

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: January 30, 2023

CASE: 2022-00255N

Citation: York Condominium Corporation No. 444 v. Ryan et al., 2023 ONCAT 129

Order under section 1.47 of the *Condominium Act, 1998*.

Member: Celia Chandler, Member

The Applicant,
York Condominium Corporation No. 444
Represented by Natalia Polis, Counsel

The Respondent,
Christine Powell
Self-Represented

CONSENT ORDER

- [1] In the Condominium Authority Tribunal's (CAT) online dispute resolution system, the Parties agreed to settle this case in Stage 2 - Mediation.
- [2] Under Rule 34.3 of the CAT's Rules of Practice, the CAT can close a case in Stage 2 - Mediation if the Parties agree to the CAT making a consent order that resolves the dispute.
- [3] Under Rule 2.1 of the CAT's Rules of Practice, the Rules are to be used in a way that promotes the fair, timely, and efficient resolution of disputes.
- [4] Under Rule 4.4 of the CAT's Rules of Procedure, the CAT may vary the application of its Rules on its own initiative except where to do so is prohibited by law.
- [5] With the consent of the Applicant and Respondent Christine Powell, the CAT orders that the case as it relates to Respondent Christine Powell has been closed, based upon the terms and conditions set out in this consent order. Accordingly, I order that Respondent Christine Powell be removed as a party to this case, and that the Tribunal will disable Respondent Powell's access to the case on the online dispute resolution system on February 3, 2023, and in so doing, Respondent Powell will no longer have access to documents, including this consent order, or communications related to this case.
- [6] The CAT further acknowledges that, as allowed by Rule 4.4 and to achieve the objective in Rule 2.1, it is varying Rule 34.3 by allowing the Applicant to advance the case as it relates to Respondent Joanne Ryan to Stage 3 – Tribunal Decision

on the date referred to in paragraph 5

ORDER

- [7] Ms. Powell shall make reasonable efforts to prevent tobacco smoke and/or odours to emanate from her Unit, (the "Powell Unit") into the common elements and/or other units which may or will disturb the comfort and quiet enjoyment of other owners and residents in the Corporation.
- [8] The Corporation shall diligently and properly investigate any and all complaints, on an objective basis, with respect to tobacco smoke and/or odours emanating from the Powell Unit.
- [9] Ms. Powell shall cooperate in providing reasonable access into the Powell Unit for the purposes of investigating the complaints outlined in paragraph 5.
- [10] Should the Corporation verify that tobacco smoke and/or odours are emanating from the Powell Unit, which may or does disturb the comfort and quiet enjoyment of other residents and/or owners and such transmission is verified to be entering into the common elements and/or other units, the Corporation shall promptly notify Ms. Powell and provide all supporting evidence of such transmission as well as other details to substantiate the complaint;
- [11] It is understood that this consent order does not prohibit and/or prevent the Corporation from taking any further enforcement steps against Ms. Powell for smoke and/or odour transmission or from bringing any future applications before the CAT with respect to tobacco smoke and/or odour transmission or for Ms. Powell to seek any remedies in regards to reasonable enjoyment of her unit.

COMPLIANCE

- [12] If any of the Parties to this consent order fails to comply with any of the terms of this order, it may be enforced through the Ontario Superior Court of Justice.

Celia Chandler
Member, Condominium Authority Tribunal

Released on: January 30, 2023