

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: August 14, 2024

CASE: 2023-00559N

Citation: McNulty v. Toronto Standard Condominium Corporation No. 1553, 2024 ONCAT 128

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

Member: Roger Bilodeau, Member

The Applicant,

Lisa McNulty

Self-Represented

The Respondent,

Toronto Standard Condominium Corporation No. 1553

Represented by Natalia Polis, Counsel

Hearing: Written Online Hearing – January 28, 2024, to July 17, 2024

REASONS FOR DECISION

A. INTRODUCTION

- [1] The Applicant, Lisa McNulty (“Ms. McNulty”), owns a unit in Toronto Standard Condominium Corporation No. 1553 (“TSCC 1553”). She claims that TSCC 1553 has failed to properly manage and enforce the rules that govern visitor parking and parking in outdoor common elements, as well as storage in owner/resident parking spaces.
- [2] TSCC 1553 maintains that its management of the above-mentioned matters is appropriate and that it reflects a reasonable exercise of its discretion in how the governing documents are applied and enforced. The evidence supports the fact that the relationship between the parties has been at times difficult, and that Ms. McNulty has often been frustrated with what she perceives as TSCC 1553’s failure to properly and consistently manage these matters.
- [3] Upon my review of the evidence and submissions of the parties, I find that TSCC 1553 must enforce the visitor parking provisions in its governing documents in

such a way that it can monitor the use of its visitor parking spaces at all times. It must also take steps to enforce its rules regarding improper storage in parking spaces in a timely manner.

- [4] Although Ms. McNulty's application has been partly successful, I find that there are no grounds to diverge from the general rule on costs set out in Rule 48.2 of the CAT's Rules of Practice ("CAT's Rules") and that this is an appropriate case for each party to bear their own costs.

B. BACKGROUND

- [5] This case touches upon a familiar theme in the world of residential condominium corporations. An owner is unhappy with the corporation's board of directors ("Board"), which she perceives as not doing enough to properly manage the corporation's affairs, particularly the enforcement of its governing documents. On the other hand, the Board perceives the owner in question as one who raises too many issues and questions which the Board feels have been sufficiently addressed by it. To round out the picture, the owner is a former member of the Board.
- [6] As is typically the case in these situations, the Board is composed of owners who volunteer their time to do so and who have other full-time professional and personal commitments. The Board directs the work of a condominium management provider and its staff in regard to all condominium matters needing attention, including the enforcement of the applicable governing documents. In this case, the staff ("Condominium Manager") of the condominium management provider is engaged on a part-time basis, i.e. 16 to 20 hours a week. The owner has interacted on a frequent and regular basis with the Condominium Manager and the Board, especially by way of numerous email messages on a wide variety of topics, raising several questions and providing suggestions.
- [7] The Board is of the view that its Condominium Manager and the condominium management provider are overwhelmed by the owner's concerns and suggestions, to the point where it takes away from the Condominium Manager's limited time to deal with the myriad number of matters which are put forward by other owners and/or the Board.
- [8] In this case, the situation came to a head in the fall of 2023 when, following a number of messages and requests sent by Ms. McNulty to the condominium management provider, the Condominium Manager and/or the Board, the lawyer for TSCC 1553 sent a warning letter to Ms. McNulty on November 27, 2023. On December 1st, 2023, the owner responded with her own letter, followed by lengthy

submissions and numerous exhibits in support of this application. The corporation has responded in kind.

C. ISSUES AND ANALYSIS

[9] I agree with previous CAT decisions that this Tribunal's role is to decant and simplify the submissions of the parties. As a result, I will not set out all of the parties' respective evidence or arguments in these reasons. However, I have reviewed and considered all the submissions and evidence provided by them and will only refer to those which are relevant and necessary to reach my decision.

[10] Based on my review of the submissions of the parties and in consultation with the parties, I have determined that the issues in this case are as follows:

1. Has TSCC 1553 taken reasonable steps in regard to its enforcement of (i) visitor parking; (ii) parking in outdoor common areas; and (iii) storage in owner/resident parking spaces?
2. Should this Tribunal order the destruction of a letter sent by TSCC 1553's legal counsel to Ms. McNulty, or alternatively, exclude that letter and other designated documents from public access?
3. Should costs be awarded?

Issue No. 1: Has TSCC 1553 taken reasonable steps in regard to its enforcement of (i) visitor parking; (ii) parking in outdoor common areas; and (iii) storage in owner/resident parking spaces?

[11] The portions of the governing documents which are relevant to this matter are as follows:

1. Section 7 under Article IV of TSCC 1553's Declaration ("Declaration"):

Visitor's Parking – Each space in the common elements identified as Visitor's Parking shall be used only by visitors and guests of the owners or occupants of the Condominium for the purpose of casual parking thereon of (1) one vehicle, and such spaces shall not be assigned, leased or sold to anyone.
2. In the Rules and Regulations ("Rules") of TSCC 1553, under Section N – Parking:

7. No parking unit shall be used for storage, except for the storage portion of combined parking/bicycle/storage units;

8. Parking is prohibited in the following areas:

(a) fire routes

(b) entranceways, traffic lanes, delivery and service areas and any other part of the common elements; and

19. The Owner of each parking unit shall maintain his/her parking unit in a clean and tidy condition.

[12] I turn now to each of the topics which are the subject matter of this dispute.

Visitor Parking

[13] There are 17 indoor visitor parking spots in the TSCC 1553 building on the first level of its two-level underground parking garage. Those parking spots are in close proximity of the entrance/exit of the underground parking area. No registration is required when parking in the visitor parking spots during the day but there is an online registration system for those parking spaces for the period from midnight until 7:00 a.m.

[14] Notwithstanding the abovementioned provision of the Declaration in regard to visitor parking, TSCC 1553 implemented a "policy" approximately a decade ago which allowed owners and/or residents to park in the visitor parking spaces for up to fifteen (15) minutes. That policy was communicated to all owners/residents by way of a notice. As explained by Ms. McNulty in her submissions, residents occasionally need to load or unload large or heavier items from their vehicles and, in many cases, this means having to transport those items through the resident parking area to reach the elevator banks, all while avoiding moving and parked vehicles, as well as other residents. As a result, and over the years, residents have often used the visitor parking spaces to drop off/pick up/load/unload items from their vehicles.

[15] Ms. McNulty was at all times supportive of that policy but on various occasions up to approximately September 2022, Ms. McNulty claims that she observed several issues in regard to the policy which she brought to the attention of the Condominium Manager and/or the Board, namely:

1. Parking by some residents for lengthy periods, including some Board members and/or their spouses, instead of parking in their own designated parking space;
2. Not adhering to the drop-off/pick-up/loading/unloading time limit by

one or more hours or even overnight;

3. No enforcement of visitor parking before midnight or at all when owners exceeded the time limit for drop off/pick up/loading/unloading.
4. Some visitors being ticketed, but not residents; and
5. The fact that on one occasion, a contractor that she had hired was unable to find a parking space in the visitor parking area and that in her view, some spots were being occupied by owners/residents at that time.

[16] In addition to the above, Ms. McNulty inquired about the policy in or about February 2022 because she had noticed an owner/resident parking in the same visitor parking space for a longer duration than what was allowed under the policy. She therefore asked TSCC 1553 if it had extended the allotted time provided by the policy.

[17] As a result of Ms. McNulty's inquiry about the policy, TSCC 1553 was advised by its legal counsel in or about August 2022 that the visitor parking spaces are restricted to only visitor and/or guest use and that the policy was unenforceable and in violation of the Declaration.

[18] In addition, TSCC 1553's legal counsel wrote to Ms. McNulty on August 26, 2022 that the Corporation will not be implementing any rules regarding visitor parking and that the rule which she had suggested (i.e. drop off/pick up/loading/unloading in visitor parking spaces) was contrary to the Declaration. In addition, TSSC 1553's legal counsel wrote that:

Going forward, the Corporation will strictly enforce the Declaration. Any exemptions from the provisions of the Declaration may be granted if accommodation is required pursuant to the Human Rights Code. Such information is to be kept in strict confidence by the Corporation.

[19] In two notices to owners/residents respectively dated September 14, 2022, and September 23, 2022, TSCC 1553 rescinded the policy which allowed the fifteen (15)-minute grace period in visitor parking spaces but indicated that owners/residents could continue parking for up to fifteen (15) minutes in the outdoor courtesy parking space located in the common elements near the roundabout.

- [20] Since those two notices and up to the filing of this application in October 2023, Ms. McNulty maintains that proper enforcement of visitor parking during the daytime has continued to be sporadic at best. She states that she has observed this when accessing her own vehicle or when driving by the visitor parking area when entering or exiting the underground parking. The parking incidents which she reported to the Condominium Manager at various times in 2023 were in regard to owner/resident vehicles which she recognized from her parking level that were parked in visitor parking spaces when she left her own parking spot and upon her return, often several hours later. She states that she did not report short-term parking issues.
- [21] Ms. McNulty adds that email correspondence between her and the Condominium Manager in September 2023 confirmed her belief that action had not been taken in regard to previous visitor parking complaints, going back in one case to April 2022, and that the only measures taken by TSCC 1553 were the posted signage to that effect and ticketing by an outside security company on random patrols three times a week. According to Ms. McNulty, there were nine (9) instances of a particular vehicle parked in visitor parking spaces that she documented after the memos issued by TSCC 1553 in September 2022. She adds that TSCC 1553 finally acted on that complaint after she informed the Condominium Manager that the matter could be referred to this Tribunal.
- [22] In summary, Ms. McNulty's expectation was always that minimal corrective action could be taken by TSCC 1553 to address the above situations and that TSCC 1553 has been too lax in its enforcement of the policy, as it existed up to September 2022, and of the Declaration since September 14, 2022, in regard to its management of the visitor parking spaces.
- [23] TSCC 1553 takes the position that since the issuance of its two notices in September 2022 to owners/residents, it has not received any other complaints from other owners/residents regarding visitor parking spaces and, in its view, there has been no abuse of the visitor parking restrictions.
- [24] In addition, TSCC 1553 confirms that even prior to rescinding its policy, it had retained an outside security company to provide periodic patrols and to ticket any unauthorized vehicles in the visitor parking spaces.
- [25] In the past year, TSCC 1553 maintains that there has been one case where an owner parked in the visitor parking spaces on approximately three separate dates/times without any type of accommodation, reason or permission. TSCC 1553 states that when it became aware of that situation, the Condominium Manager called the owner/resident to advise that this was not permissible, and

states that the owner/resident immediately stopped parking in the visitor parking spaces.

- [26] TSCC 1553 adds that two owners/residents were allowed to park in the visitor parking spaces due to temporary exemptions based on legitimate accommodation requests pursuant to the Ontario Human Rights Code (“Code”). One of these temporary exemptions was granted by the Board to the husband of the president of the Board, following an injury. Despite the temporary accommodation having been granted, TSCC 1553 adds that Ms. McNulty complained to the Condominium Manager with respect to the vehicle of the president’s husband being parked in the visitor parking spaces. TSCC 1553 confirmed that the president had excused herself from all Board discussions concerning her husband’s situation and that, as of the date of this application, the temporary exemption was no longer in effect.
- [27] TSCC 1553 also states that an exemption was provided to another owner/resident on a semi-permanent basis due to a legitimate accommodation request.
- [28] In response to Ms. McNulty’s further concerns about visitor parking spaces, TSCC 1553 asked her to contact the Condominium Manager when she perceived that owners/residents were parking in the visitor parking spaces. TSCC 1553 claims that this request has led Ms. McNulty to take it upon herself to police the visitor parking spaces to the extent that some owners/residents have indicated that they feel uncomfortable seeing Ms. McNulty in the parking area, taking photographs and invading their privacy. On the other hand, TSCC 1553 did not file any evidence of owners’/residents’ concerns in that regard.
- [29] TSCC 1553 further submits that there is no justifiable reason to implement additional parking enforcement and to thereby increase its expenses. It further argues that the Rules cannot be amended to allow loading/unloading in the visitor parking spaces because of the wording of section 7 of the Declaration.
- [30] As a final point, TSCC 1553 submits that the evidence filed by Ms. McNulty goes back at least a year or almost two years and that she herself has admitted that the alleged visitor parking issue has been rectified. TSCC 1553 further submits that Ms. McNulty commenced this application in bad faith and for an improper purpose after receiving the letter of November 27, 2023, as opposed to when she alleges that such breaches were occurring.
- [31] Having considered the evidence as a whole, I have determined that there is inconclusive evidence to support the allegation that TSCC 1553 did not take reasonable steps to enforce its visitor parking provisions, as they existed prior to September 14, 2022. Since that date, I find that TSCC 1553 has made reasonable,

albeit insufficient, efforts to enforce those provisions.

- [32] In arriving at my decision, I have taken note of the principle that condominium corporations have the discretion to determine how to enforce their governing documents, so long as they act reasonably, and that not every minor violation of a declaration must be met with an enforcement procedure (see *Roberts v. Halton Standard Condominium Corporation No. 617 and Yamine*, 2021 ONCAT 21).
- [33] I also note that in its various responses to Ms. McNulty's complaints about inadequate enforcement in regard to visitor parking spaces, TSCC 1553 has attached much importance to the wording of its Declaration in regard to visitor parking and to how it would strictly enforce those provisions. On the other hand, it is difficult to understand how it can achieve that goal in the daytime, between 7 a.m. and midnight, when no registration is required for use of the visitor parking spaces, although there is an online system to do so for parking in those spaces from midnight to 7 a.m.
- [34] I therefore find that in the circumstances of this particular case, TSCC 1553 has not implemented a sufficient mechanism to enable it to adequately enforce the visitor parking provisions of its governing documents between the hours of 7 a.m. to midnight. In my view, that finding is consistent with prior decisions of this Tribunal that a condominium corporation must take effective actions to enforce all of the visitor parking provisions in its governing documents (see for example *Watson v. Peel Condominium Corporation No. 544*, 2024 ONCAT 18).
- [35] As a result, TSCC 1553 must enforce the visitor parking provisions in its governing documents in such a way that it can monitor the use of its visitor parking spaces at all times, given the wording of its Declaration and its stated intention of strictly enforcing its application. Both parties agree that any solution to the enforcement of the visitor parking provisions should be inexpensive.

Parking in Outdoor Common Elements

- [36] Ms. McNulty claims that the two parking spaces in the outdoor common elements are in conflict with section N.8 of the Rules.

Outside Parking Space for Courtesy Parking

- [37] In addition to the visitor parking spaces in the underground parking area of the TSCC 1553 building, there is a fifteen (15)-minute courtesy parking space near the roundabout on the surface level of the TSCC 1553 common elements. Owners/residents are permitted to park in this courtesy space, although there is no

rule which explicitly provides for this. The sign above that parking spot reads: "PRIVATE PROPERTY/COURTESY PARKING/MAXIMUM 15 MINUTES/ UNAUTHORIZED VEHICLES WILL BE TAGGED AND/OR TOWED AT OWNERS EXPENSE".

[38] Ms. McNulty claims that this parking space is used on a regular basis by residents, visitors, the superintendent and delivery persons. As an example, she filed a photograph of the vehicle of the superintendent of TSCC 1553's condominium management provider in the outdoor courtesy parking space.

[39] She also notes that a December 20, 2019 information notice to owners/residents provides that:

If you should need to park near the driveway, please use the designated temporary parking spot which has a sign with the corresponding details.

[40] She adds that the notice dated September 23, 2022 indicates that:

Residents can continue to use the short-term use spot located in the roundabout for up to 15 minutes.

[41] Ms. McNulty further adds that a related item appeared in the minutes of the Board's meeting of October 30, 2023, under "NEW BUSINESS" on page 2, as follows:

Additionally, the Board would like to amend the visitor parking by-law, increasing the time from 15 minutes to 30 minutes.

[42] From all accounts, there is no visitor parking by-law and Ms. McNulty submits that the quoted minutes from that meeting appear to be in regard to the outdoor courtesy parking space referred to above.

[43] Ms. McNulty is of the view that parking can be distinguished from loading or unloading and that the Board could distinguish and define those two actions in the Rules or by improved communications. She advances no allegation that this parking space is being abused but rather that its use and description may conflict with what is set out in the Rules and, if so, that they should be amended.

Outside Parking Space for Deliveries

[44] According to Ms. McNulty, the Board introduced this designated parking area in 2023 for delivery vehicles, located in the driveway area of the common areas. The signage for that parking space reads as follows: "PRIVATE PROPERTY, PARKING FOR DELIVERIES ONLY, 15 MINUTES MAX, UNAUTHORIZED

VEHICLES WILL BE TAGGED AND/OR TOWED AWAY AT OWNERS EXPENSE". A separate sign notes that there is absolutely no parking in that space on Tuesdays and Fridays.

- [45] While Ms. McNulty is concerned with traffic congestion in TSCC 1553's outdoor common areas, she fully appreciates the need to have such a parking space owing to the increase in deliveries to owners/residents. On the other hand, she believes that the existing rules conflict with parking in that space and that the Board should propose an amendment to the Rules to set out how that space can be used, by whom, and how its use should be enforced.
- [46] TSCC 1553 takes the position that the two (2) outdoor parking spaces in the common elements have specific signage notifying users that they are only permitted to park temporarily, i.e. for fifteen (15) minutes. TSCC 1553 states that Ms. McNulty has not provided any evidence that those parking spaces have been used by residents, visitors, the superintendent, and delivery persons in contravention of the Rules. TSCC 1553 further adds that these outdoor parking spaces do not conflict with Rule N.8.
- [47] In reply, Ms. McNulty further reiterated that there is a conflict between what the Rules state and the implementation of the two outside parking spaces located in the common elements. She argues that the Board could easily adopt rules in regard to visitor parking and other issues, including those two outdoor parking spaces. Ms. McNulty disagrees with TSCC 1553's position that it only has to remedy a given situation in case of abuse or misuse. In her view, that is inconsistent with TSCC 1553's obligation to enforce the Rules in accordance with subsection 17 (3) of the *Condominium Act, 1998* (the "Act") and for residents to comply, as set out in subsection 119 (1) of the Act.
- [48] Regarding Ms. McNulty's complaint that TSCC 1553 should review and revise its Rules in regard to those two parking spaces, such a matter is not within the purview of the Tribunal because it is not the proper forum for proposing changes to a condominium corporation's governing provisions. The Act provides a mechanism to do so and it is for the Board of TSCC 1553 and its owners to discuss and decide these matters, as in fact referred to and described by TSCC 1553 in its notices to owners/residents dated September 14, 2022, and September 23, 2022.
- [49] I will simply add on this topic that there is merit in Ms. McNulty's position that there is a discrepancy between the current wording of section N.8 of the Rules and the implementation of the two outdoor parking spaces in the common elements, as per the signage for each parking space. The current wording of that rule is such that there can be no parking at any time and for any purpose in the common elements

of TSCC 1553. On the other hand, the references to delivery and service areas in section N.8 could lead one to assume that parking is allowed in those areas for those sole purposes, but without specifying any time limits or any other limitations. In addition, the Declaration provides for visitor parking spaces which are in fact in the common elements. There is thus an additional discrepancy as between section 7 of the Declaration and section N.8 of the Rules.

[50] Accordingly, I make no order in regard to this matter and leave to TSCC 1553 and its owners to assess and decide if and how they wish to address the discrepancy between section N.8 and the current signage for those two outdoor parking spaces in the common elements, as well as with the visitor parking spaces as provided for in its Declaration.

Storage in Owner/Resident Parking Spaces

[51] Owner/resident parking spots in the TSCC 1553 building include access to a storage room at the rear of a parking spot or access to a storage locker inside designated storage rooms. Sections N.7 and N.19 of the Rules apply to both types of storage areas.

[52] Ms. McNulty alleges that the Condominium Manager was informed in September 2022 of improper storage in two different owner/resident parking spaces, including that of a Board member. According to Ms. McNulty, the Condominium Manager indicated that she would be getting in touch with those residents to have them remove items in their parking spaces because they were in contravention of the Rules.

[53] Ms. McNulty adds that on September 26, 2022, a reminder notice was sent to owners/residents noting that parking areas are not to be used for storage purposes and that any such storage is in contravention of the Fire Code. She goes on to state that after that notice, one of the owner/resident parking areas was cleared of personal items but that the other one remained unchanged until early December 2023.

[54] Ms. McNulty emphasizes that the underlying issue is the Board's obligation to take reasonable enforcement measures and to ensure compliance with the Rules. She goes on to state that there continue to be personal items stored in other owner/resident parking spaces and that, in some cases, such items have been there for weeks or months. She adds that although most residents comply with the Rules, the above situation could easily be remedied by TSCC 1553 with minimal time and effort in conjunction with the concerned owners/residents.

- [55] For its part, TSCC 1553 submits that Ms. McNulty has the onus to prove, on a balance of probabilities, that there are frequent and/or consistent violations of the storage provisions found in the Rules and that it has taken inadequate and/or insufficient actions to address those issues, if any.
- [56] TSCC 1553 adds that, as conceded by Ms. McNulty, the parking spaces of the two owners/residents which she referred to were cleared of personal items as of in or about December 2023, thereby demonstrating that TSCC 1553 did in fact take effective steps to enforce the storage provisions found in the Rules.
- [57] Although the evidence shows that TSCC 1553 did respond to at least some of Ms. McNulty's complaints on this topic, this was not always done on a timely basis. In addition, there is uncontradicted evidence of some outstanding issues in that regard. I therefore find that TSCC 1553 has not taken all reasonable steps to enforce its governing provisions on the topic of storage issues in the parking spaces.
- [58] TSCC 1553 should not wait for owners/residents to file a complaint about improper storage issues. As a result, TSCC 1553 must take steps to enforce its rules in regard to improper storage in parking spaces in a timely manner.

Issue No. 2: Should this Tribunal order the destruction of a letter sent by TSCC 1553's legal counsel to Ms. McNulty, or alternatively, exclude that letter and other designated documents from public access?

- [59] TSCC 1553 submits that Ms. McNulty pursued this application in retaliation for a warning letter which its counsel sent to her on November 27, 2023, advising her that her conduct has been "interpreted as harassing, intimidating, and inappropriate", in regard to her frequent monitoring of the use of parking spaces, as well as taking pictures of owners'/residents' vehicles and parking spaces. The letter also notes that Ms. McNulty has "resumed sending voluminous amounts of correspondence and directives to management and the Board", which amounts to micromanagement of TSCC 1553's affairs and to causing a toxic working environment for the Board and management. The letter concludes by warning her that further enforcement steps will be taken against her if the problematic conduct continues.
- [60] Ms. McNulty finds that letter to be offensive and demeaning. She has therefore asked the Tribunal to order the destruction of all electronic and digital copies of that letter and that TSCC 1553 be barred from referring to it. In the alternative, she has asked that the letter, as well as her response on December 1, 2023, and the witness statement of the president of the Board dated March 4, 2024 – which

refers to her conduct and actions at various times prior to and during the events leading up to this matter – be all excluded from public access. She has also requested that the owner’s vehicle information and photographs which are connected to specific exhibits filed by her should be excluded from public access. Ms. McNulty further adds that she has been subjected to differential treatment by the Board of TSCC 1553 and its agents, especially by sending her the abovementioned warning letter.

- [61] Based on my careful review of the evidence and the submissions on this issue, it is possible that the letter of November 27, 2023, was more harshly toned than the circumstances called for and it is unfortunate that the circumstances evolved as they did.
- [62] By the same token, I would also add that Ms. McNulty should reflect on her approach and on the fact that she has sent thousands of emails to the Board/Condominium Manager over the years, with many of them demanding responses to various issues within a very limited timeframe. As a result, Ms. McNulty should be mindful of the frequency of her requests and of allowing realistic timelines for the Board/Condominium Manager to respond. It should also be noted that although some degree of community involvement in compliance matters is desirable, there is also a question of balance in this regard and the fact that owners/residents must be considerate of other owners/residents when doing so.
- [63] In regard to the issue at hand, I therefore find that the Tribunal does not have the jurisdiction to order the destruction of the letter of November 27, 2023 and although not specifically requested, I note that in the very few cases where the Tribunal has issued a Confidentiality Order under Rule 21 of the CAT Rules, those cases related to personal medical information or other similar personal information of a very sensitive nature. That is not the case in regard to the documents here in question and in addition, the correspondence of November 27, 2023, and that of December 1, 2023, form part of TSCC 1553’s corporate records.
- [64] In my view, this decision and its determination that the letter of November 27, 2023, was possibly too harsh is the appropriate correction to the record. In addition, it should be noted that the two letters are records that relate to a specific unit and owner of TSCC 1533. Pursuant to section 13.1 (1) 7 of Ontario Regulation 48/01, TSCC 1533 is required to maintain those records for at least seven years from the date of creation or reception of the record. Finally, the application of the exemption provided by subs. 55(4) of the Act provides that there is no right to examine or obtain copies of those letters because they relate to a specific unit and

owner.

Issue No. 3: Should costs be awarded?

[65] Both parties have claimed costs. In addition to the Tribunal fees, Ms. McNulty has claimed costs for her time preparing this application, as well as for the emotional distress of being harassed by TSCC 1553 prior to filing this application and during the hearing process.

[66] For its part, TSCC 1553 has claimed costs in the amount of \$8,463.71 (including HST) to defend this application, on the grounds that Ms. McNulty has not been successful in regard to her various claims.

[67] Rule 48.2 of the CAT's Rules provides as follows:

The CAT generally will not order one Party to reimburse another Party for legal fees or disbursements ("costs") incurred in the course of the proceeding. However, where appropriate, the CAT may order a Party to pay to another Party all or part of their costs, including costs that were directly related to a Party's behaviour that was unreasonable, undertaken for an improper purpose, or that caused a delay or additional expense.

[68] I find that Ms. McNulty has been partly successful in regard to some parts of her claims. I am also of the view that other parts of her claims should have been more properly addressed in accordance with the governance provisions set out in the Act and in TSCC 1553's governing documents.

[69] Having considered all of the above and in the circumstances of this case, I therefore find that there are no grounds to diverge from the general rule set out in Rule 48.2 of the CAT's Rules and that this is an appropriate case for each party to bear their own costs of this proceeding.

D. CONCLUSION

[70] As in many other cases, the parties should not look at this case in terms of right and wrong. In my view, there are no winners in this type of situation. The parties should rather take stock of the fact that this matter is but a chapter in their lengthy history of interaction, albeit with its ups and downs.

[71] The fact is that Ms. McNulty is a passionate owner who is committed to the proper application of TSCC 1553's governing documents, and although the Board/Condominium Manager of TSCC 1553 see her in that light, they have been frustrated by her approach and the number of requests made by her. I

nevertheless believe that they are all working in the best interests of their community, regardless of the challenging moments which they each have encountered. This is borne out by the evidence which shows that TSCC 1553 has, on at least a few occasions, proceeded to better enforce its governing documents after receiving a complaint from Ms. McNulty.

[72] On a final note, reasonableness and cooperation should be front and center at all times. The following suggestions from the Condominium Authority of Ontario's ("CAO") website could also be of assistance, because they contain a wealth of useful information to help owners, boards and condominium managers resolve typical disputes that arise about matters within the Tribunal's jurisdiction: see in particular the title "Solving Common Issues" found in the CAO's Guide on Issues Management. As mentioned about that guide in a case similar to this one:

... There is a specific section for parking and storage. It describes the types of scenarios that can lead to conflict, and, under Step 3, recommends solutions for owners, condominium boards and managers.

These recommendations include how to identify whether an issue involves a violation of governing documents, and how to raise the issue in writing directly either with the unit owner causing the issue or the condominium board of directors or manager. The website provides email and letter templates for this purpose. ...

See *Manna v. York Condominium Corporation No. 62*, 2023 ONCAT 24, at paragraphs 61 and 62.

E. ORDER

[73] The Tribunal orders that:

1. Within 60 days of this decision:
 - a. TSCC 1553 must enforce the visitor parking provisions in its governing documents in such a way that it can monitor the use of its visitor parking spaces at all times; and
 - b. TSCC 1553 must take steps to properly enforce its rules in regard to improper storage in parking spaces in a timely manner.

Roger Bilodeau
Member, Condominium Authority Tribunal

Released on: August 14, 2024