

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 2, 2025

CASE: 2024-00271R

Citation: James v. Waterloo Condominium Corporation No. 331, 2025 ONCAT 110

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

Member: Anne Gottlieb, Member

The Applicant,

Anton James

Self-Represented

The Respondent,

Waterloo Condominium Corporation No. 331

Represented by Saud Ahmad, Agent

Hearing: Written Online Hearing – August 19, 2024- February 27, 2025

Video Conference Hearing – January 14, 2025

REASONS FOR DECISION

A. INTRODUCTION

- [1] Dr. Anton James, (the “Applicant”), owns three units of Waterloo Condominium Corporation No. 331 (“WCC 331”), the Respondent in this case. He claims that WCC 331 has refused to provide him with records without a reasonable excuse. He also asserts that WCC 331 is not keeping adequate records as required by the *Condominium Act, 1998* (the “Act”).
- [2] Beyond these issues, he has raised concerns regarding the management and governance of this condominium corporation, and breaches of the Act, which are not within the jurisdiction of this Tribunal to determine. These issues were the subject of several preliminary rulings, which are known to the parties and form part of the record of proceedings. He has asked for remedies that are beyond the jurisdiction of this Tribunal and relate to governance and/or condominium

management.

- [3] Based on the evidence before me, I order WCC 331 to provide the Applicant with a copy of the By-laws and Rules of WCC 331 within ten days of their ratification and acceptance. I remind WCC 331 of their undertaking during the hearing, and order that a copy of Notices of Leases be provided to the Applicant within thirty days of the date of this decision. I order WCC 331 to provide the Applicant with a list of Owners and Mortgagees. I order the current board of directors of WCC 331 to take or retake the current CAO Director training and provide the Applicant with a copy of a certificate of completion verifying the taking of this course. For reasons outlined below, I award a penalty of \$1,000 to the Applicant. I find that there was reason for the Applicant to bring this case to a hearing before the Tribunal, and I order WCC 331 to pay the Applicant the amount of \$200 for the fees paid to file this case.

B. BACKGROUND

- [4] The context in which this application arises is helpful to understand this case. WCC 331 has been in operation as a condominium since 2008. As at the conclusion of this hearing, there were still no By-Laws or Rules in place for WCC 331. While this is a governance issue, which is not within the jurisdiction of this Tribunal, the By-Laws and Rules were records requested by the Applicant. This is one example of how closely intertwined requests for records and governance matters sometimes are.
- [5] A meeting of owners was initiated by the Applicant for March 7, 2024. It was for this March 7, 2024, meeting that the Applicant wanted addresses for service of the Notice of Meeting. That was the impetus for the request for the List of Owners and Mortgagees requested by the Applicant. WCC 331 is mostly tenanted. The condominium manager for WCC 331 also manages multiple units on behalf of some owners.
- [6] The Applicant made a Submission to Include Material in the Notice of Meeting of Owners, (the "Submission to Include") under subclause 12.8 (1) (a) (ii) of Ontario Regulation 48/01. He asks that I order the documents that were not provided pursuant to the Submission to Include. A Submission to Include is not a request for records under s. 55 of the Act and therefore is not something over which the Tribunal has jurisdiction. This decision will therefore not make any further reference to the Submission to Include.
- [7] The March 7, 2024, Owners Meeting (the "March Owners Meeting"), initiated by the Applicant, in fact became the Annual General Meeting for 2024 (the "AGM

2024”). The voting practices related to the AGM 2024 is a governance issue, that is beyond the jurisdiction of this Tribunal. I acknowledge that the Applicant is frustrated by the lack of this Tribunal’s ability to deal with governance matters and matters relating to condominium management. The courts in Ontario have jurisdiction to deal with governance matters and oppression remedies. The management of a condominium and any potential conflict of interest issues in relation to oversight of individual units on behalf of owners, may be raised with the Condominium Management Regulatory Authority of Ontario (“CMRAO”).

- [8] The decision in this case is confined to issues relating to Requests for Records and the adequacy of the Respondent’s records, which fall under s. 55 of the Act. The subject of this hearing relates to the requests for records made by the Applicant in 2024, namely: Request #1 dated January 22, 2024; Request #2 dated February 5, 2024; Request #3 dated March 7, 2024, and Request #5 dated April 7, 2024. These requests for records were all made on a Request for Records form. Request #4 was an email of March 2024 (the exact date of which is unknown). This email was acknowledged and responded to by or on behalf of WCC 331. Given that the subject matter was sufficiently tied to other records that were the subject of this hearing, I determined that it was to the benefit of both parties to include the email request as Request #4 in this hearing. Collectively I have referred to these as “the 5 Requests”.

C. ISSUES & ANALYSIS

Issue 1: Has the Applicant been denied records to which he is entitled, without a reasonable excuse?

- [9] The records remaining in issue during this hearing, which the Tribunal can address, were identified by the Applicant as: a complete List of Owners and Mortgagees (per Request #1 and Request #5); Records of Notices of Lease pursuant to s. 83 of the Act (per Request #1); WCC 331 By-Laws and Rules (per Request #2); unredacted bank statements (related to Request #4 and Request #5); unredacted proxies relating to the March Owners Meeting/AGM 2024 (related to Request #3). I have considered all the evidence and submissions of both parties relating to the 5 Requests and will only refer to matters that are relevant to those 5 Requests.
- [10] An owner has a right to request records pursuant to s. 55 (3) of the Act:

The corporation shall permit an owner, a purchaser or a mortgagee of a or an agent of one of them duly authorized in writing, to examine or obtain copies of the records of the corporation in accordance with the regulations, except those

records described in subsection (4).

List of Owners and Mortgagees

- [11] WCC 331 provided the Applicant with three different copies of purported Lists of Owners and Mortgagees which is a record under s. 46 (1) of the Act. The first list was provided in February 2024 and does not list any addresses for service, as required by the Act. This is not a refusal but does speak to the incompleteness of this record.
- [12] A second list was provided to the Applicant in March 2024. It lists addresses for service in each instance as the unit number at the municipal address of WCC 331. The Applicant points out that he himself does not reside in the building, and his own contact information, which was provided to management, was not captured in the list of Owners and Mortgagees. This reflects on the inaccuracy of this record.
- [13] The third list from July 2024, provided pursuant to Request #5, includes some additional names for co-owners, but no other additional information. There was a several month delay in providing this record to the Applicant, as the date of Request #5 was April 7, 2024. No explanation was provided by WCC 331 for this delay.
- [14] The Respondent is responsible to ensure the s. 46.1 record contains accurate, up-to-date information, as provided by the unit owners. According to the testimony of the Applicant, none of these purported lists of Owners and Mortgagees is complete or accurate. While it is true that the obligations are on the owners to provide the information to the condominium corporation, there is evidence that even when an owner provides the information, (as did the Applicant, himself), the record is not accurately kept or provided pursuant to a request for this record. The varying and inaccurate versions of the Section 46.1 record provided to the Applicant are evidence that the Respondent failed to comply with this requirement of the Act.
- [15] The successive and different, inaccurate versions of the record lead me to conclude that WCC 331 was in fact, refusing to provide the record to the Applicant. I find this to be a refusal without a reasonable excuse. I order WCC 331 to provide the Applicant with a list of Owners and Mortgagees within 30 days of the date of this decision.

Record of Notice of Leases

- [16] The testimony from the condominium manager, who is acting as the representative of the Respondent in this case, is that only two percent of WCC 331 is owner

occupied. The units are generally leased to tenants. The Applicant maintains that there should be a record of Notices of Leases and that if WCC 331 has no such notices to provide, then they have failed to keep adequate records in relation to s. 83 of the Act. This is not the correct interpretation of the Act.

[17] Section 83 of the Act states that:

83(1) The owner of a unit who leases the unit or renews a lease of the unit shall, within 10 days of entering into the lease or the renewal, as the case may be,

(a) notify the corporation that the unit is leased;

(b) provide the corporation with the lessee's name, the owner's address and a copy of the lease or renewal or a summary of it in the form prescribed by the Minister; and

...

Record of notices

(3) A corporation shall maintain a record of the notices that it receives under this section. 1998, c. 19, s. 83 (3).

[18] In his testimony, WCC 331's manager stated that no leases were provided to Maple Property Management when they took over management of the building in December 2015. In a building of sixty-eight units, one would expect some tenant turnover during a ten-year period. It is the owners who shall provide copies of their leases for the tenanted units to the corporation. The lessee's name, the owner's address and a copy of the lease or renewal would be sufficient for the purposes of s. 83. The condominium corporation shall maintain the record of such notices. Here, management claims there is no record of any notices of leases.

[19] During the hearing the manager indicated that he would write to the owners to request a copy of leases. As the condominium corporation representative, he undertook to ask owners for a copy of the leases. I find that this is a consent by WCC 331 to an order respecting the record of Notices of Leases. I therefore order WCC 331, to provide the Applicant with a record of Notices of Leases, which shall include any recent information received from unit owners. WCC 331 shall indicate, in writing to the Applicant, which unit owners have not provided any information as per their s. 83 requirements.

WCC 331 By-Laws and Rules

[20] At the start of this hearing WCC 331 acknowledged that there were no By-laws or Rules for WCC 331. WCC 331 can not produce something it does not have. WCC

331's representative indicated that By-Laws and Rules were being drafted by SV Law and should be available for the 2025 AGM. Although an owner would, in due course, be notified of By-Laws and Rules, I will order WCC 331 to provide the Applicant with a copy of the By-Laws and Rules of WCC 331, within ten days of ratification and approval.

Proxies – for March Owners Meeting/AGM 2024

- [21] The Meeting of Owners called for March 7, 2024, served as the AGM 2024. There was an election and vote held. The Applicant requested copies of the proxies for the vote and was provided with redacted versions. He requests unredacted proxies.
- [22] Section 13.11 (2) 4 of Ontario Regulation 48/01 sets out that an owner is not entitled to receive the information contained on proxy forms which identifies specific units or owners unless a by-law of the corporation permits this. Having no by-law that applies, I find that the Applicant is not entitled to unredacted proxies. I find that the Applicant has been provided with the record to which he is entitled. The Applicant asks to see signature cards to verify the authenticity of proxies. I acknowledge that WCC 331 provided the Applicant with a letter dated March 11, 2024, from SV law, which serves as a scrutineer's report for this meeting. It was provided to him by WCC 331, to explain the method used to verify the proxies. I find that this request has been satisfied by WCC 331.

Bank Statements

- [23] The Applicant sent an email in March 2024 requesting bank statements for the Operating Account and the Reserve Fund Account from January to December 2023. By email dated March 19, 2024, he was provided with eight bank statements, for January-April 2024 for each type of account. The email indicated that the bank statements were redacted in accordance with s. 55 (4) (c) of the Act. Other bank statements were provided later, except for the June and August 2023 statements for the Operating Account and the June 2023 statement for the Reserve Fund Account, which were requested again, in Request #5.
- [24] In the case of each of these statements, the Applicant claims that there are excessive redactions. WCC 331's representative indicated that information regarding payments by specific unit numbers identified on the statements were redacted for privacy. There is also redaction of account numbers of owners. Although the Applicant contends that these records are over redacted, I find that these redactions are in keeping with the exemptions set out in s. 55 (4) (c) of the Act, specifically relating to specific units and owners.

[25] I find that there was a general statement that covered the exemption and the reasons for the redactions, as they relate to specific information of units and unit owners. The reasons for the redactions are the same in each of the instances. I conclude that WCC 331 has satisfied this record request.

Issue No. 2 What remedies should be ordered?

[26] The Applicant asks this Tribunal to order that the directors of WCC 331 take or retake the directors training course provided by the Condominium Authority of Ontario (the "CAO"). Directors are required under the Act to complete mandatory training courses provided by the CAO. Based on the evidence before me, the directors could benefit from a review of their obligations pursuant to the Act and the requirements to keep records. I further note that the CAO training was updated in November 2024. Therefore, under s. 1.47(6) of the Act, I am ordering that each of the current board members take the new CAO mandatory director training, to be completed within forty-five days of the date of this decision. Each director is to provide confirmation of completion of this training, to the Applicant.

Issue No. 3 Should a penalty and costs be assessed against WCC 331?

[27] Section 1.44 (1) 6 of the Act states that the Tribunal may order a penalty if it finds that the condominium corporation has, without reasonable excuse, refused to permit an owner to examine or obtain copies of records. When a penalty is awarded, it serves as a reminder to the corporation that they must comply with their obligations under the Act. The Act provides for a remedy, by way of a penalty, up to a maximum of \$5,000. I have found that WCC 331 did refuse to provide a copy of the List of Owners and Mortgagees without a reasonable excuse. I therefore order WCC 331 to pay a penalty in the amount of \$1,000 to the Applicant.

[28] This case required a hearing. It was not readily apparent that some of the issues raised were related to governance, as they were very closely intertwined to the records requested by the Applicant. Although the Applicant has not been wholly successful before this Tribunal, in the circumstances of this case I order WCC 331 to pay him the pay costs of his filing fees in the amount of \$200, pursuant to Rule 48.1 of the Tribunal's Rules of Practice.

D. ORDER

[29] The Tribunal Orders that:

1. Within thirty days of the date of this decision WCC 331 is to provide the Applicant with a List of Owners and Mortgagees of WCC 331.
2. Within thirty days of the date of this decision WCC 331 is to provide a copy of Notices of Leases to the Applicant. If no information has been provided to WCC 331 regarding Notices of Leases, then WCC 331 is to indicate to the Applicant, before the end of the thirty days, which owners have not provided the information in accordance with s. 83 of the Act.
3. WCC 331 shall provide the Applicant with the By-Laws and Rules of WCC 331, within ten days from the date of ratification and acceptance.
4. Under s. 1.44 (1) (7) of the Act, I order each of the current members of the board of directors to take the new CAO mandatory director training course within 45 days of the date of this decision. Directors shall provide written confirmation to the Applicant that they have completed the course, within 10 days of its completion.
5. Within thirty days of the date of this decision, WCC 331 shall pay \$1,000 to the Applicant as a penalty
6. Within thirty days of the date of this decision, WCC 331 shall pay \$200 to the Applicant for the cost of filing this application with the Tribunal, in accordance with s. 1.44 (1) 4 of the Act.

Anne Gottlieb
Member, Condominium Authority Tribunal

Released on: July 2, 2025