

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: August 8, 2024

CASE: 2024-00159R

Citation: Puxty v. Frontenac Condominium Corporation No. 57, 2024 ONCAT 122

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

Member: Marc Bhalla, Member

The Applicant,

Ben Puxty

Self-Represented

The Respondent,

Frontenac Condominium Corporation No. 57

Represented by Cheryl Wood, Counsel

Hearing: Written Online Hearing – May 6, 2024 to July 25, 2024

Videoconference Hearing – May 21, 2024

REASONS FOR DECISION

- [1] The Applicant is an owner fuelled by a “what if” mindset. They fear what the state of their condominium would have been if questions had not been asked and problems brought to light. This has led to the Applicant to wonder what else there may be to uncover. They requested a large volume of records and subjected them to intense scrutiny. The Applicant has tried to frame issues as a records case that extend well beyond this Tribunal’s jurisdiction. The Applicant is concerned with governance.
- [2] The Respondent condominium corporation acknowledges that it has had governance issues, serious ones that it is working to address. The condominium failed to hold an annual general meeting for several years and did not engage an auditor to audit financial statements.
- [3] The Applicant tried to use records requests to address their governance concerns. They made records requests on December 21, 2023, and January 29, 2024, and asked for 34 items - some are records, some are not.
- [4] The Tribunal does not have authority to address governance concerns.

Outstanding “Records”

- [5] The Respondent provided or offered to provide the Applicant with all requested

records, except:

1. "Quotes for All Expenses." The Respondent said that this was too vague a request. I agree.
2. Explanations in respect of:
 - a. A new rug
 - b. The gas bill
 - c. The general repair bill
 - d. The sanitation bill

The Applicant is not entitled to explanations, just records.

3. T4s of all condominium employees. Section 55(4)(a) of the *Condominium Act, 1998* (the "Act") says:

(4) The right to examine or obtain copies of records under subsection (3) does not apply to,

(a) records relating to employees of the corporation, except for contracts of employment between any of the employees and the corporation;

The Applicant is not entitled to T4s.

[6] While the Applicant had many concerns about what they requested, they list four sets of records as outstanding:

1. "Unaudited fully itemized Financial Statements for 2021-2023": In the Request for Records form, the Applicant asked for the "most recent approved financial statements". The Applicant has received what they requested.
2. Emails: The Applicant believes the board discussed contracts by email and wants copies of all emails that discussed board business. Owners are not entitled to all discussions boards have, by email or otherwise. As stated in *Kai Sin Yeung v Metropolitan Toronto Condominium Corporation No. 1136*, 2019 ONCAT 11, emails between directors do not form a record to which owners are entitled. Without evidence of emails being approved by the board as meeting minutes, the Applicant is not entitled to them.
3. Evidence About Rules: The Applicant requested rules. The evidence is that they received the rules they requested. Issues about the accuracy and consistency of the rules are beyond the scope of a records case.
4. All contracts requested "unredacted and not tampered with": There is

insufficient evidence before me to support a claim of tampering in the context of a records case. I am satisfied the Respondent has addressed the requested records.

[7] The Applicant seems to be trying to hold the condominium to their own standard of adequacy. As in *Verjee v. York Condominium Corporation No. 43*, 2024 ONCAT 93, where the Tribunal stated at paragraph 9:

... the standard for adequacy is not determined by each requester's subjective views about what constitutes proper record keeping, but by an objective standard that considers whether the standard to which records are kept allows the corporation to fulfill its duties.

[8] The irony here is that out of concern about unnecessary cost and inefficiency, the Applicant created both. Had the Respondent's governance issues not merited serious concerns, it would have an argument to make to recover costs.

[9] A condominium failing to hold annual general meetings and engage an auditor merits concern. Yet, the Respondent has not refused to provide records without a reasonable excuse. No penalty is warranted in this case.

ORDER

[10] The Tribunal Orders the case dismissed. Each party shall bear their own costs.

Marc Bhalla
Member, Condominium Authority Tribunal

Released on: August 8, 2024