

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: June 2, 2025

CASE: 2025-00061R

Citation: Chown v. Frontenac Condominium Corporation No. 19, 2025 ONCAT 90

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

Member: Ian Darling, Chair

The Applicant,

Adaire Chown,

Self Represented

The Respondent,

Frontenac Condominium Corporation No. 19

Represented by Vincent Bennett, Agent

Hearing: Written Online Hearing – April 24, 2025 to May 29, 2025

REASONS FOR DECISION

- [1] This case deals with a request for audited financial statements after the owners had unanimously agreed to waive the requirement to conduct an audit.
- [2] Frontenac Condominium Corporation No. 19 (the “Respondent”) was represented by Vincent Bennett, the Respondent’s condominium manager. Mr. Bennett did not participate in the hearing. I am satisfied that the Respondent was aware of the case because they used the Tribunal platform to provide records. I am satisfied that they were aware that the Stage 3 case was proceeding because the Tribunal sends email notifications to the parties of events and when messages are posted on the CAT-ODR platform. I am also satisfied that the Respondent had sufficient opportunity to participate in the hearing and the decision was a choice.
- [3] Adaire Chown (the “Applicant”) is a unit owner of the Respondent, which is a nine-unit condominium in Kingston. The Applicant’s evidence and submissions to the Tribunal indicate that the owners decided at the Annual General Meeting following the end of the 2022/3 fiscal year not to appoint an auditor for the next fiscal year (running from June 1, 2023-May 31, 2024).
- [4] Subsection 60(1) of the Condominium Act, 1998 (the “Act”) requires owners to

"appoint one or more persons qualified to be auditors to hold office as auditors until the close of the next annual general meeting." Subsection 60(5) creates an exception applicable to condominiums of a certain size. Where the condominium includes fewer than 25 units, the owners are not required to appoint an auditor if, as of the date of their annual general meeting, all the owners consent in writing to dispense with the requirement for a financial audit, mentioned in subsection 67(1) of the Act, until the next annual general meeting.

- [5] In January 2024, the Applicant informed the corporation that she “rescinded her approval” of the waiver of the requirement for an audit. The minutes from January 2024 confirm that the board had received the Applicant’s email about the waiver.
- [6] In December 2024, the Applicant submitted two records requests. The Respondent did not provide the records, so this application was commenced. The case proceeded through the Negotiation and Mediation stages of the Tribunal. The Stage 2 Summary and Order states that all but one record was uploaded after the Member had concluded the Mediation. The only issue in this hearing is whether the Respondent refused to provide the audited financial statement for the fiscal year ending May 31, 2024.
- [7] A plain reading of the Act, and timelines presented in the case leads me to conclude that the corporation has not refused to provide the audited financial statements for the fiscal year ending May 31, 2024, because all the owners waived the requirement to appoint an auditor for that year.
- [8] There is no mechanism to rescind the waiver to appoint an auditor midway thorough a fiscal year. The board minutes acknowledging that the Applicant’s intent to “rescind” the waiver does not create an obligation to retroactively appoint an auditor create an audit.
- [9] There is no basis to conclude that the corporation has refused to provide the audit because the owners unanimously agreed to waive the requirement for the time in question.
- [10] There was no record at the time of the request – a fact that the Applicant ought to have known.
- [11] The Applicant paid \$200 to bring this case to Stage 3. The Stage 2 Summary and Order states that the Respondent provided all the records after the Applicant paid the fee to move the case to Stage 3. Since the Applicant had to file a case to get records to which she was entitled and which were not provided until the fee was paid to move the case to Stage 3, I will order the Respondent to reimburse the

Tribunal fees.

ORDER

[12] Within 14 days of this decision, the Respondent will reimburse the Applicant \$200 for her Tribunal fees.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: June 2, 2025