

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: October 17, 2023

CASE: 2023-00090R

Citation: Gingras v. Toronto Standard Condominium Corporation No. 2423, 2023 ONCAT 155

Order under section 1.44 of the *Condominium Act, 1998*.

Member: Marc Bhalla, Member

The Applicant,
Merise Gingras
Self-Represented

The Respondent,
Toronto Standard Condominium Corporation No. 2423
Represented by Liron Daniels, Agent

Hearing: Written Online Hearing – July 4, 2023 to October 12, 2023

REASONS FOR DECISION

A. INTRODUCTION

- [1] The Applicant is a unit owner in the Respondent condominium corporation. They requested records on December 21, 2022 and June 7, 2023. The Applicant has yet to receive many of them.
- [2] In a Motion Order of August 9, 2023, I allowed the records requested in both of the Applicant's record requests to be part of this case.
- [3] The Respondent joined the case and participated minimally in Stage 2 – Mediation. The Respondent did not participate in the hearing.
- [4] I am satisfied that the Respondent had notice of this case and plenty of chances to take part in it. The Respondent was warned the hearing would move ahead without their participation. It missed ten participation deadlines during the hearing.
- [5] The Respondent has refused to provide the Applicant with records without reasonable excuse. I order costs and a penalty totalling \$2700.

B. ISSUES & ANALYSIS

Requests for Records

[6] The Applicant requested the following records, described in the prescribed request form as core records, on December 21, 2022 and June 7, 2023:

1. Condominium corporation declaration
2. Condominium corporation by-laws
3. Condominium corporation rules
4. Record of owners and mortgagees
5. Record of notices relating to leases of units under s. 83 of the *Condominium Act, 1998* (the "Act")
6. Periodic information certificates for the past 12 months
7. Budget for the corporation's current fiscal year, including any amendments
8. Most recent approved financial statements
9. Most recent auditor's report
10. The current plan for future funding of the reserve fund
11. Mutual use agreements mentioned in ss. 113 or 154(5) of the Act
12. Minutes of meetings held within the last 12 months

[7] The Respondent uploaded some of the requested records to the CAT-ODR system before the case reached the hearing stage. The Applicant has received:

1. Condominium corporation declaration
2. Condominium corporation bylaws (nos. 1-4)
3. 2023 final budget
4. 2021 Annual General Meeting minutes
5. 2021 Auditor's report and financial statements
6. 2023 Certificate of Insurance

[8] The Applicant submits that the Respondent has failed to communicate with them. Nothing has been offered as an excuse by the Respondent for the failure to provide the remaining records requested.

[9] While the Applicant explained why they wanted the records, this was not necessary. There is no issue before me about the Applicant's interest relating to

their interest as a unit owner, having regard to the purposes of the Act. The entitlement is clear. The records requested have been refused without reasonable excuse.

[10] The authority of this Tribunal to award a penalty at its discretion is found in 1.44(1)6 and 1.44(3) of the Act. A penalty of up to \$5000 can be awarded when a condominium corporation has refused to provide a record without reasonable excuse. In the circumstances and in view of similar cases, I order a penalty of \$2500.

[11] The authority of this Tribunal to award costs at its discretion is found in Rule 48 of its Rules of Practice. This provides that successful parties can recover their costs. The Applicant is successful in this case, and paid \$200 in Tribunal filing fees. I order the Respondent to reimburse the Applicant its filing fees.

ORDER

[12] The Tribunal Orders the Respondent to:

1. Provide the Applicant with:
 - a. Condominium corporation rules or written confirmation that no rules exist;
 - b. Records of Owners and Mortgagees;
 - c. Record of notices relating to leases of units under s. 83 of the Act, or written confirmation that no such notices have been received;
 - d. All Periodic Information Certificates issued since December 22, 2021;
 - e. 2022 Budget and financial statements;
 - f. 2022 Auditor's Report;
 - g. Current reserve fund funding plan;
 - h. Mutual use agreements or written confirmation that no such agreements exist; and
 - i. Minutes of all Board and owners' meetings held since December 22, 2021. These minutes may be redacted as permitted by law.

The Respondent shall provide this to the Applicant cost-free.

2. Pay the Applicant their filing fees of \$200. If the full amount is not provided to the Applicant before November 1, 2023, the Applicant can set-off the amount against the common expenses attributable to their unit(s) as in section 1.45(3) of the Act.

3. Pay the Applicant a penalty in the amount of \$2500. If the full amount is not provided to the Applicant within 30 days of this Order, the Applicant can set-off the amount against the common expenses attributable to their unit(s) as in section 1.45(3) of the Act.

Marc Bhalla
Member, Condominium Authority Tribunal

Released on: October 17, 2023