

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: January 31 2025

CASE: 2024-00594N

Citation: Pandza v. York Condominium Corporation No. 87, Chaplynska, 2025 ONCAT 15

Order under section 1.47 of the *Condominium Act, 1998*.

Member: Anne Gottlieb, Member

The Applicant,
Barbara Pandza
Self-Represented

The Respondent,
York Condominium Corporation No. 87
Rohina Hashimi, Counsel

The Respondent,
Anna Chaplynska
Self-Represented

CONSENT ORDER

- [1] This application involved a complaint about smoke migration. The parties have worked cooperatively in Stage 2 – Mediation to reach an agreement.
- [2] In the Condominium Authority Tribunal's (CAT) online dispute resolution system, the Parties agreed to terms that would resolve this case. The parties agree as follows:
1. Barbara Pandza ("Barbara") and Anna Chaplynska ("Anna") acknowledge that they each have read and understand the Smoke Free Environment Rules of York Condominium Corporation No. 87 ("YCC 87") and each agrees to abide by these rules and have occupants, guests and visitors to the units that they own or occupy abide by these rules;

2. YCC 87 will take reasonable steps to enforce compliance with the Smoke-Free Environment Rules should YCC 87 determine that a unit is in non-compliance with same. Enforcement steps may include, but are not limited to, issuing warning letters and engaging YCC 87's solicitors if non-compliance persists;
3. YCC 87 undertakes to engage the services of an engineer to conduct an odour migration investigation in the units occupied by both Barbara and Anna, and any other unit that YCC 87's Board of Directors has reason to believe may be a source of odour migration into Barbara's unit. This will include an investigation of migration of smoke from outdoor balconies. The costs of the foregoing odour migration investigation will be covered by YCC 87, with no financial burden placed upon Barbara or Anna. Such investigation will take place by February 10, 2025. The report of the engineer is expected within 3 weeks of the investigation, and will be shared with Barbara and Anna;
4. Barbara and Anna agree to provide reasonable access to their respective units and balconies for the engineer's investigation and any related follow-up inspections or repairs, as scheduled by YCC 87 with at least 48 hours' notice, as deemed necessary. Barbara and Anna further agree to cooperate with the investigation and provide YCC 87 with relevant information necessary to complete the investigation;
5. The engineer's report of the investigation referenced above may include recommendations for minimization or elimination of smoke migration pathways. These may include steps to be undertaken by individual unit owners or occupiers. If repairs are required to the common elements to remediate smoke migration pathways, YCC 87 will assess the cost and may make the repairs to the common elements as recommended by the engineer's report and which are YCC 87's responsibility to repair, at YCC 87's cost;
6. Barbara and Anna agree to provide access to their units to YCC 87 and its authorized agents, property manager, superintendent, security guards, and contractors in order to investigate smoke odour complaints and make any repairs to common elements which are YCC 87's responsibility to repair, as/if required;

7. These terms are not to be construed as an admission of fault, guilt or liability on the part of any party. This Order will not prejudice any future rights or obligations of the parties. Any failure by a unit owner or occupier to comply with the Smoke-Free Environment Rules, may result in further legal action;
8. In the case of further or future smoke incidents, Barbara agrees to notify YCC 87's designated point of contact immediately, and Barbara acknowledges that she has been provided with the method and details for such communication.
9. This CAT Application shall be considered settled on a without-cost basis.

[3] With the consent of the Parties, the CAT orders that this case has been resolved, and that this file may be closed.

ORDER

[4] The Tribunal makes the following order:

1. This case is closed in Stage 2 – Mediation under Rule 34.3 of the CAT's Rules of Practice.

Anne Gottlieb
Member, Condominium Authority Tribunal

Released on: January 31, 2025