

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** March 12, 2024

**CASE:** 2023-00595R

**Citation:** Canonaco v. Muskoka Condominium Corporation No. 42, 2024 ONCAT 37

Order under Rule 4 of the Condominium Authority Tribunal's Rules of Practice.

**Member:** Ian Darling, Chair

**The Applicant,**  
Ralph Canonaco  
Self-Represented

**The Respondent,**  
Muskoka Condominium Corporation No. 42  
Represented by Warren Mouck, Counsel

**Submission Dates:** February 23, 2024 to March 7, 2024

### **MOTION ORDER**

- [1] CAT Case 2023-00595R closed on February 17, 2024. The case was in Stage 1 Negotiation, and was closed after 30 days of inactivity in the case. On February 23, 2024, the CAT has received a motion from the Applicant, Ralph Canonaco, requesting that the case be reopened.
- [2] Negotiation commenced on December 9, 2023. The last activity in the case was January 17, 2024. The case and closed February 17, 2024. Between January 17 and February 17, the CAT-ODR platform sent four automated messages warning the parties that the case would close if there were no activity. The Applicant made the request to reopen the case on February 23, 2024.
- [3] The Applicant requested that the case be reopened because they had "been actively writing in the message centre looking for updates and we were told no further action was required. We sent follow up messages in message centre and unfortunately no response was received from the Respondent." I note that the reason the case closed was that more than 30 days had passed since their most recent activity in the case.
- [4] In deciding whether to reopen the case, I am guided by the factors in *Frey v. MacDonald* [1989] O.J. No. 236 (C.A.). In *Frey*, the Court set out four considerations in assessing a request for an extension of time:
  1. The existence of a bona fide intention to appeal;

2. The length of the delay;
3. Prejudice to the other party; and,
4. The merits of the appeal.

When considering these factors, the Court has also stated that “the justice of the case” is the overriding consideration.

- [5] I have reviewed the original problem description, and the Applicant’s submissions to support the motion to reopen the case. The Applicant is concerned about how the corporation is being governed – including the physical condition of the property and use of reserve funds. The original records request was to access records to get more information about these issues.
- [6] The Respondent opposed reopening the case. They stated that the issues in dispute relate more to governance than to maintaining or accessing records in their submissions to the Tribunal. The CAT requested the Applicant comment on the Respondent’s concerns with reopening the case. The Applicant’s reply submissions spoke to concerns with reporting and financial practices rather than addressing the questions identified by the Tribunal.
- [7] In light of these responses, and weighing the Frey factors, I conclude that the most relevant consideration is the merits of the application. I decline to reopen the case because the remaining issues in dispute appear to relate to the consequences of the information contained in the records – rather than a dispute that relates to section 55 of the Act. It would not be fair to reopen the case where there is a compelling concern over whether the Tribunal has jurisdiction to address these issues.

## **ORDER**

- [8] The motion is dismissed.

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Ian Darling  
Chair, Condominium Authority Tribunal

Released on: March 12, 2024