

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: April 17, 2025

CASE: 2024-00089N

Citation: Turco v. York Region Standard Condominium Corporation No. 1273, 2025 ONCAT 58

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

Member: Roger Bilodeau, Member

The Applicant,

Nick Turco

Self-Represented

The Respondent,

York Region Standard Condominium Corporation No. 1273

Represented by Justin McLarty, Counsel

Submissions: March 6, 2025 to March 21, 2025

MOTION ORDER

A. OVERVIEW

- [1] Following a hearing in this matter, the Tribunal released its decision on February 28, 2025, which was then posted on the Tribunal and CanLII websites. Under the provisions of section 1.48 of the *Condominium Act, 1998* (the “Act”) and section 2 of Ontario Regulation 179/17 to the Act, the Tribunal is required to make available to the public any order which it issues, without charge and in a searchable database on the internet.
- [2] Mr. Turco now brings this motion to have his name redacted from any publication of that decision.
- [3] For the reasons set out below, I find that Mr. Turco has not demonstrated that his interests in having his name removed from the published decision outweigh the principle that the public should have full access to decisions of the Tribunal, including the names of the parties.

B. ISSUE & ANALYSIS

- [4] Mr. Turco has requested that his name should “remain anonymous from the public records”. The first argument in support of his motion is based on the alleged hostile nature of one of the occupants of the unit above his and his view that over the years, that occupant has used threatening or aggressive language when he has been approached by York Region Standard Condominium Corporation No. 1273’s (“YRSCC 1273”) security services about Mr. Turco’s complaints of unreasonable noise emanating from that occupant’s unit.
- [5] A second ground for his request is that he fears that his name or address could be searchable by third parties and that his involvement in this case could affect or damage his professional reputation. Finally, Mr. Turco argues that the value of his unit could be negatively affected if he wanted to lease or sell or his unit, to the extent that potential buyers or lessees could be deterred because of the conduct of the occupant in the unit above his.
- [6] For its part, YRSCC 1273 did not offer any submission on this motion, despite having had the opportunity to do so.
- [7] Turning now to an analysis of the issue in this matter, there can be no doubt that it turns on balancing the public interest in open courts, including public access to decisions of courts and administrative tribunals such as this one, versus an individual’s interests in privacy. As a starting point, Canadian courts have consistently held that the open court principle is inextricably tied to the rights guaranteed by section 2(b) of the Canadian Charter of Rights and Freedoms and that it applies to administrative tribunals as well as to courts: see for example the case of *Toronto Star v. AG Ontario*, 2018 ONSC 2586 (CanLII). In addition, the decision of the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25 (CanLII) has established the test for an order of confidentiality as sought by way of this motion. The Supreme Court of Canada referred to that test and to circumstances which would allow a decision-maker to rebut the presumption in favour of the open court principle by stating as follows at paragraph 33 of that decision:

A court can make an exception to the open court principle, notwithstanding the strong presumption in its favour, if the interest in protecting core aspects of individuals’ personal lives that bear on their dignity is at serious risk by reason of the dissemination of sufficiently sensitive information. The question is not whether the information is “personal” to the individual concerned, but whether, because of its highly sensitive character, its dissemination would occasion an affront to their dignity that society as a whole has a stake in protecting.

- [8] In addition, I must be guided by the CAO Policy on Access and Privacy ('Policy') and the relevant considerations for granting a confidentiality order, as set out under section 5.1.5 of the Policy, as follows:

In deciding whether to issue a confidentiality order, the Tribunal Member will consider several factors including the nature of the information at issue, the interests of affected individuals, and the public interest in the openness of the proceedings.

For greater specificity, please note that the CAT is guided by the provisions regarding the issuance of confidentiality orders set out in section 2(2) of the Tribunal Adjudication Records Act, 2019 – in particular, the CAT may issue a confidentiality order if:

- (a) matters involving public security may be disclosed; or
- (b) intimate financial or personal matters or other matters contained in the record are of such a nature that the public interest or the interest of a person served by avoiding disclosure outweighs the desirability of adhering to the principle that the record be available to the public.

- [9] Based on the above, the test for the issuance of a confidentiality order is a strict one. This is also supported by the fact that this Tribunal has only issued a small number of confidentiality orders to date, more specifically in matters related to personal medical information.
- [10] The question in this motion is therefore whether Mr. Turco has demonstrated that removing his name from the decision is necessary to protect important interests. I conclude that he has not.
- [11] Obviously, the risk of aggressive or threatening language or behaviour is such an important interest and, to establish it, it is not necessary that actual violence be demonstrated. But the apprehension of such behavior must be a reasonable one.
- [12] In this case, Mr. Turco has not established that his concerns are founded or supported by anything other than hearsay evidence which was conveyed to him by YRSCC 1273's security staff at a given point in time in the last four years. There is no evidence of an imminent or live threat which was or could be directed at Mr. Turco. In addition, this case is not a matter which raises considerations of public safety as set out in the Policy.
- [13] Although I have found no direct evidence of an imminent threat, I wish to add that in any case, YRSCC 1273 and its security staff have a responsibility to take all appropriate steps if ever such threats are made directly to Mr. Turco in a concrete

manner. In addition and in the hope that it never gets to that point, the parties also have recourse to municipal police, as required.

- [14] In regard to Mr. Turco's concern about the risk of possible damage to his professional reputation, that concern does not in my view constitute grounds for anonymization of his name in this matter. I also note that the decision does not disclose his address and that even if a third party was able to identify YRSCC 1273's street address, there would be no indication of Mr. Turco's unit number. Although of lesser importance, there is also the fact that Mr. Turco often works under an alias, as indicated in his submission.
- [15] In regard to Mr. Turco's final argument in support of a confidentiality order, namely how information contained in the decision could affect the value of his unit should he want to sell or lease it, I am also of the view that such a concern does not constitute grounds for anonymization of his name in this matter. If that were the case, one could surmise that a high number of court or tribunal decisions would never be added to the public domain on those grounds, in clear violation of the open court principle.
- [16] In light of all the above, I have determined that Mr. Turco has not established that his interests in having his name removed from the decision of February 28, 2025, outweigh the public's right to full access to the decisions of this Tribunal.

C. ORDER

- [17] The Tribunal orders that this motion be dismissed.

Roger Bilodeau
Member, Condominium Authority Tribunal

Released on: April 17, 2025