

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: May 30, 2025

CASE: 2025-00040R

Citation: Ward v. Peel Standard Condominium Corporation No. 1008, 2025 ONCAT 89

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

Member: Nicole Aylwin, Member

The Applicant,

Shawn Robert Ward

Self-Represented

The Respondent,

Peel Standard Condominium Corporation No. 1008

Represented by Carol Dirks, Counsel

Hearing: Written Online Hearing – April 7, 2025, to May 27, 2025

REASONS FOR DECISION

A. INTRODUCTION

- [1] Shawn Robert Ward is a unit owner of the Respondent, Peel Standard Condominium Corporation No. 1008 (“PSCC 1008”). Mr. Ward submitted a Request for Records to PSCC 1008 on December 19, 2024, for two non-core records. On January 15, 2025, PSCC 1008 responded to the request indicating they were temporarily denying providing the records because they were related to the in-progress procurement of a new condominium management company. They indicated they would provide the records once the process was complete.
- [2] Mr. Ward takes the position that there was no reasonable excuse for the delay in providing the records and they ought to have been provided in response to his request and within the timelines set out in the *Condominium Act, 1998* (“the Act”) and its regulations.
- [3] On March 2, 2025, during the Stage 2 – Mediation of this Tribunal process, the records were provided to Mr. Ward. At the outset of the hearing, the parties

confirmed that the issues to be determined in the hearing were limited to:

1. Did PSCC 1008 refuse to provide Mr. Ward with records to which he is entitled without a reasonable excuse? If so, should a penalty be assessed and in what amount?
 2. Is any party entitled to costs?
- [4] For the reasons set out below, I find that PSCC 1008's delay in providing records to Mr. Ward amounts a refusal without a reasonable excuse and a small penalty of \$125 is appropriate in this case. I also award Mr. Ward costs in the amount of \$200 for his Tribunal filing fees.

B. ISSUES & ANALYSIS

Issue No. 1: Did PSCC 1008 refuse to provide Mr. Ward with records without a reasonable excuse? If so, should a penalty be assessed and in what amount?

- [5] On December 19, 2024, Mr. Ward submitted a Request for Records to PSCC 1008 requesting two records:
1. A copy of the contract for the new condominium management company, First Service Residential Ontario ("First Service").
 2. "Quotations" (i.e. bids) from the management companies that sought to replace the current condominium management services provider, Duka.
- [6] On January 19, 2025, PSCC 1008 responded to Mr. Ward on the prescribed required form, denying both requests "at this time", but nonetheless agreeing to provide the documents after the new management company assumed responsibility for managing PSCC 1008.
- [7] In its submissions, PSCC 1008 took the position that the board had every intention of providing Mr. Ward with the requested records once the management transition to First Service was completed at the end of January 2025. However, they did not want to provide the documents prior to the official start of First Service's contract to "ensure fair competition of the management selection process and inadvertent disclosure of proprietary information to a direct competitor" and to protect the "integrity of the procurement process".
- [8] Additionally, PSCC 1008 argued that there was no refusal to provide Mr. Ward with management contract specified in his request because he listed the date range of October 15 – December 19, 2024. The First Service contract was not

signed until January 14, 2025 – thus it fell outside the date range of records requested by Mr. Ward.

- [9] Regarding the bid quotations, they argued that the Tribunal has not ruled that such documents (i.e., bids) are a record under s. 55(1) of the Act and s. 13.1(1) on Ontario Regulation 48/01 (“O.Reg 48/01”) and thus PSCC 1008 had no requirement to provide them in the first place, thus they could not have been refused.
- [10] Mr. Ward argues that if PSCC 1008 was genuine in their intent to provide the records once the transition to new management was complete, then they ought to have provided the records on or about February 1, 2025, as this is when First Service took over management. He asserts that there is no reasonable excuse (nor any explanation provided) for why PSCC 1008 waited until the Stage 2 – Mediation in March 2025 to provide the records.
- [11] He further argues that the fact that the First Service contract was signed on January 14, 2025, outside of the date range he specified in his request, should not be considered a reasonable excuse for two reasons. First, because on December 4, 2024, PSCC 1008 sent a notice to all unit owners announcing First Service as the new condominium management service provider. Based on this announcement he assumed a contract was signed and thus requested it. Moreover, regardless of when First Service signed and sent back the the contract, it was signed by members the board of directors on December 16, 2024, which is within the requested date range.
- [12] I accept that First Service did not sign the contract until January 14, 2025, and that PSCC 1008 did not want to provide the contract until it was finalized. However, PSCC 1008 did not respond to Mr. Ward’s request until January 15, 2025 – meaning they had the signed contract in its possession when they replied to Mr. Ward’s request. I agree with Mr. Ward that there is no obvious reason or explanation as to why, having been in possession of the signed contracted since the middle of January, they did not provide the contract until March 2025. The argument that the contract fell outside of the date range requested by Mr. Ward, is not only unpersuasive, but is disingenuous. Mr. Ward’s request is specific; the record Mr. Ward was seeking was clear – regardless of the date range he provided. Moreover, PSCC 1008 said they would provide it, so there was obviously no confusion about the record he was seeking. To make the argument now, in retrospect, that the date range listed excludes the contract from examination, suggests an attempt to retroactively justify PSCC 1008’s delay, rather than to offer a legitimate excuse for it. While PSCC 1008’s argument may be technically

correct; there was no agreement in place at during he time period listed on the request form. It is clear that PSCC 1008 knew what Mr. Ward wanted. To now claim that he is not entitled to it over a minor technicality seems indicative of an attitude contrary to the “open book” principle.

- [13] In a similar vein, after agreeing to provide Mr. Ward with the bid quotations after First Service assumed its management role, to now argue that that they didn’t refuse the records because the Tribunal has not determined that bids are a record of the corporation, is unconvincing.
- [14] PSCC 1008 referred me to *Rangan v. Metropolitan Toronto Condominium Corporation No. 996*, 2022 ONCAT 71 (“Rangan”) and *Mehta v. Peel Condominium Corporation No. 389*, 2020 ONCAT 10 (“Mehta”), noting that in these cases the Tribunal did not rule on whether bids were records of the corporation. That is true, but that fact is not helpful or persuasive in this case. All it means is that in those cases the Tribunal did not need to decide on whether the bid documents sought constituted a record of the corporation. In any event, the facts of Rangan and Mehta cases are quite different than those here. In Rangan, while the corporation did initially refuse to provide Mr. Rangan with the bids, they quickly amended their decision which led the Tribunal to find they did not refuse to provide the record. In Mehta there was no evidence that bid documents existed, so the Tribunal found they were not refused. It is also worth noting that in Mehta the Tribunal highlighted that while s. 55(1) of the Act provides a list of the types of records that a condominium corporation is required to keep for a corporation to meet a minimum standard of adequate record keeping under the Act, that the list is not exhaustive. The fact that bid documents are not listed under s. 55 (1) is not determinative of entitlement to a record.
- [15] In this case, the issue I must decide is whether PSCC 1008 refused the record and if they did, was there a reasonable excuse for doing so. PSCC 1008 clearly kept the bid records and offered to provide them, which they did, albeit after a delay. At no time did it suggest to Mr. Ward that these were not records to which he was entitled. Its primary rationale for delaying examination was to protect the integrity of the procurement process. I can appreciate this rationale. However, the facts demonstrate that by the time Mr. Ward made his request on December 19, 2024, PSCC 1008 had already made the decision about which company to award the contract. They had gone so far as to announce this decision to the owners. Moreover, when they replied to Mr. Ward on January 15, 2025, they had a signed contract with First Service, meaning the selection process was complete. PSCC 1008 has offered no reason as to why it then took until March 2, 2025, in Stage 2 – Mediation to provide the bid quotations. The risk PSCC 1008 cited to the bidding

process would have long expired.

- [16] Based on the above, while I find that there was no outright refusal to provide Mr. Ward with the contract and bid quotations, in this instance the delay, albeit brief, amounts to a refusal without a reasonable excuse.

Should a penalty be assessed?

- [17] Mr. Ward has requested a penalty in the amount of \$2000. He has also requested, in conjunction, that I order PSCC 1008's board to re-take the training offered by the Condominium Authority of Ontario to refresh their knowledge of their legal responsibilities regarding records.
- [18] Section 1.44 (1) 6 of the Act allows the Tribunal to award a penalty if it finds that a corporation has, without reasonable excuse, refused to permit a person to examine or obtain records to which they are entitled.
- [19] Mr. Ward's request for a penalty of \$2000 is disproportionate to the infraction and his claim that that a penalty is necessary due to PSCC 1008's "persistent contravention" of the Act is exaggerated. PSCC 1008 delayed in providing Mr. Ward the records request, and in this case, I found that to be a refusal without a reasonable excuse. However, the delay was brief, and the consequences of the delay were none.
- [20] In assessing the penalty that may be appropriate, the Tribunal has consistently considered factors such as the number of records refused and the consequence of the refusal. In his instance there were two records which were provided approximately six weeks after the board reply. Thus, I will exercise my discretion and impose small penalty in the amount of \$125 as a reminder to PSCC 1008 be more diligent in the future.
- [21] Regarding Mr. Ward's request that I order PSCC 1008's board to undergo retraining in respect to their responsibilities to provide records under the Act, I find there is no need for this order. Despite Mr. Ward's claims, there is no evidence that the board was ignorant of its responsibilities or deliberately sought to ignore its responsibility. In this case, they made a mistake. The evidence does not demonstrate that the board requires re-training.

Issue No. 2: Is any party entitled to costs?

- [22] Mr. Ward has requested costs in the amount of \$200 for his Tribunal filing fees. PSCC 1008 did not request costs. It does however argue that if Mr. Ward is entitled to his filing fees, he is only entitled to those associated with Stage 1 -

Negation and Stage 2 – Mediation. They note that in Stage 2 – Mediation he received all the records he requested, at no cost. As result, PSCC 1008 asserts there was no need for Stage 3 – Tribunal Decision and the costs associated with it.

[23] This application proceeded to Stage 3 – Tribunal decision with the issues narrowly defined. The parties agreed at the outset the only issues to be determined were whether a penalty and costs ought to be ordered. Mr. Ward did not seek to expand the scope of the hearing to include issues already settled or addressed in Stage 2 – Mediation. The issues of whether penalties, remedies and costs ought to be ordered are legitimate issues that Mr. Ward was entitled to pursue at Stage 3 – Tribunal Decision as they were not settled in Stage 2 – Mediation. Thus, I find no reason to restrict the costs award to the fees associated with the first two stages of the Tribunal Process.

[24] The Tribunal's Rule of Practice 48.1 provides that if a case is not resolved by Settlement Agreement or Consent Order and a CAT Member makes a final Decision, the unsuccessful Party will be required to pay the successful Party's CAT fees unless the CAT member decides otherwise. In this case Mr. Ward was successful, and I find he is entitled to be reimbursed the total amount of his Tribunal fees. PSCC 1008 shall pay Mr. Ward \$200 in costs.

C. ORDER

[25] The Tribunal Orders that:

1. Under s. 1.44 (1) 6, within 30 days of the date of this decision, PSCC 1008 shall pay Mr. Ward a penalty of \$125.
2. Under s. 1.44 (1) 4, within 30 days of the date of this decision, PSCC 1008 shall pay Mr. Ward \$200 in reimbursement of his Tribunal fees.

Nicole Aylwin
Member, Condominium Authority Tribunal

Released on: May 30, 2025