

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: June 4, 2025

CASE: 2024-00314N

Citation: Jalbout v. Carleton Condominium Corporation No. 272, 2025 ONCAT 92

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

Member: Mary Ann Spencer, Member

The Applicant,

Jennifer Jalbout

Self-Represented

The Respondent,

Carleton Condominium Corporation No. 272

Represented by Peter Fazekas, Agent

Hearing: Written Online Hearing – March 17, 2025 to May 15, 2025

REASONS FOR DECISION

A. INTRODUCTION

- [1] The Applicant, Jennifer Jalbout, is the owner of a unit of the Respondent, Carleton Condominium Corporation No. 272 (“CCC 272” or the “corporation”). Ms. Jalbout alleges that a corporation security light is creating a nuisance contrary to section 117 (2) (b) of the *Condominium Act, 1998* (the “Act”). She alleges that light from the security light both infiltrates the interior of her unit and illuminates her backyard thereby interfering with the quiet enjoyment of her home.
- [2] CCC 272’s position is that its security lighting is designed to deter criminal activity and promote a sense of security among its residents and that the location of the light at issue is consistent with the location of others at the property. Peter Fazekas, the president of CCC 272’s Board of Directors and its representative in this matter, submitted that the corporation has already taken steps to mitigate the impact of the light but would be prepared to take the further step of installing a baffle on it to shield Ms. Jalbout’s windows from its output. I note that the corporation did not participate in this case until Stage 3 – Tribunal Decision and

that this offer was made as part of the corporation's submissions in this matter.

- [3] I find that the light illuminating the interior of Ms. Jalbout's unit and her backyard is unreasonable and is creating a nuisance. Therefore, I am ordering the corporation to take steps to mitigate the security light's impact. I am ordering it to engage its electrical contractor to either modify the existing light or to install new lighting in order to minimize the light spillage onto Ms. Jalbout's property.
- [4] I am also ordering CCC 272 to pay \$150 to Ms. Jalbout in respect of her Tribunal fees. I order no other costs or compensation in this matter.

B. BACKGROUND

- [5] CCC 272 is a community of 60 townhouses. Ms. Jalbout has resided in her unit since 2017. Her unit is an end unit which is separated from the next block of units by a narrow alley. The security light at issue in this matter is affixed to the back corner of the unit located opposite Ms. Jalbout's. Mr. Fazekas' evidence is that this placement is consistent with the placement of other security lights at the property. An alley also runs behind the units' backyards.
- [6] Mr. Fazekas testified that in response to earlier complaints from Ms. Jalbout, the corporation had installed a motion detector light in the alley beside her unit. However, because this light inadequately illuminated the "back corner area", the corporation de-activated it and re-activated the security light at issue. Ms. Jalbout testified that the light was reactivated on November 24, 2023.
- [7] On March 21, 2024, Ms. Jalbout sent an e-mail to the corporation stating that the security light "glares into my backyard, living room and rear bedroom window and illuminates the areas like it's daylight, all night long making it difficult to sleep, etc. even with blinds closed" and requested that the issue be mitigated. On April 2, 2024, the corporation's response, signed by "the Board of Directors", was that the board would review the lighting situation. Ms. Jalbout responded on April 3, 2024, and suggested that the light either be moved or that that motion-activated lights be installed. The Board of Directors responded on April 9, 2024, stating that the security lighting in the complex was working well and that it was not prepared to incur the expense to move lights until such time that all of the corporation's lighting required updating and replacement. However, it noted that it was still looking into ways to "shield the light from entering into the bedroom window."
- [8] The tenor of the parties' relationship is perhaps evident in the fact that the word "litigation" forms part of the e-mail address Ms. Jalbout used to send her April 2, 2024, complaint to the corporation. That there is animosity between the parties in

this matter was evident in their submissions. Ms. Jalbout accuses the corporation of “targeted and oppressive treatment.” In response, the corporation states that Ms. Jalbout deliberately portrays herself as “a victim” and that she constantly defies the corporation’s rules. Both parties parsed the submissions of the other in detail and challenged the other’s credibility.

- [9] This is not the first case involving these parties to be heard at the Tribunal. One of two previous cases brought by Ms. Jalbout was about, among other issues, nuisance lighting from the unit adjoining hers. In its October 12, 2023, decision in *Jalbout v. Brown et. al*, 2023 ONCAT 147 (CanLII), the Tribunal found that both Ms. Jalbout and her neighbour had created a nuisance with the lighting in their respective backyards and ordered them both to make modifications.
- [10] Ms. Jalbout raised the above-noted case in her submission in this case, stating that her neighbour did not comply with the Tribunal’s order until they met with Mr. Fazekas, after which the corporation reactivated the security light at issue. She submitted that this indicates “the oppressive treatment I have endured was a co-ordinated effort.” Ms. Jalbout also expressed concern that the meeting held with her neighbour was an improperly convened board meeting.
- [11] I advised the parties that the only issue that I would be addressing in this matter was whether the security light affixed at the back corner of the unit opposite Ms. Jalbout’s unit was creating unreasonable light. This was the only issue set out in the problem description Ms. Jalbout submitted to the Tribunal. Further, the Tribunal does not have the power to enforce its orders; that rests with the Superior Court of Justice. And, matters relating to the conduct of board meetings are outside of the jurisdiction of the Tribunal which is established in Ontario Regulation 179/17.

C. ISSUES & ANALYSIS

[12] The issues to be decided in this matter are:

1. Is the security light affixed at the back corner of the unit opposite Ms. Jalbout’s unit creating unreasonable light in breach of s. 117 (2) (b) of the Act? If so, what remedy should the Tribunal order?
2. Should the Tribunal award costs or compensation in this matter?

Issue 1: Is the security light affixed at the back corner of the unit opposite Ms. Jalbout’s unit creating unreasonable light in breach of s. 117 (2) (b) of the Act? If so, what remedy should the Tribunal order?

[13] Section 117 (2) (b) of the Act states:

No person shall carry on an activity or permit an activity to be carried on in a unit, the common elements or the assets, if any, of the corporation if the activity results in the creation of or continuation of,

(b) any other prescribed nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation.

For the purposes of s. 117 (2) (b) of the Act, section 26 of Ontario Regulation 48/01 includes light, “if it is unreasonable”, among the items prescribed as a nuisance, annoyance or disruption. Therefore, the question to be addressed is whether Ms. Jalbout is experiencing unreasonable light from the security light at issue.

[14] The evidence submitted in this matter comprised the testimony of Ms. Jalbout and Mr. Fazekas and numerous photographs taken by each of them.

[15] Mr. Fazekas testified that the security lights at CCC 272 have been in place for over 20 years “with the express purpose of ensuring the safety and security of all residents and visitors to the property.” He noted that he has been a board member since 2016 and that Ms. Jalbout’s complaint is the only one the board has received. In its April 9, 2024, e-mailed response to Ms. Jalbout’s complaint, the Board of Directors wrote:

The security lighting situation in the complex, which has been in place for decades, is working well and it is consistent across the strategic locations they are installed within the complex. The light fixture locations eliminate the need for other owners to install their own security lights should they choose not to, which owners appreciate.

Mr. Fazekas testified that the intensity of the corporation’s security lights varies, with HPS (high pressure sodium) bulbs ranging from 70 to 150 watts, dependent on their location on the property. The lighting is maintained by the corporation’s electrical contractor.

[16] Ms. Jalbout’s testimony is that the reactivated security light is brighter than it was when it was previously in use. It is her belief that the light is “designed to disrupt and cause discomfort, particularly during evening hours when I would otherwise enjoy soft, ambient lighting inside my unit, and in my backyard.” The evidence, in the form of an invoice from the corporation’s electrical contractor dated December 6, 2023, is that a 70-watt HPS bulb was installed when the security light at issue was reactivated. The type of bulb which may have been installed when the light

was previously in use is unknown.

- [17] Ms. Fazekas emphatically denied that the corporation is using its security lighting to target Ms. Jalbout. In this regard, he submitted photographs, all taken on January 23, 2025, of the security lighting installed at Ms. Jalbout's unit and at what he described as the "back corner" of three other end unit townhouses¹ and testified that 70-watt bulbs are installed at these locations. With respect to Ms. Jalbout's contention that she has been targeted, my assessment is that the light effect at Ms. Jalbout's unit appears to be no greater than it is at other units where similar "back corner" security lights are installed. However, that other owners have not complained about the lighting and/or that they may appreciate that the corporation's security lights eliminate the need to install their own does not mean that the light Ms. Jalbout is experiencing is reasonable.
- [18] Ms. Jalbout submitted that the security light at issue creates a spotlight effect in her backyard. I note that a number of her photographs were taken from the upper floor of her unit and that these do not reflect how the light would be experienced when using the backyard. However, photographs taken at ground level by both Mr. Fazekas and Ms. Jalbout² indicate that the backyard is almost fully illuminated by the security light. Ms. Jalbout also submitted photographs of the light's impact in her back bedroom with the window blinds both open and closed. These photographs³ indicate that the security light is bright enough to infiltrate the bedroom even when the blinds are closed.
- [19] Mr. Fazekas testified that CCC 272's security lights are equipped with sensors which turn them on and off based on the ambient outdoor light. Ms. Jalbout disputes this, submitting that the light at issue remains on even when the sun is shining on it. Regardless of whether the light is or is not equipped with a sensor, the fact that it is on continuously on a daily basis when it is dark is a substantial interference given it is bright enough to both infiltrate Ms. Jalbout's bedroom when the blinds are closed and to significantly illuminate her backyard. Therefore, I find that the light Ms. Jalbout is experiencing is unreasonable and comprises a nuisance in accordance with s. 117 (2) (b) of the Act.
- [20] The ground level photographs taken by the parties indicate the security light at issue is positioned at the corner of the unit opposite Ms. Jalbout's at the height of

¹ Exhibits 46, 48, 49, 50

² Exhibit 12

³ Exhibits 23, 26, 27

the second-floor bedroom windows. Mr. Fazekas' photographs of other end units with security lights installed at their back corner indicate that those lights are installed approximately one foot lower. A close-up photograph submitted by Ms. Jalbout⁴ indicates that the light is mounted directly facing her unit. These photographs suggest that the security light's height and the angle at which it has been installed may be a significant factor with respect to the light infiltration into Ms. Jalbout's bedroom. I note that the corporation's April 9, 2024, e-mail to Ms. Jalbout indicated it would investigate ways to shield her bedroom from the light. There is no evidence that it took any further action until it offered to install baffles on the light in its submission in this proceeding.

[21] I am ordering CCC 272 to engage its electrical contractor to modify its security lighting in order to minimize the light spillage into Ms. Jalbout's unit and backyard and to focus the light more precisely on the common element alleys which it is intended to secure. The corporation shall instruct the contractor to consider all options including but not limited to (a) relocating or repositioning the existing light, installing baffles on it, and/or reducing the intensity of its bulb; or (b) installing a different type of security light to illuminate the alleys. The corporation shall implement the option(s) which results in the lowest amount of light spillage onto Ms. Jalbout's unit and backyard.

[22] This is a case where Ms. Jalbout's interests must be balanced with the need to secure the common elements. While I have found that the light spillage from the security light is unreasonable and therefore comprises a nuisance, that does not necessarily mean that all such light can be eliminated. The corporation has the right, and arguably an obligation, to secure the alleys beside and behind Ms. Jalbout's unit on behalf of all of its residents, including Ms. Jalbout. In this regard, I note that she appears to share the corporation's interest in security. Not only did she testify that she recognizes the need for security lights but, referring to the previous Tribunal case involving her neighbour where lighting from both their backyards was found to be an issue, she stated that she "had to install" security lighting herself "for safety reasons." Notwithstanding that the corporation must take steps to minimize the light spillage onto her property, Ms. Jalbout needs to understand and accept that it may not be possible to completely eliminate it.

[23] Ms. Jalbout requested that I issue a number of other orders in this matter. She asked that I order the corporation to modify an additional light that was not in her application to the Tribunal and not at issue in this matter. She also requested I order the corporation "to cease and refrain from engaging in any further nuisance,

⁴ Exhibit 17

harassment, or unreasonable conduct,” stating that the lighting issue was only one example of “numerous ongoing disturbances and targeted behaviour that have adversely affected” her quiet enjoyment of her property. I decline to make these orders. The only issue before me was whether the security light installed at the back corner of the unit opposite Ms. Jalbout’s was a nuisance.

Issue 2: Should the Tribunal award costs or compensation in this matter?

- [26] Ms. Jalbout requests reimbursement of the \$150 she paid as Tribunal fees and \$20,000 compensation which she indicated included compensation for the time she spent on this matter and for “the intentional nuisance, annoyance, and disruption to the quiet enjoyment of my unit”. CCC 272 requested no costs or compensation.

Costs

- [24] Ms. Jalbout was successful in this matter. Therefore, I am ordering CCC 272 to pay her \$150, representing the total of the Tribunal fees she paid, in accordance with Rule 48.1 of the Tribunal’s Rules of Practice:

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.

- [27] Ms. Jalbout submitted that she had to spend considerable time to respond to Mr. Fazekas’ “excessive volume of misrepresentations.” Rule 49.1 of the Tribunal’s Rules of Practice states that the Tribunal will generally not order one party to pay another party for time spent related to the CAT proceeding. That parties will need to spend time on a proceeding is to be expected and I find no reason to compensate Ms. Jalbout for her time, the amount of which she did not specify or quantify. The issue to be decided in this matter was straightforward. However, Ms. Jalbout’s case submission addressed matters not before me and included statements about the manner in which the corporation is governed “as crucial context.” Ms. Jalbout characterized Mr. Fazekas’ response, and the fact that he requested a time extension, as “reprehensible conduct.” I note that the time expended by the parties would have been significantly less had they both focused only on the issue to be decided, and that Ms. Jalbout also requested a short time extension.

Compensation for Damages

- [25] The \$20,000 Ms. Jalbout requested included “compensatory, aggravating and non-pecuniary” damages for what she indicated was “undue hardship” she had suffered. Section 1.44 (1) 3 of the Act states that the Tribunal may order

compensation for damages incurred by another party to the proceeding as a result of an act of non-compliance. It is unclear that there was any act of non-compliance in this case; while I have found that the light spillage into Ms. Jalbout's unit and her backyard is unreasonable, the evidence persuades me that this is an unintended consequence of the corporation's effort to secure its property on behalf of its residents. Therefore, I find no reason to award compensation in this case.

[26] Finally, Ms. Jalbout asked that "irrelevant and defamatory" statements she alleged were made by Mr. Fazekas be removed from the public record and that he "be held personally accountable and subject to appropriate sanctions for knowingly submitting false, misleading and harmful statements" during the proceeding. Ms. Jalbout is effectively requesting a confidentiality order. I find that such an order is not warranted in this case. While Mr. Fazekas may have made statements to which Ms. Jalbout objects, those statements do not contain sensitive personal information such as personal financial or medical details. Moreover, Ms. Jalbout's submissions objecting to Mr. Fazekas' statements also form part of the public record. Early in this proceeding, I asked both parties to refrain from posting messages about each other in the CAT-ODR system and both complied. They could and should have been more circumspect in their written submissions. That they were not is not a reason to issue a confidentiality order.

D. ORDER

[27] The Tribunal orders that:

1. Under s. 1.44 (1) 2 of the Act: CCC 272 shall engage its electrical contractor to take steps to minimize the light spillage onto Jennifer Jalbout's unit from the security light installed at the back corner of the unit opposite hers and to focus its output on the common element alleys it is intended to secure. The corporation shall instruct the contractor to consider all options including but not limited to (a) relocating and/or repositioning the existing light, (b) installing baffles on the existing light, (c) reducing the intensity of the bulb installed in the existing light, (d) installing a different type of security light(s). The corporation shall implement the option(s) which results in the lowest amount of light spillage onto Ms. Jalbout's unit and backyard. This work is to be completed within 60 days of the date of this decision at the sole expense of CCC 272.
2. Under s 1.44 (1) 4 of the Act: within 30 days of the date of this decision, CCC 272 shall pay costs of \$150 to Jennifer Jalbout.

Mary Ann Spencer
Member, Condominium Authority Tribunal

Released on June 4, 2025