

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: June 13, 2025

CASE: 2024-00724R

Citation: Ward v. Peel Standard Condominium Corporation No. 1008, 2025 ONCAT 99

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 – March 19, 2025 to June 10, 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 October 17, 2024. The form contains three requests, written as follows:

1. Minutes of the Owners meeting held to vote on the proposed amended By-law 10 (The Condominium Act, 1998), signed by Navnit Jain, 01 May 2020 filed June 2020.
2. The total number of Owners registered at the meeting to amend By-law 10 (The Condominium Act, 1998), signed by Navnit Jain, 01 May 20220, filed 02 June 2020, including the Unit numbers in attendance.
3. The final count of the vote to approve the amended By-law no. 10 (The Condominium Act, 1998

A date range of May 1, 2019 – June 2020 was listed for each of these requests.

- [2] At the outset of the hearing, I asked Mr. Ward to clarify the records that were outstanding. He indicated that in addition to the minutes for the Owners' Meeting held on January 29, 2020, where By-law 10 was approved, he was also seeking the minutes for the Special Owners' Meeting, which was apparently held on December 4, 2019, and also dealt with the approval of By-law 10. I allowed the minutes for the December 4, 2019, meeting to be included in this hearing as it fell within the date range specified on the request form. This also ensured that all the minutes related to this request could be dealt with in this case.
- [3] Mr. Ward alleges that PSCC 1008 has refused to provide him with records without a reasonable excuse and that PSCC 1008 is failing to keep adequate records as per the *Condominium Act, 1998* (the "Act"). He requests that PSCC 1008 be ordered to pay a penalty of \$3000 for refusing to provide records without a reasonable excuse, and pay costs in the amount of \$200, to reimburse him for his Tribunal fees.
- [4] As discussed in detail below, PSCC 1008 asserts they have a reasonable excuse for failing to provide some of the records requested by Mr. Ward – namely that between 2017-2024 the former president of the board, Navnit Jain, allegedly withheld, manipulated or destroyed corporate records to retain control of the corporation, resulting in gaps in the corporation's records. Nonetheless, they assert that they have made all reasonable attempts to obtain the records requested and subsequently provided the records that they could obtain. It further argues that some of Mr. Ward's requests are for information (not records), but submit that they have, nonetheless, provided him with the information they have.
- [5] For the reasons set out below, I find that PSCC 1008 has provided Mr. Ward with all the records they have pertaining to his request. For those they do not have, they have a reasonable excuse for not providing them. Further, I do not find that the evidence established that PSCC 1008 is failing to keep adequate records as per the Act. I assess no penalty, and I award no costs to either party.

B. ISSUES & ANALYSIS

Issue No. 1: Has the Respondent refused to provide the Applicant with records to which he is entitled without a reasonable excuse? If so, should a penalty be assessed?

- [6] Before addressing each of the requested records, some context is helpful for understanding this dispute. As noted in the introduction, according to PSCC 1008, its inability to produce some of the requested records stems from "exceptional circumstances". It asserts that from 2017-2024 the corporation was effectively

controlled by the then president of the board Navnit Jain who they allege deliberately mismanaged, manipulated and/or destroyed records and committed fraud. In early 2024, a new board was elected, which included Mr. Ward, and in February 2024, PSCC 1008 filed an application with the Superior Court of Justice regarding these claims (and others).

- [7] Mr. Ward served on PSCC 1008's board of directors until October 15, 2024, when another new board was elected. According to PSCC 1008, since its election in October 2024, the board has been attempting to address the fallout from Mr. Jain's tenure, which includes trying to fill gaps in the corporation's record keeping. PSCC 1008 asserts that not only is Mr. Ward aware of these circumstances, but he was directly privy to them, having served as the treasurer of the board from January 2024 to October 15, 2024. As such, they assert he would have been well aware of the record keeping issues and note that he made his request for records two days after ceasing to be a director of PSCC 1008.

- [8] It is against this backdrop that the records request was made and responded to.

Minutes of the Owners' meeting held on January 29, 2020, to vote on the proposed amended By-law 10 & Minutes of Special Owners' Meeting held on December 4, 2019

- [9] On November 14, 2024, PSCC 1008's condominium manager sent Mr. Ward a response to his October 17, 2024 records request on the mandated form. On the form they explained that the Corporation could not provide the records requested because they were not transferred from the previous management company, thus they did not have a copy of the records he sought.
- [10] Viria Kumala, a current member of PSCC 1008's board of directors, testified on behalf of PSCC 1008 and further explained PSCC 1008's reasons for not providing the records to Mr. Ward when initially requested. Ms. Kumala testified that since January 2024, the corporation has been working through some complex governance issues (as briefly described earlier in this decision). Part of these issues relates to records insofar as PSCC 1008 claims that records including copies of contracts, financial information and vendor transactions, and meeting minutes are thought to be unavailable or incomplete, a fact that was noted by the corporation's auditor when completing the audits for 2023 and 2024. Complicating this situation is the fact that PSCC 1008 experienced a high turnover of condominium management companies. PSCC 1008 has had three management companies within a one-year period.
- [11] Nonetheless, Ms. Kumala, testified that PSCC 1008 has made every reasonable effort to find and/or retrieve the records and information that Mr. Ward was

seeking. In relation to Mr. Ward's request, PSCC 1008 contacted the two previous management companies and confirmed that all records within their possession had been turned over to the new management company (Duka).

- [12] PSCC 1008 also contacted Olga Abrosimov, the account manager from Minutes by the Book, the company that had been providing minutes takers for PSCC 1008 for several years. PSCC 1008 requested that the company provide them with any meeting minutes for PSCC 1008 they still had on file for 2019 and 2020. Ms. Abrosimov provided all the minutes the company had on record for that time, which included the January 29, 2020 minutes sought by Mr. Ward. Upon receipt of the January minutes from Ms. Abrosimov, PSCC 1008 provided these to Mr. Ward (during the Stage 2 – Mediation process).
- [13] Ms. Kumala further testified that Ms. Abrosimov did not have a copy of the minutes for the Special Owners' Meeting of December 4, 2019, and PSCC 1008 has been unable to locate any minutes for this meeting.
- [14] Mr. Ward argues that PSCC 1008 cannot blame condominium management turnover for its failure to provide records. Here he pointed me to several Tribunal decisions where the Tribunal has held that condominium management turnover and/or mistakes by condominium management are not reasonable excuses for refusing records. He claims that, in this case, the facts point to "administrative negligence" as a reason for refusal rather than towards exceptional circumstances.
- [15] I find the situation here very different than the cases referred to me by Mr. Ward¹. This is not a case where the condominium has simply attempted to pass off responsibility for a refusal to management (or other person/entity), or to solely blame management transition for the gap in their record keeping. The evidence before me points to a far more complicated governance situation – which, while making no comment or findings on PSCC 1008 claims regarding the former president, Mr. Jain, I accept may have impacted record keeping and retention.

¹ *Jasper Developments Corp. v. York Condominium Corporation No. 82*, 2022 ONCAT 4; and *D'Onofrio v. Halton Condominium Corporation No. 363*, 2022 ONCAT 106

[16] It is also worth pointing out that Mr. Ward made his request two days after ceasing to sit on the board of directors, a board which he now accuses of “administrative negligence.” The records Mr. Ward seeks are from 2020. He himself sat on the board of directors for several months during which these records would also have been “missing”. The timing of Mr. Ward’s request and the evidence that he was clearly aware of the complex governance issues facing PSCC 1008 does call into question his reasons for making the request insofar as they relate to his interests as a unit owner.

[17] Based on the evidence before me, I find that there was no refusal to provide Mr. Ward with either the January 29, 2020 meeting minutes or the December 4, 2019 meeting minutes. While there was a delay in providing Mr. Ward with the January 29, 2020 minutes and attempts to locate these minutes might have been made sooner, in this case I do not find the delay amounts to a refusal.

[18] Regarding the December 4, 2019 minutes, I accept that PSCC 1008 does not have a copy of these minutes (if such a copy ever existed). Whether this lapse constitutes inadequacy in record keeping is an issue I address further below in this decision; however, PSCC 1008 cannot provide a record it does not have and based on the unique facts in this case, I do not find the fact that the record is missing to amount to a refusal without a reasonable excuse.

The total number of Owners registered at the meeting to amend By-law 10 (*The Condominium Act, 1998*) ... including the Unit numbers in attendance

[19] PSCC 1008 submits that this request for the “total number of Owners registered at the meeting to amend By-law 10” is a request for information, not a record.

[20] At the outset of the hearing, Mr. Ward was advised that the Tribunal does not have jurisdiction to hear cases regarding entitlement or access to information, and he was advised that in deciding entitlement to records (and whether there was a refusal), I would be considering whether what was requested constituted a record that the corporation was required to keep/maintain. In response, Mr. Ward indicated that he believed that the meeting minutes of the two owners’ meetings related to the adoption of By-law 10 (i.e. the January 2020 and December 2019 meetings) should contain the number of owners registered at the meeting. I will address this claim below in the section on adequacy; however, for the purposes of determining whether a record was refused to Mr. Ward in response to this specific request, I find it was not. His request was for information – i.e. the total number of owners registered at the meeting – not for a particular record that the corporation was required to keep or maintain. Nonetheless, this information is included in the minutes of the January 29, 2020 meeting, which Mr. Ward has in his possession

[21] Finally, upon being informed of the distinction between information and records, Mr. Ward modified his request, and in his submissions stated that what he was seeking was a “List of attendees (unit numbers in attendance) at all Special Owners’ Meetings”.

[22] Notwithstanding that this is not what he initially requested, I acknowledge that Mr. Ward believes such a list **ought** to exist. If such a list existed and was being kept by PSCC 1008, it may be a record to which Mr. Ward is entitled; however, there is no evidence before me in this case that such a list exists, ought to still exist, and/or could be provided to Mr. Ward nearly five years after the meeting took place. Thus, based on the facts in this case, I do not find PSCC 1008 has refused this record to Mr. Ward.

The final count of the vote to approve the amended By-law 10 (*The Condominium Act, 1998*)

[23] Similar to the above, PSCC 1008 argues the request for the final count of the vote to approve the amended By-law 10 was a request for information, not a record. Again, I agree and note that PSCC 1008 provided him with this information, which is also included in the January 29, 2020 meeting minutes which is the meeting where the by-law was passed.

Should a penalty be assessed?

[24] Mr. Ward requested that in the event of a finding that PSCC 1008 has refused him records without a reasonable excuse that I impose a penalty on PSCC 1008 in the amount of \$3000. Subsection 1.44 (1) 6 of the Act allows the Tribunal to direct a corporation to pay a penalty if the Tribunal considers that the corporation has without reasonable excuse refused to permit the person to examine or obtain copies under that subsection. Having found that PSCC 1008 has not refused Mr. Ward any record to which he is entitled, there is no basis for a penalty.

Issue No. 2: Has the Respondent failed to keep adequate records as per the Act?

[25] Mr. Ward makes two claims regarding adequacy. He argues that:

1. The January 29, 2020 Owners’ Meeting minutes are not adequate because they do not contain a list of units in attendance (and whether they are non-resident owners or unit-occupied owners).
2. PSCC 1008 has failed to keep adequate records because it does not have a copy of the minutes for the Special Owners’ Meeting held on December 4, 2019.

[26] In assessing Mr. Ward's claims regarding the adequacy of records, I have relied on the analysis of adequacy as set out in *McKay v. Waterloo North Condominium Corp. No. 23*, 1992 CanLII 7501 (ON SC) ("MacKay"). The Tribunal has been consistent about the principles by which adequacy is assessed – the records of a corporation must fulfill two basic purposes:

1. To assist the corporation in fulfilling its duties and obligations, and
2. To provide insight or information for unit owners who wish to confirm that such duties and obligations have been duly fulfilled.

Regarding minutes in particular, they will be considered adequate if they provide sufficient detail to allow the owners to know when and how decisions are made and their financial basis, when that is relevant. There is no expectation of perfection, nor is there an expectation that the minutes will provide the level of detail expected by any one particular person.²

[27] I have reviewed the January 29, 2020 minutes. These minutes set out:

1. The purpose of the meeting (to vote on proposed By-Law 10),
2. The appointment of scrutineers for the purpose of counting ballots,
3. Confirmation of quorum and that 135 units were represented by proxy and 16 in person; and,
4. The results of the vote (147 in favour and 4 against)
5. A carried motion to destroy the proxies and ballots after 90 days.

[28] Mr. Ward insists that the minutes should also contain a list of those present in person and by proxy at the meeting. Here he pointed me to PSCC 1008's By-Law 10 which in s. 18 states that, "the Corporation shall prepare and maintain a minute record of each meeting which records the following information ... those present in person and by proxy at the meeting".

² See *Rahman v. Peel Standard Condominium Corporation No. 779*, 2021 ONCAT 32; *Yeung v. Metropolitan Toronto Condominium Corporation No. 1136*, 2020 ONCAT 33; *Nash v. Oxford Standard Condominium Corporation No. 142*, 2024 ONCAT 3

- [29] Mr. Ward is correct that By-law 10 sets out this requirement and that PSCC 1008 is required to comply with its own by-laws. However, this by-law did not come into force until May 2020 – after the minutes had been taken for the January 2020 meeting. Thus, it does not apply. There is no evidence before me that a similar provision in a by-law existed before this one was passed.
- [30] While the January 29, 2020 minutes do not contain information at the level of detail expected by Mr. Ward, or perhaps, if taken today, would be required by PSCC 1008's By-law 10, this lack of detail does not persuade me that PSCC 1008 has not kept adequate records as per s. 55 of the Act. In this case, I find that the minutes do contain enough details as to fulfill the two basic purposes as listed above.
- [31] Regarding the missing December 4, 2019 Special Owners' Meeting minutes, Mr. Ward is correct that PSCC 1008 ought to have a copy of these minutes. PSCC 1008 does not dispute this. However, I do not find in this case that failing to create or retain a single set of meeting minutes from over five years ago, during what appears to be a period underpinned by substantial governance issues, causes me to conclude that PSCC 1008 failed to keep adequate records under the Act. Instead, what the evidence suggests is that there was an error made five years ago – either the minutes were not recorded or not retained. However, as minutes are important records of the corporation, I will remind PSCC 1008 that going forward it needs to be diligent in both its recording and retention of meeting minutes.

Issue No. 3: Is any party entitled to costs?

- [32] Mr. Ward has requested costs in the amount of \$200 to reimburse him for his Tribunal fees. PSCC 1008 has not requested costs.
- [33] Section 1.44 (1) 4 of the Act states that the Tribunal may make “an order directing a party to the proceeding to pay the costs of another party to the proceeding.”
- [34] Section 1.44 (2) of the Act states that an order for costs “shall be determined in accordance with the rules of the Tribunal”.
- [35] The cost-related rules of the Tribunal's Rules of Practice relevant to this case are:
- 48.1 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.

[36] Mr. Ward was not successful in this case and thus is not entitled to any costs.
I make no order for costs.

C. ORDER

[37] The Tribunal orders that:

1. This case is dismissed with no costs awarded to either party.

Nicole Aylwin
Member, Condominium Authority Tribunal

Released on: June 13, 2025