

Corrected Decision

Paragraphs 5 (a) and 13 of this decision were amended to correct the total amount of the plumbing receipts.

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: April 1, 2024

CASE: 2023-000672R

Citation: Landry v. Toronto Standard Condominium Corporation No. 1553, 2024 ONCAT 50

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

Member: Anna Boudria, Member

The Applicant,

Marie Annette Rachel Landry
Self-Represented

The Respondent,

Toronto Standard Condominium Corporation No. 1553
Represented by Natalia Polis, Counsel

Hearing: Written Online Hearing – January 29, 2024 to March 12, 2024

REASONS FOR DECISION

A. INTRODUCTION

[1] This decision relates to the fees a condominium corporation may charge for the production of non-core records.

[2] The parties agreed that entitlement to the records requested is not in dispute. The parties confirmed at the start of this hearing that the issue before me was strictly limited to:

- a) The fees for producing plumbing and water damage repair invoices from 2022; and
- b) reimbursement of CAT filing fees.

B. BACKGROUND

- [3] The Applicant is a unit owner in Toronto Standard Condominium Corporation No. 1553 (“TSCC 1553”), which is the respondent in this case.
- [4] The Applicant submitted a request for records on April 27, 2023 (the “Original Request”) seeking “itemized, detailed, granular breakdown” of all plumbing, water/flood damage cost for 2022. The Applicant missed the deadline to file a case with the Condominium Authority Tribunal (the “CAT”), so while that experience informs this process – none of the issues related to that request can be considered as part of this application.
- [5] On October 30, 2023, the Applicant, submitted a new request for records to the Respondent seeking the following records:
- a) “All receipts for plumbing expensed in 2022 totaling \$53,651 as per financial statement”; and
 - b) “All receipts for water damage repairs in 2022 totaling \$22, 063 as per financial statement”.
- [6] On November 29, 2023, the board’s response and separate accompanying letter outlining four hours at \$31.50 per hour to search and redact each record, for a total of \$126 for the non-core records, citing subsection 13.8 of Ontario Regulation 48/01 (the “Regulation”) under the *Condominium Act, 1998* (the “Act”), were provided to the Applicant by the condominium manager.
- [7] On November 30, 2023, the Applicant filed this application.

C. ISSUES & ANALYSIS

Issue 1: What fees, if any is the Respondent entitled to charge to the Applicant for providing copies of the plumbing and water damage invoices?

- [8] The Act and the Regulation does not specify an amount a corporation is entitled to charge for the costs of labour and redaction of records provided to a unit owner. However, s. 13.3 (8) and 13.3 (9) of the Regulation state that corporations can charge a fee for costs associated with labour and photocopying of non-core records. The fee must be a reasonable estimate of what the corporation expects to incur to deliver the requested records.
- [9] When corporations receive non-core records requests, an accompanying statement must be included that details which document have been redacted and include reasons why. Additionally, corporations must also supply the total of actual costs that were incurred to provide the records. As per section 13.8 (1) (d) of the Regulation, corporations are required issue a refund if the actual costs is less than the estimated amount. The Regulation also mentions that requestors may be

required to pay any differences that arise if the actual costs exceeds the estimated.

- [10] In deciding this matter, I have reviewed all the evidence and submissions before me and will only refer to those that are relevant and necessary to making my decision.
- [11] The Applicant disagrees with the Respondent's fee for labour, to "search and redact each record" related to her non-core records. She takes the position that the Respondent is entitled to charge a fee, but is not obligated in doing so. She maintains that the corporation is charging her to find and redact the same records as provided to her in the Original Request.
- [12] The Original Request is not before me and in context of the issues I have to decide, whether or not non-core records without charge might have been provided at the time of the Original Request is moot.
- [13] The Respondent submits that the corporation's electronic and paper records are stored at the head office of Goldview Property Management Ltd., TSCC 1553's condominium management provider. The estimate provided to the Applicant was intended to ensure a thorough review of both formats for the records and the required time to search the records outside the condominium manager's regular office hours, as they are only employed for sixteen (16) hours a week. As the Applicant is seeking two sets of records that relate to receipts totalling \$53,651 and \$22,063 from 2022, this may involve a search for numerous receipts. The Respondent therefore submits that the four hours quoted for labour is reasonable.
- [14] While I understand that this application was filed because the Applicant took the position that the Original Request has not been satisfied, the facts surrounding what records were provided and how it related to that request are not the issue before me. Here, the request is for non-core records. The Respondent provided its response in accordance with s. 13.8 of the Regulation. It set out an estimated and detailed breakdown of the costs of \$31.50 per hour associated with providing the requested records and advised if the actual costs were lower, she would be reimbursed.
- [15] The Applicant has not been able to demonstrate why the hourly rate is unreasonable or not consistent with the rates determined to be reasonable in other CAT decisions. The fact that the Respondent could choose not to charge a fee, does not support an assertion that it ought not to charge for the production of non-core records. The Regulation is clear – the Respondent is entitled to charge a fee.
- [16] I find the Respondent's estimated four hours for the administrative work needed to produce the records at an hourly rate of \$31.50 is both reasonable and consistent

with the requirements set out in s.13.8 of the Regulation. The Applicant was properly informed through the board's response and accompanying letter dated November 29, 2023, that her request for records had been approved. Additionally, the Respondent provided an estimated breakdown of details associated with the production of non-core records the Applicant was requesting.

[17] If the Applicant wants the records, she will need to pay the amount.

Issue 2: Should there be any award of costs be assessed in this case?

[18] The Applicant is seeking reimbursement of her Tribunal fees of \$200. As set out in Rule 48.1 of the CAT's Rules of Practice, the Tribunal may award reimbursement of Tribunal fee if a party is successful. Any award of costs is discretionary. The Applicant was not successful. I will not order that the Respondent reimburse the Tribunal fee to the Applicant.

[19] I now turn my mind to the Respondent's request for costs in the amount of \$5201.39. As set out in Rule 48.2 of the Rules of Practice Direction, the Tribunal may award reimbursement of legal costs and disbursements.

[20] Counsel for the Respondent submits that it would be unjust and unreasonable to have other unit owners bear and subsidize the legal expenses it has incurred in order to respond and defend against this application.

[21] I have considered several factors as set out in the Tribunal's Practice Direction in reaching a decision. I am not of the view that the application was filed in bad faith or for improper purposes. No conduct or behaviour of either party gave rise to delay or unnecessarily lengthen this matter. There is no basis for me to consider a cost award.

[22] The Applicant is self-represented. I believe the Applicant had good intentions regarding her concern, though she mistakenly believed that the Respondent was not entitled to charge a fee for non-core records.

[23] Therefore, I have determined that neither party is entitled to costs.

ORDER

[24] The Tribunal orders:

1. If the Applicant wants the records, she must pay \$126 plus HST, totalling \$142.38.
2. Upon receipt of payment, the Respondent will have thirty (30) days to compile, redact and provide the records to the Applicant. The Respondent

shall follow the process to reimburse the Applicant as per s. 13.8(1)(d) of the Regulation if the redactions takes less than the estimated time.

Anna Boudria
Member, Condominium Authority Tribunal

Released on: April 1, 2024