CONDOMINIUM AUTHORITY TRIBUNAL

DATE: April 30, 2025
CASE: 2024-00165R
Citation: Jalbout v. Carleton Condominium Corporation No. 272, 2025 ONCAT 70

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

Member: Michael Clifton, Vice-Chair

The Applicant,
Jennifer Jalbout
Self-Represented

The Respondent,
Carleton Condominium Corporation No. 272
Represented by Dan Fried, Agent

Hearing: Written Online Hearing – June 8, 2024 to March 22, 2025, and April 17, 2025 to April 24, 2025

REASONS FOR DECISION

A. INTRODUCTION

[1] The Applicant, Jennifer Jalbout, is an owner of a unit in the Respondent condominium corporation.

[2] On or about February 10, 2024, the Applicant submitted a request for records (the "Request for Records") seeking a variety of core and non-core records in accordance with the provisions of the *Condominium Act, 1998* (the "Act"). The Respondent did not provide a response to the Request for Records either in the manner or within the time frame set out in the regulations under the Act. As a result, the Applicant filed this application with the Tribunal.

[3] Having reviewed the evidence and submissions of the parties, I find that the Applicant is not entitled to a large number of the records identified in the Request for Records. I find that she is entitled to one set of records that were requested. I also find that the Respondent refused to provide records without a reasonable excuse and is required to pay a penalty. I award minimal costs in favour of the

Applicant.

B. PROCEDURAL MATTERS

[4] Midway through these proceedings, the Respondent ceased all participation in this case despite attempts made by me and Tribunal staff to reach out to them and encourage their participation. The issue (as confirmed through copies of correspondence uploaded as evidence in this case) was that the condominium manager who had been representing the Respondent – Dan Fried of Apollo CI Condo Management – retired and, although a replacement manager was appointed by the management provider, and, again, despite invitations from this Tribunal, neither that manager nor any member of the board of directors or other representative of the Respondent appeared to take part in and complete this case. As a result, the hearing was concluded, and this decision has been rendered without further submissions or evidence being provided by the Respondent. This lack of participation caused some of the delay in the completion of this case and complicated my assessment of the Applicant's evidence and claims.

[5] I also note that after this hearing was first concluded on March 22, 2025, the Applicant made a request to submit additional information and documents to the Tribunal. The case was therefore reopened on April 17, 2025, to permit her to provide an explanation of what additional materials she proposed to submit. Although by this time the Respondent was no longer actively participating in the hearing, an opportunity was also offered to the Respondent to inform the Tribunal if it wanted to respond to the Applicant's explanation. After reviewing the Applicant's submissions, and there being no answer from the Respondent, I determined that no additional information or documents were required to decide this case. The case therefore finally concluded on April 24, 2025.

C. BACKGROUND

[6] There is, as is not uncommon in cases of this kind, a history between the parties. This case is not the first case involving the parties that has come before this Tribunal. The Request for Records is also not the first request for records the Applicant has made. The poor response given to the Request for Records by the Respondent in this case (i.e., as explained further in this decision, not using the correct form, not addressing each of the requested records, and not providing a comprehensive or reasonable estimate of fees) is merely a repetition of the kind of poor responses they appear to have given to her in the past.

[7] There is animosity between the parties. The tenor and tone of the Respondent's submissions in this case and prior correspondence with the Applicant are

indicative of at least a degree of negativity, discourtesy, and disrespect toward the Applicant. For her part, the Applicant alleges much worse. She alleges that she is targeted by the Respondent's board and management in a manner she describes as "retaliatory," "horrific" and "oppressive," consisting, she says, of such things as false accusations of rule breaking, seeking to impose liens on her unit for enforcement costs without a supporting court or Tribunal order, and most recently threatening to evict her dogs. The details and truth of the Applicant's claims have not been examined and do not inform my decision below, since they do not fall within the scope of matters that the Tribunal has jurisdiction to address in this case.

[8] As it pertains to their handling of the Request for Records, there is evidence in this case that the Respondent, whether acting through its manager or board, has been negligent and careless in regard to their obligations under the Act, sometimes landing only accidentally, it seems, upon the correct conclusions (as explained later in this decision). Whether or not this air of disregard is also indicative of antipathy toward the Applicant, it is nevertheless improper and contrary to both the letter and the spirit of the Act.

D. ISSUES AND ANALYSIS

[9] The issues in this case are:

1. Has the Respondent refused to provide records requested in the Request for Records that the Applicant was entitled to receive?

2. Is the Applicant entitled to receive further records from the Respondent, and, if so, which records and on what conditions?

3. Does the Respondent have a reasonable excuse for its refusals? If so, should a penalty be awarded against the Respondent?

4. Should costs be awarded in favour of either party?

ISSUE NO. 1: Has the Respondent refused to provide records requested in the Request for Records that the Applicant was entitled to receive?

[10] In the Request for Records, the Applicant requested the following:

1. Record of Owners and Mortgagees.

2. Minutes of board meetings ("official and unofficial") from December 20, 2017, to February 10, 2023.

3. “Proxy/ballots/votes” from December 20, 2017, to February 10, 2024.

4. Records of completion of training for all board members, from December 20, 2017, to February 10, 2024.

5. The approved alteration for a rear exterior flood light for a unit other than the Applicant’s unit, from January 1, 1982, to February 10, 2024.

6. “All approved alterations to common grounds” from January 1, 1982, to February 10, 2024.

7. Periodic Information Certificates, from January 1, 2019, to February 10, 2024.

8. All complaints relating to the Applicant’s unit, from December 20, 2017, to February 10, 2024.

9. Invoices for all expenditures and work performed, from January 1, 2019, to February 10, 2024.

10. Information Certificate Updates, from January 1, 2019, to February 10, 2024.

11. “Investigative report findings” for the Applicant’s unit, from January 1, 2019, to February 10, 2024.

12. Condominium returns filed with the CAO, from January 1, 2019, to February 10, 2024.

13. Notice of Change filed with the CAO, from January 1, 2019, to February 10, 2024.

14. Invoices for annual chimney inspections/cleanings, from January 1, 2019, to February 10, 2024.

15. All email correspondence between board members, from January 1, 2019, to February 10, 2024.

16. All email correspondence “between CCC272 Directors”, from January 1, 2019, to February 10, 2024.

17. All email correspondence “between CCC272 and the property management company” regarding the Applicant’s unit, from January 1, 2019, to February 10, 2024.

18. “Board meeting invitations” from January 1, 2019, to February 10, 2024.

[11] Although the Respondent suggested during these proceedings that some parts of the Request for Records make it appear to be a fishing expedition, as that term has been applied in a variety of cases before both the courts and this Tribunal relating to condominium unit owners’ requests for records – which, as discussed below, I find is an apt view of several of the requests – the Respondent did not take the position that the Applicant was therefore not entitled to the requested records. Instead, on February 23, 2024, the condominium manager at the time, Dan Fried, replied to the Request for Records by email – without using the statutory form for responding to a request for records – stating,

> *Hello Jennifer*
>
> *The Corporation's position is still the same as it was when you asked for these records last time. Based on your past history, these records will be provided to you after we receive the amounts quoted in previous emails.*

[12] The “previous emails” referred to by Mr. Fried include an email of January 8, 2023, responding (also not on the statutory form) to an earlier request for records by the Applicant, in which he then stated,

> *As you are aware, we will be charging for these records. The requests for owners and lessors information will be 10.00 a page to edit for you. The minutes will be at 15.00 a page to compensate our team for redacting requirements. I estimate we will have 4 pages of owner information at $40.00 and 25 pages of minutes at $375.00. Once we have received the funds … we will process your request as soon as our office opens.*

[13] In so far as this email proposes to charge fees for provision of the record that the condominium is to keep under section 46.1 of the Act, it is immediately evident from this email that Mr. Fried, on behalf of the Respondent, proposed to charge fees for the provision of core records, contrary to paragraphs 4 and 5 of subsection 13.3 (8) of Ont. Reg. 48/10.

[14] In addition, the explanation of fees set out in that email is not remotely close to a complete or satisfactory response to the Request for Records, and the fees, as set out by Mr. Fried, do not evidently reflect reasonable consideration of the degree of skill or time required for the tasks in question and thus are not a reasonable estimate of fees pertaining to the Request for Records.

[15] Regardless, I was advised that during the Stage 2 – Mediation portion of the proceedings in this case, the Applicant was provided with the following records:

1. Record of Owners and Mortgagees.

2. 2023 Board Meeting minutes.

3. Evidence of completion of directors training.

4. Periodic Information Certificates.

5. Information Certificate Updates.

6. Invoices for annual chimney cleaning.

[16] Therefore, at this stage the outstanding records requested are the following:

1. Non-core board meeting meetings. During these proceedings, Mr. Fried advised that these are kept in “a mix of electronic and paper” forms, and all need to be redacted at the manager’s rate of $125 per hour, for which he estimated between 2 and 3 hours of work is needed, with copying and mileage to be charged additionally.

2. Proxy ballots. Mr. Fried stated these are not available as they are destroyed 90 days after use.

3. Records relating to approval of the rear exterior flood light for a unit other than the Applicant’s unit. Mr. Fried explained that the only records relating to this, and for all other common element alterations, are the board minutes which were or will be provided. Mr. Fried did not suggest that the Applicant is not entitled to such records despite the clear prohibition set out in clause 55 (4) (c) of the Act.

4. Complaints relating to the Applicant’s unit. Mr. Fried stated in this hearing the Applicant already possesses these, since they were “the topic of our last hearing that she lost in.” Though Mr. Fried was not specific, this appears to be a reference to *Jalbout v. Brown*, 2023 ONCAT 147, in which the condominium was an Intervenor. The Applicant stated that copies of such complaints were not provided to her in the context of that case or otherwise.

5. Invoices for all expenditures and work performed, from January 1, 2019, to February 10, 2024. Mr. Fried states they asked the Applicant to be more specific, “as this seems a fishing expedition.” He noted that the compilation of these records would take five to ten hours, at a rate of $50 per hour (performed by an administrator working for the management provider) plus printing costs. The Applicant has later indicated that she is seeking

"documentation justifying the charges added to my account in the absence of a court order or judgement," but by the time this statement was provided, the Respondent had long since ceased to participate in the case.

6. "Investigative report findings" for the Applicant's unit, from January 1, 2019, to February 10, 2024. Mr. Fried states that the Applicant was asked to explain what this request refers to but received no response.

7. Condominium returns and Notices of Change filed with the CAO. Mr. Fried stated the Respondent refused to provide these, since the Applicant "can get this on her own." He also noted that notices of change filed with the CAO are "covered in the ICU's."

8. Various requested emails from January 1, 2019, to February 10, 2024. Mr. Fried answered, "This is another fishing expedition," and advised, "If we are required to supply this the time to find and print a redact will be billed per hour at 50.00 which an admin can do and 125.00 which a PM can do. This will be a very large job."

9. Board meeting invitations from January 1, 2019, to February 10, 2024. Mr. Fried stated, "I am not sure how one would get this..... I am open to suggestions."

[17] The Applicant further complains that the records provided to her are deficient, noting:

1. The list of owners and mortgagees is missing addresses for service.

2. There are missing Information Certificate Updates relating to the resignations of various directors over an unspecified period of time.

3. Some board meeting minutes are missing dates of prior minutes that were recorded as approved or that should have been and are missing dates of upcoming meetings.

[18] I understand that during the course of these proceedings the Applicant may have continued to scour the other records she had received to identify further errors or omissions. However, the scope of this case is restricted to consideration of the Applicant's entitlement and the Respondent's response to the Request for Records. Therefore, I do not address the Applicant's concerns about such alleged deficiencies in the records she has received.

[19] With respect to the issue at hand, I find that the Respondent has refused to

provide the Applicant with some of the requested records. The Respondent expressly refused to provide complaints relating to the Applicant's unit, proxy ballots, and condominium returns filed with the CAO. In addition, I agree with the Applicant that it is more probable than not that the fees proposed by the Respondent were intended in part to deter her from pursuing the Request for Records. Such fees were poorly explained, not entirely applicable (particularly, where proposed to be charged for core records), and/or unreasonable in amount and scope for the work and records being requested. Those issues along with the variety, and scope of the fee demands expressed by the Respondent lead me to believe that it sought by them to discourage the Applicant from pursuing her requests, and as such this is tantamount to a refusal.

ISSUE NO. 2: Is the Applicant entitled to receive further records from the Respondent, and, if so, which records and on what conditions?

[20] Despite the foregoing, I also find that the Applicant is entitled to only some but not all of the requested records, including that the Applicant is not entitled to a number of the records that the Respondent has proposed to give her subject to the payment of fees.

[21] Of the remaining records that the Respondent has yet to provide, I find that the Applicant is not entitled to the following:

1. Proxy ballots. The Applicant is not entitled to records that do not exist. Per clause 3 of subsection 13.1 (2) of Ont. Reg.48/01, the Respondent had no obligation to retain these longer than 90 days after the meetings to which they respectively applied.

2. Records relating to approval of the rear exterior flood light for a unit other than the Applicant's unit. Per clause 55 (4) (c) of the Act, which prohibits owners from obtain records that are specifically about other owners or their units, the Applicant is not entitled to these records.

3. Any of the following records as these requests also all appear to constitute a fishing expedition (i.e., casting a wide and imprecise net in the hopes of discovering some anticipated but unspecified issues or errors that might or might not exist) based on the broad, non-specific descriptions and lengthy time periods covered by each request:

    i. Board meeting meetings from December 20, 2017, to February 10, 2023.

ii. “All approved alterations to common grounds” from January 1, 1982, to February 10, 2024 – an over forty-year period.

iii. Invoices for all expenditures and work performed, from January 1, 2019, to February 10, 2024.

iv. Condominium returns and Notices of Change filed with the CAO, from January 1, 2019, to February 10, 2024

v. Various requested emails from January 1, 2019, to February 10, 2024.

vi. Board meeting invitations from January 1, 2019, to February 10, 2024.

[22] The Applicant was given the opportunity to respond directly to the allegation that some of her requests constituted a fishing expedition, which she did. In effect, the Applicant admits that several of her requests were vague and overbroad. Overall, she stated that the broad scope of the requests “reflects the deeply entrenched nature of the mistreatment I have endured” and “the severe and deplorable treatment I continue to suffer.” This answer does not explain why the Applicant could not have been more specific in her requests. The Applicant also noted that “The original form did not allow for a comprehensive explanation of the context and specifics of my request,” and “I am happy to provide a more detailed breakdown of the specific records I require.”

[23] It is no excuse to place blame upon the format of the Request for Records form, nor was it appropriate to wait until the Tribunal hearing to provide more specific and exact requests or explanations, which she did for some of the records. The Applicant should have been clearer and specific in the first place and requested only such records from such periods of time and in relation to such matters as she could reasonably identify as being directly relevant to her valid concerns. Not having done so, and given the evidence before me, I find that these requests qualify as fishing expeditions, as that term is explained above.

[24] I find that the only records indicated in the Request for Records that the Applicant is entitled to receive, that were not already delivered to her, are the complaints relating to the Applicant’s unit from December 20, 2017, to February 10, 2024, and the “Investigative report findings” for her unit, from January 1, 2019, to February 10, 2024.

[25] Although the periods of years covered in these requests are broad, the fact that these records relate directly to the Applicant’s own unit gives them a more narrow and precise focus and makes it reasonable that she should have, and want to

have, copies of them. The same fact also means that they should be readily identifiable by the Respondent. During this hearing the Applicant also explained that the investigative reports she seeks are, more specifically, "documentation justifying the charges added to my [common expense] account in the absence of a court order or judgement," which may serve to further narrow the scope of the Respondent's production of relevant records.

[26] I will order the Respondent to provide such records to the Applicant, subject to appropriate redactions in accordance with subsection 55 (4) of the Act. The Respondent will need to determine whether and what bases for redaction apply and will need to provide the Applicant with the statements required under subsection 13.8 (1) of Ont. Reg. 48/01 when delivering this set of records to the Applicant.

[27] The Respondent is also entitled to a fee payable by the Applicant for the provision of these records. However, as noted, I have found the submissions of the Respondent relating to fees in this case to be generally not reasonable. Further, the Respondent provided no proposed estimate of fees regarding these particular records. I am left, therefore, to determine a fee that I find to be reasonable in the circumstances taking into account what information the Respondent has provided, and considering the analyses of fees that have been applied by the Tribunal in other cases.[1]

[28] I note that while, on the one hand, the task of locating and identifying the requested records is a basic, administrative duty, on the other, even though these records primarily relate to the Applicant and her unit, the task will require some comprehension and performance of the kinds of redaction permitted or required under subsection 55 (4) of the Act and therefore requires slightly more than merely administrative knowledge and capability.

[29] I have also noted that the Respondent stated that an administrator working at its management provider is charged out at a rate of $50 per hour, and that the manager's rate for such services is $125 per hour. This range of fees appears

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[1] E.g., *Shaheed Mohamed v York Condominium Corporation No. 414*, 2018 ONCAT 3; *Patricia Gendreau v Toronto Standard Condominium Corporation No. 1438*, 2020 ONCAT 18; *He v. Waterloo Standard Condominium Corporation No. 541*, 2020 ONCAT 34; *Zamfir v. York Condominium Corporation No. 238*, 2021 ONCAT 118; *Bolanos v. Carleton Condominium Corporation No. 14*, 2021 ONCAT 52; *Sharma v. Toronto Standard Condominium Corporation No. 2510*, 2022 ONCAT 3; *Harder v. Metropolitan Toronto Condominium Corporation No. 905*, 2022 ONCAT 58; *Hamid-Rajroop v. Metropolitan Toronto Condominium Corporation No. 728*, 2022 ONCAT 77; *Sava v. York Condominium Corporation No. 386*, 2024 ONCAT 35; *Nzige v. York Region Standard Condominium Corporation No. 1116*, 2025 ONCAT 64.

excessive in comparison to fees for comparable services that have been treated as reasonable by the Tribunal in other cases. Further, the Respondent provided no evidence that such fees are reasonable in the marketplace or reflective of the actual or effective hourly rate paid to licensed condominium managers or administrators for their services, even if they might genuinely be the fees that the Respondent's management provider charges its clients. The Tribunal has previously noted that the requester of records is only required to pay actual labour costs, not simply whatever fee is charged by the condominium's management provider.[2]

[30] Considering all the foregoing, and especially the cost of their redaction by a qualified reviewer, I have decided that a reasonable fee for production of the above-noted records to which the Applicant is entitled – namely, all complaints relating to the Applicant's unit from December 20, 2017, to February 10, 2024, and the "Investigative report findings" for her unit, from January 1, 2019, to February 10, 2024, that serve to "justify" or explain "charges added to [the Applicant's common expense] account in the absence of a court order or judgement" – shall be based on a rate of $50 per hour, applied in conjunction with an accurate accounting of the time required for the work to be done.

[31] Given the number of years covered by the Applicant's requests for these records, and lack of other information about them (other than that they relate particularly to the Applicant or her unit), I cannot determine the number of hours reasonably required for such work to be completed. Therefore, I will order that the Respondent make a reasonable estimate of the time it would take to redact and produce those records for the Applicant, and to provide this estimate to the Respondent within fifteen (15) days of the issuance of this Order.

[32] To help ensure a reasonable estimate of such costs, I further order:

1. The Respondent shall not include or charge any amount for time or labour spent in locating and identifying the relevant records (which I have already noted should not be significant in any event).

2. The Respondent's estimate for the cost of redacting the records shall be based upon a maximum of 2 minutes' labour per page.

3. The Respondent shall not charge the Applicant more then $0.20 (twenty cents) per page for photocopying or printing costs.

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[2] See, for example, par. 34 in *Zamfir v. York Condominium Corporation No. 238*, 2021 ONCAT 118.

[33] If the Applicant pays the estimated fee within 15 days after the date on which the estimate is given to her, the Respondent shall then be required to provide the records within a subsequent 30 days of the date of that payment.

[34] Once the actual cost of production of the records is determined and reported to the Applicant in accordance with subsection 13.8 (1) of Ont. Reg. 48/01, if the actual costs is less than the estimated fee that was charged to the Applicant, the Respondent shall comply with clauses 13.8 (1) (c) and (d) of Ont. Reg. 48/01; however, if the actual cost exceeds the estimated fee, subsection 13.8 (2) of Ont. Reg. 48/01 shall not apply and the Respondent shall absorb all such excess costs.

ISSUE NO. 3: Does the Respondent have a reasonable excuse for its refusals? If so, should a penalty be awarded against the Respondent?

[35] I have noted that the Respondent did refuse to provide certain records requested by the Applicant in the Request for Records. Of the refused records, I have found the Applicant was entitled to receive copies of the complaints and certain investigative reports relating to her unit.

[36] In regard to the reports, Mr. Fried stated that the Respondent sought clarification about what was sought from the Applicant and received no answer. While this excuse does not absolve the Respondent of its obligation to respond positively to the Request for Records, it does suggest at least some contribution by the Applicant to the Respondent's failure to provide them. I do not find it entirely unreasonable that these records were not provided.

[37] However, regarding the Applicant's request for complaints relating to her unit, the Respondent's reason for refusal, as stated by Mr. Fried during this hearing, was its belief that the Applicant already possesses them, since they were "the topic of our last hearing that she lost in." I believe that this was either a disingenuous or not carefully considered response. I find this refusal to be without reasonable excuse in any event.

[38] As noted earlier in this decision, I also find the Applicant's belief credible that the fees demanded by the Respondent – including for some core records – were set for the purpose of deterring her from requesting records at all. I find this to be an effective refusal to provide those records that has no reasonable excuse. This conclusion also applies to those few requests that the Respondent correctly but belatedly – in the context of this hearing – identified as "fishing expeditions", after first having purported to be willing to provide the records to the Applicant subject to payment of its demanded fees. A party is not excused from their unreasonableness by the mere fact that other good reasons, which they had never

at the time considered, might exist to justify the same outcome.

[39] The Tribunal has authority under clause 1.44 (1) 6 and subsection 1.44 (3) of the Act to order a condominium corporation to pay a penalty of up to $5000 where the Tribunal considers that the corporation has without reasonable excuse refused to permit the person to examine or obtain copies of records requested in accordance with a request for records under subsection 55 (3) of the Act.

[40] Given the well-established purpose of a penalty to motivate condominiums to better comply with their statutory obligations with respect to granting owners access to condominium records, I believe a penalty is appropriate in this case. It is also the well-established practice to award an amount that reasonably reflects the extent of the non-compliance in the case. Given that there were both outright refusals and the use of fee demands to, essentially, “mask” refusals, both without reasonable excuse, I order the Respondent to pay the Applicant a penalty in the amount of $1200 in accordance with clause 1.44 (1) 6 of the Act.

ISSUE NO. 4: Should costs be awarded in favour of either party?

[41] The Applicant has been only partially successful in this case. I note that the records to which I have found her to be entitled are records that the Respondent had refused to provide, necessitating an application to the Tribunal. As such, I find it just that the Applicant be entitled to reimbursement of her full Tribunal fees of $200.

[42] I do not find either party entitled to any other costs. Although the conduct of the Respondent in failing to continue participating in the case after the retirement of Mr. Fried caused some delays and difficulties for these proceedings, this did not give rise to a sufficient justification for a costs award. Further, the case was also made somewhat more complex by the nature of the Request for Records itself and the Applicant’s insistence on returning several times to a discussion of matters for which the Tribunal presently lacks jurisdiction. Its conclusion was further postponed by her request to have it reopened for additional submissions which I found were not ultimately necessary for determining the outcome of this case.

[43] It also appears clear from the evidence and submissions that were before me that both parties have contributed to and exacerbated a fraught situation between them, and that each must make more serious efforts to resolve their conflicts in a less contentious and difficult manner.

[44] Therefore, I find that each party ought to bear its own costs of these proceedings.

[45] I note, however, that the submissions of the Applicant include allegations that the Respondent has imposed upon her some legal enforcement and other costs resulting in actual or threatened liens, which she asserts were unjustified and motivated by the Respondent's antipathy toward her. I do not know whether these allegations are true, and I make no determination in that regard. However, to provide certainty that each party will bear its own costs of these proceedings (other than to the extent the Applicant will inevitably pay a share of the Respondent's costs through her usual contributions to the common expenses of the condominium), and for both clarity and balance, I will order that:

1. The Respondent is not to assess any of its legal or other costs relating to these proceedings or the Request for Records against the Applicant, or her unit, particularly, but shall treat them as regular common expenses of the condominium that are incurred and paid for in the ordinary course; and

2. The Applicant shall not make any claim for reimbursement from the Respondent, or withhold any portion of her usual contributions to the common expenses, on account of the costs of these proceedings.

E. ORDER

[46] The Tribunal orders that:

1. Regarding provision to the Applicant of,

    a. copies of all complaints relating to the Applicant's unit from December 20, 2017, to February 10, 2024, and

    b. copies of the "Investigative report findings" for the Applicant's unit, from January 1, 2019, to February 10, 2024, that serve to "justify" or explain "charges added to [the Applicant's common expense] account in the absence of a court order or judgement,"

    the Respondent shall, within 15 days of the date of this Order, deliver to the Applicant an estimate of the cost to produce the said records (the "estimated fee") that is subject to the following requirements:

    a. The estimated fee for the labour of producing the records shall be charged at $50 per hour.

    b. The estimated fee shall not include time for the labour of locating and identifying the said records.

c. The estimated fee for the labour of redacting the records shall be based upon a maximum of 2 minutes' labour per page.

d. The estimated fee for photocopying and printing shall be based upon a rate not greater than $0.20 (twenty cents) per page.

2. If the Applicant pays the estimated fee within 15 days after the date on which the estimate is given to her by the Respondent, the Respondent shall then be required to provide the said records to the Applicant within a subsequent 30 days of the date of that payment.

3. Upon providing the said records to the Applicant, the Respondent shall comply with all provisions of subsection 13.8 (1) of Ont. Reg. 48/01, including (without limitation) that, if the actual cost of production of the records (not including locating and identifying them) is less than the estimated fee, the Respondent shall comply with clauses 13.8 (1) (c) and (d) of Ont. Reg. 48/01. If the actual cost exceeds the estimated fee, subsection 13.8 (2) of Ont. Reg. 48/01 shall not apply and the Respondent shall absorb all such excess costs as regular common expenses and not charge such excess to the account of the Applicant or her unit.

4. The Respondent shall, within 30 days of the date of this Order, pay the Applicant:

   a. a penalty in the amount of $1200 in accordance with clause 1.44 (1) 6 of the Act; and

   b. costs in the amount of $200; and

5. Other than as set out immediately above in this Order, each party shall be required to bear its own costs of these proceedings. To provide clarity and certainty as to the effect of this provision of this Order,

   a. the Respondent is hereby ordered not to assess any of its legal or other costs relating to these proceedings against the Applicant, or her unit, particularly, but shall treat them as regular common expenses of the condominium that are incurred and paid for by it in the ordinary course, and

   b. the Applicant is ordered not to make any claim for reimbursement from the Respondent or withhold any portion of her usual contributions to the common expenses, on account of the costs of these proceedings.

Michael Clifton
Vice-Chair, Condominium Authority Tribunal

Released on: April 30, 2025