, if the interest in protecting core aspects of individuals' personal lives that bear on their dignity is at serious risk by reason of the dissemination of sufficiently sensitive information. The question is not whether the information is "personal" to the individual concerned, but whether, because of its highly sensitive character, its dissemination would occasion an affront to their dignity that society as a whole has a stake in protecting.
- [7] Under Rule 21.4 of the Tribunal's Rules of Practice, any person may request that all or part of a case be restricted to public access.
- [8] Under Rule 21.5 of the Tribunal's Rules of Practice, after receiving a request from a party, the Tribunal may take any steps and make any direction or orders needed to protect the confidentiality of personal information.
- [9] I have carefully considered the detailed submissions of the Applicant's Agent and the Intervenor; I find it appropriate to grant this motion. In granting this motion, I direct that all exhibits, documents and message threads which form part of the adjudicative record be restricted to public access and deemed confidential. Further, based on the submissions of both parties, I find that any decision issued in this matter shall anonymize the names and identifying information of both the Applicant and their Agent to help ensure their privacy and confidentiality are protected. The Tribunal decisions shall be drafted in a manner that is consistent

with this order as to avoid inadvertent disclosure of confidential or private and identifying information.

ORDER

- [10] All evidence, documents, exhibits and message topics which form part of the Tribunal's adjudicative record shall be treated strictly as confidential and removed from the public record of this matter. Other than the Tribunal Chair, Vice-Chairs and assigned Members and staff, only the parties to this case, and their respective representatives shall have access to the confidential adjudicative record.
- [11] All decisions issued by the Tribunal shall anonymize the names of the Applicant and the Applicant's Agent.
- [12] All parties in this case must take all reasonable steps to preserve the purpose of this order. All parties of this case are ordered not to disclose, share or speak to anyone about the details or contents of the adjudicative record or the identities of the Applicant and the Applicant's Agent.

Dawn Wickett
Member, Condominium Authority Tribunal

Released on: July 25, 2023