

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** April 22, 2025

**CASE:** 2025-00029R

**Citation:** Nzige v. York Region Standard Condominium Corporation No. 1116, 2025 ONCAT 64

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

**Member:** Mary Ann Spencer, Member

**The Applicant,**

Paula Nzige

Self-Represented

**The Respondent,**

York Region Standard Condominium Corporation No. 1116

Represented by Yang Chen, Agent

**Hearing:** Written Online Hearing – March 5, 2025 to April 11, 2025

### **REASONS FOR DECISION**

#### **A. INTRODUCTION**

- [1] The Applicant, Paula Nzige, is the owner of a unit of York Region Standard Condominium Corporation No. 1116 (“YRSCC 1116” or “the corporation”). On November 11, 2024, she submitted a Request for Records to the corporation in which she requested electronic copies of 13 core and non-core records. She submitted another Request on November 15, 2024, in which she requested one additional non-core record.
- [2] On December 6, 2024, YRSCC 1116 responded to Ms. Nzige’s two requests on one Board Response to Request for Records. The corporation’s response was that it would provide the requested records with the exception of those which it indicated Ms. Nzige was not entitled to receive. The Board Response estimated a fee for each of the non-core records YRSCC 1116 indicated it would provide.
- [3] YRSCC 1116 subsequently provided the core records to Ms. Nzige, redacting some sections of the requested minutes of board meetings held in the last 12

months. It also provided non-core monthly unaudited financial statements at no cost during the Stage 2 – Mediation. However, the corporation withheld the accounts receivable aging summaries that Ms. Nzige had specifically requested be included with these statements.

- [4] Ms. Nzige questions the redaction of the board minutes and submits she should receive unredacted accounts receivable aging summaries. She further submits that she should receive unredacted copies of all of the outstanding non-core records at no cost because the corporation has provided records on that basis in the past.
- [5] The corporation's position is that it redacted and/or withheld records in accordance with the requirements of section 55 (4) of the *Condominium Act, 1998* (the "Act") which sets out certain exceptions to an owner's right to examine or obtain copies of records. It will provide the balance of the non-core records which Ms. Nzige is entitled to receive upon receipt of payment of the estimated fee.
- [6] For the reasons set out below, I find that the redactions in the board minutes Ms. Nzige received are not improper and that she is not entitled to receive unredacted copies of the accounts receivable aging summaries. I also find that the corporation is entitled to charge a fee for the outstanding non-core records it indicated it would provide. Further, I find that Ms. Nzige is entitled to receive redacted copies of the records which the corporation refused and for which it estimated no fee. I am ordering the corporation to estimate a fee for those records. I am also ordering it to provide the records within 30 days of receipt of the applicable fee. I order no costs in this matter.

## **B. ISSUES & ANALYSIS**

- [7] Ms. Nzige confirmed the list of records at issue in this matter. I note that while she included the Current Plan for Future Funding of the Reserve Fund dated 2024 and the 2024 Reserve Fund Study among the outstanding records, that Yang Chen, YRSCC 1116's condominium manager and its representative in this matter, confirmed that the corporation had committed to providing these to Ms. Nzige at no cost. While I have no reason to doubt that the corporation will meet this commitment, for certainty, I will document this in an Order.
- [8] With respect to the other records which Ms. Nzige indicated she has yet to receive, the issues to be decided are:
  - 1. Is the Applicant entitled to receive unredacted copies of the requested records?

2. Is the Respondent entitled to charge a fee for the requested records and is the estimated fee reasonable?

A further issue to be decided is whether costs should be awarded in this matter. Ms. Nzige did not request a penalty be awarded for a refusal to provide records without reasonable excuse.

**Issue 1: Is the Applicant entitled to receive unredacted copies of the requested records?**

Minutes of Board Meetings held within the last 12 months

- [9] YRSCC 1116 provided Ms. Nzige with the requested board meeting minutes dating from October, 2023. It sent an accompanying statement which advised that the minutes of the meetings dated January 16, 2024, March 6, 2024, April 20, 2024, August 23, 2024 and October 10, 2024 had been redacted. The statement explained that the redactions were made in accordance with s. 55 (4) (b) of the Act which states that records relating to actual or contemplated litigation are an exception to an owner's right to examine or receive copies of records. Mr. Chen testified that the redacted paragraphs are with respect to ongoing litigation with a unit owner. I note that while not cited by the corporation in its statement explaining the redactions, s. 55 (4) (c) of the Act would also apply given the litigation involves a unit owner.
- [10] Ms. Nzige is not disputing that the redactions were in accordance with the requirements of the Act. Rather, she asked if the Tribunal could review the minutes to verify that the redactions were in fact related to litigation. This is not the role of the Tribunal; I accept Mr. Chen's testimony and therefore I find the redactions are not improper. Ms. Nzige also asked if the records could be provided to her on an unredacted basis once the litigation was completed. This is not an issue before me.

Water Bills from Priority (5 Retail Water Billing) and Powerstream (135 Units Water Billing) from September 1, 2018, to November 11, 2024

- [11] YRSCC 1116 refused Ms. Nzige's request for the water bills on the basis that these are records relating to individual owners.
- [12] YRSCC 1116 has entered into sub-metering agreements for water. When units are sub-metered, a corporation continues to be billed by and must pay the municipality for the total water its units consume. The sub-metering company bills and receives payment from the individual units which it then remits to the corporation. The water

bills Ms. Nzige requested are the monthly remittance reports the corporation has received from its two sub-metering companies.

- [13] Mr. Chen testified that YRSCC 1116's unit owners are responsible for paying their water bills to the two sub-metering companies. He explained that the reports Ms. Nzige requested contain the individual account owner's name, address, account number, billing period, water consumption and water charge.
- [14] Section 55 (4) (c) of the Act states that an owner's right to examine or obtain records does not apply to records relating to specific owners and units. Ms. Nzige is not entitled to receive the information on the remittance reports which relates to other owners. However, she is entitled to copies of the remittance reports from which the unit owners' information has been redacted, notwithstanding that Mr. Chen indicated that the total remittance amount is recorded on the financial statements which Ms. Nzige has received. The corporation is entitled to charge a fee for the production of the redacted records. I address the fee under Issue 2.

Monthly Unaudited Financial Statements with Accounts Receivable (A/R) Aging Summary unredacted from October 1, 2023, to November 11, 2024

- [15] Ms. Nzige received the unaudited financial statements, which are a non-core record, at no cost during the Stage 2 – Mediation. However, the corporation withheld the statements' accounts receivable aging summaries on the basis that these included information related to specific owners; that is, a list of the owners whose payments for common expenses are in arrears and the amount of those arrears.
- [16] While Ms. Nzige testified that she received the monthly financial statements with unredacted accounts receivable aging summaries in the past, in accordance with s. 55 (4) (c) of the Act, she is not entitled to any information relating to specific owners contained in those summaries. I note that the corporation advised her of this in an e-mail sent on January 12, 2024.
- [17] Mr. Chen confirmed that the only information on the requested records comprises the common expense arrears and the amount of the water remittance.
- [18] Ms. Nzige is entitled to receive a copy of the accounts receivable aging summaries but these must be redacted in accordance with s. 55 (4) (c) of the Act to remove information which identifies the owners. The corporation is entitled to charge a fee for these reports. I address the fee under Issue 2.

Condominium Administration \$5,196, Legal and Audit \$8,320

- [19] The corporation provided two responses to the above request, which Ms. Nzige confirmed was in fact for invoices. It indicated it would provide the invoices for the roofs and eaves and condominium administration but it refused the request for the legal and audit invoices on the basis that s. 55 (4) (b) of the Act applied to the legal bills because they relate to litigation. However, in response to my question, Mr. Chen confirmed that the \$8,320 also includes an invoice for audit services which he indicated the corporation would provide.
- [20] Ms. Nzige is entitled to receive copies of the legal invoices redacted in accordance with s. 55 (4) of the Act for information relating to litigation and/or to individual units and owners. The corporation is entitled to charge a fee for these invoices. I address the fee under Issue 2.

**Issue 2: Is the Respondent entitled to charge a fee for the requested records and is the estimated fee reasonable?**

- [21] Ms. Nzige's position is that she should not be required to pay a fee for the non-core records she requested. She submitted that she has been receiving records for some 16 years and wrote:

I have never been charged a fee for any record requested electronically.  
Therefore, I should not be charged any fee for the records that have not been issued by Respondent or any records I request electronically in the future.

She explained her understanding that the corporation could only charge for photocopying if the corporation kept a paper copy of a requested record and that there could be no charge for requests of electronic copies of records kept in electronic form.

- [22] Ms. Nzige's understanding is incorrect. A corporation is entitled to charge for the labour required to deliver a record. Section 13.3 (8) of Ontario Regulation 48/01 ("O. Reg. 48/01") states:

1. The fee shall be a reasonable estimate of the amount required to reimburse the corporation for the actual labour and delivery costs that the corporation incurs for making the record requested available for examination or for delivering a copy of the record, which costs shall include the printing and photocopying charges established under paragraph 3 and the actual labour costs that the corporation incurs during the examination.
2. The fee shall be reasonable.

3. The board shall establish a charge of no more than 20 cents per page for printing or photocopying.

[23] Regardless of the fact that YRSCC 1116 may not have charged for non-core records in the past, it is entitled to charge a fee. The question to be addressed is whether the fees it estimated in its Board Response to Request for Records are reasonable. I do note that these fees are only estimates. When a corporation provides a record, s. 13. 8 (1) of O. Reg. 48/01 requires that it also provide an accompanying statement. That statement must set out the actual cost of production and the difference between that cost and the fee it received. If the fee exceeds the actual cost, the corporation must also provide a refund of the difference. If the actual cost exceeds the amount of the fee paid, the requester must pay the least of the (i) difference, (ii) 10% of the fee payable, and (iii) 10% of the fee paid.

[24] I address each record Ms. Nzige advised was outstanding separately below. I also address the fee for the records which the corporation refused where I have found that Ms. Nzige is entitled to receive redacted copies.

#### All Contracts – January 1 to November 11, 2024

[25] The Stage 2 Summary and Order sets out that there are four contracts at issue; for condominium management, snow removal, cleaning and a retainer for legal services. The corporation estimated a fee of \$70 based on a labour charge of \$35 per hour for two hours work. I find the hourly labour rate to be reasonable.

[26] The Board Response to Request for Records indicates that the contracts are kept in electronic form notwithstanding that Mr. Chen testified that they are in paper form and will have to be converted to electronic format to send to Ms. Nzige. Ms. Nzige disputes this; based on her previous experience as a board member, she believes the contracts are all stored electronically.

[27] Ms. Nzige uploaded older versions of the condominium management contract and a legal services retainer. Based on their length, and the fact that none of the contracts will require redaction, I find the estimated fee to be unreasonably high even if the contracts are kept in paper form and therefore I find an estimated fee of \$35 for one hour's work to be more reasonable.

#### 2024 Audited Financial Statement Page 12, Receipts for the Roofs and Eaves \$10,340, Condominium Administration \$5,196, Legal and Audit \$8,320

[28] YRSCC 1116 estimated a fee of \$17.50 for 30 minutes work to produce the invoices for the roofs and eaves and condominium administration. I find this fee to

be reasonable. As noted above in paragraph 19, it has also now agreed to provide the audit invoice. This invoice shall be provided with no increase to the requested fee of \$17.50.

- [29] Ms. Nzige is entitled to receive copies of the legal invoices which are to be redacted in accordance with s. 55 (4) of the Act. Because the corporation indicated it was refusing to provide these records, it estimated no fee. There is insufficient information before me to estimate a reasonable fee for their production. Therefore I am ordering YRSCC 1116 to provide Ms. Nzige a Board Response to Request for Records setting out its estimated fee for the production of the redacted legal invoices.

Invoice 2316 in the amount of \$15,820 for June 2024

- [30] The corporation estimated a fee of \$35 for the provision of this invoice. I find this fee to be excessive particularly given Ms. Nzige identified the invoice number and month it was received. Therefore, I am reducing the fee to \$8.75, based on the fact that it estimated \$17.50 to produce the larger number of invoices for roofs and eaves and condominium administration.

Water Bills from Priority (5 Retail Water Billing) and Powerstream (135 Units Water Billing) from September 1, 2018, to November 11, 2024

- [31] Because it refused Ms. Nzige's request for the water bills, YRSCC 1116 did not estimate a fee for their provision. However, I have found that she is entitled to receive copies of the reports which are to be totally redacted for owner and unit specific information.
- [32] While the format of the water reports is unknown, even if the total remittance amount and/or total corporation water consumption is on a summary page that does not require redaction, the corporation is entitled to charge a fee for the time to retrieve and produce the requested copies. By my calculation, Ms. Nzige has requested 148 monthly reports and I would therefore expect the fee to be somewhat high. However, I have no basis on which to estimate this. Therefore, I am ordering YRSCC 1116 to include a fee for the production of the redacted water remittance reports on the Board Response to Request for Records I am ordering it to produce.

Monthly Unaudited Financial Statements with Accounts Receivable (A/R) Aging Summary unredacted from October 1, 2023, to November 11, 2024

- [33] The corporation is entitled to charge a fee for the production of redacted accounts

receivable aging summaries. Again, because the corporation's response was to refuse this request, it estimated no fee for these records. I am ordering YRSCC 1116 to include an estimate for the production of the redacted summaries on the Board Response to Request for Records form.

### Provision of Records

[34] The Board Response to Request for Records setting out the estimated fees for the production of the redacted legal invoices, water remittance reports and accounts receivable aging summaries is to be produced within 7 days of the date of this decision. I remind YRSCC 1116 that s. 13 (1) 8 of O. Reg. 48/01 requires the fees to be reasonable.

[35] It is up to Ms. Nzige to decide whether she wishes to pursue obtaining copies of redacted records and/or which records she is prepared to pay a fee to obtain. I will order the corporation to provide her with the records within 30 days of receipt of payment of the applicable fee. As I have noted above in paragraph 23, the corporation must keep track of the time it actually spends to fulfill each individual request and must report its actual cost when it provides the records. It must refund the difference if the actual cost is less than the fee paid. Similarly, Ms. Nzige could be required to pay an additional amount if the actual cost exceeds the estimated fee.

### Issue 3: Costs

[36] Ms. Nzige requested reimbursement of the \$200 she paid in Tribunal fees. YRSCC 1116 requested no costs.

[37] Ms. Nzige brought this application alleging that she was entitled to receive unredacted records and that she was not required to pay a fee for the production of the non-core records she requested. Notwithstanding that I have modified some of the fees requested by the corporation and that I am ordering it to provide redacted copies of the records it refused based on its understanding of s. 55 (4) of the Act, Ms. Nzige's application was largely unsuccessful. Therefore, I am exercising my discretion and am not ordering reimbursement of her Tribunal fees.

### **C. ORDER**

[38] The Tribunal Orders that:

1. Within 7 days of the date of this decision, YRSCC 1116 shall provide a Board Response to Request for Records to Paula Nzige. This shall set out the estimated fee for the production of redacted copies of the following records

requested in her November 11, 2024 Request for Records: (a) legal invoices; (b) water bills; and (c) accounts receivable aging summaries associated with the unaudited monthly financial statements. The records are to be provided within 30 days of receipt of the applicable fee.

2. YRSCC 1116 shall provide the following records requested in Paula Nzige's November 11, 2024 and November 15, 2024 Requests for Records within 30 days of receipt of the applicable fee:
  - a. \$35.00 for the management, cleaning, snow removal contracts and the legal retainer
  - b. \$17.50 for invoices for roofs and eaves, condominium administration and audit
  - c. \$8.75 for invoice 2316 in the amount of \$15,820
3. With each of the records it produces, YRSCC 1116 shall provide the accompanying statement required by s. 13.8 (1) of O. Reg. 48/01. The statement shall include the actual cost of producing the records. YRSCC 1116 shall include payment of the difference if its actual cost is less than the fee Ms. Nzige paid and/or indicate any additional amount Ms. Nzige is required to pay if the actual cost exceeds that fee.
4. YRSCC 1116 shall provide Paula Nzige with a copy of the 2024 Current Plan for Funding of the Reserve Fund and the 2024 Reserve Fund Study within 30 days of their approval by the board of directors. These records are to be provided at no cost to Ms. Nzige.

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Mary Ann Spencer  
Member, Condominium Authority Tribunal

Released on: April 22, 2025