

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 11, 2025

CASE: 2024-00227R

Citation: Ionescu v. York Condominium Corporation No. 222, 2025 ONCAT 120

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

Member: Nasser Chahbar, Member

The Applicant,

Liana Ionescu

Self-Represented

The Respondent,

York Condominium Corporation No. 222

Represented by Alec Napier, Agent

Written Online Hearing: January 2, 2025 to June 24, 2025

REASONS FOR DECISION

A. INTRODUCTION

[1] The Applicant is a unit owner in York Condominium Corporation No. 222 (“YCC 222”). From March 27 to June 10, 2024, the Applicant submitted ten requests for records to YCC 222 requesting core and non-core records. YCC 222 responded to the requests and made the records available. The Applicant claims that not all records were provided. After the conclusion of Stage 2 – Mediation, the following non-core records remained at issue from two of the Applicant’s records requests:

1. April 1, 2024 – Request for records related to underground garage repairs
 - a. Revised special assessment
2. April 19, 2024 – Request for Records
 - a. Unit owners’ written opinion

[2] The Applicant asks the Tribunal to order YCC 222 to provide the missing records. The Applicant is not seeking any costs but requests the Tribunal to impose a

penalty against YCC 222 under s. 1.44 (1) 6 of the *Condominium Act, 1998* (the “Act”) for refusing to provide the records without a reasonable excuse.

- [3] For the reasons set out below, I find that YCC 222 refused to provide the revised special assessment without a reasonable excuse. As a result, I assess a penalty of \$200 and I order YCC 222 to provide this record to the Applicant at no cost, within 15 days of the date of this decision. As for the unit owner’s written opinion regarding the cost estimate of repairing the underground parking garage, I find that this is not a record that YCC 222 must maintain under the Act and as such, the Applicant is not entitled to receive this record.

B. BACKGROUND

- [4] Alec Napier is the condominium manager and representative for YCC 222 in this case. During Stage 3 – Tribunal Decision, Mr. Napier participated sporadically throughout the hearing process. At the outset of the case, he requested to add three witnesses to provide evidence. Over the next month, he did not respond to any of my messages. After several messages from myself and CAT staff prompting his participation, Mr. Napier responded by simply requesting that the case be dismissed. He did not follow my further instructions and only responded once more by asking when the case would be scheduled for a hearing. Later in the hearing process, I sent detailed instructions to all parties on how to make written submissions. The next day, Mr. Napier simply uploaded a statement from the board’s current president, Andrea Levine, and nothing else. He did not respond to any of my message for the remainder of the hearing.
- [5] As in most records cases, there is a contextual backdrop which explains the purpose of the records requests. Here, the Applicant accuses the board of lacking transparency and deliberately misrepresenting the costs associated with repairing the underground parking garage. Based on the Applicant’s submissions, she is concerned with issues related to the management practices of the corporation. These issues extend beyond a records dispute and are outside of the Tribunal’s jurisdiction. I informed the Applicant that I would only consider evidence and submissions related to the issues before me, which are those related to her records request.

C. ISSUES & ANALYSIS

- [6] The issues to be addressed in this case are:
1. Has the Respondent refused to provide records to the Applicant without a reasonable excuse? If not, what is the appropriate remedy?

2. Is a penalty warranted under s. 1.44 (1) 6 of the Act?

Has the Respondent refused to provide records to the Applicant without a reasonable excuse? If not, what is the appropriate remedy?

April 2, 2024 – Request for records related to underground parking garage repairs

- [7] The Applicant alleges that in June 2023, unit owners were informed that the underground parking garage needed to be repaired due to “structural concerns”, which was to be discussed at the next annual general meeting (the “AGM”) in August 2023. The meeting was rescheduled and eventually took place in November 2023.
- [8] During the AGM, owners were informed that the underground parking garage repairs necessitated a new reserve fund study, and that the board approved a special assessment with the majority of funds being allocated to the parking garage repairs. Owners were told that an engineering company named Synergy conducted an inspection and provided an estimate of the repair costs, and that “owners would need to pay upfront as soon as possible, preferably in the next 2 weeks, over \$21,000”, as they were told the parking garage repairs would cost \$1,500,000.
- [9] The Applicant stated that she and many unit owners questioned this figure and what expenses it would cover, and that to date, this information has not yet been provided. The Applicant also stated that many owners were frustrated with the board’s lack of transparency. The Applicant claimed that any request for further information was met with the reply from the board that the “final numbers” of the special assessment were yet to be confirmed.
- [10] In March 2024, Mr. Napier sent out another letter explaining that Synergy revised their estimate of the parking garage repairs to \$1,200,000 due to “lower than expected costs of repairs”. As a result, the board lowered the amount of the special assessment to be paid by each unit to \$16,667. The owners were also advised in this letter that the total cost of repairing the parking garage was only \$980,000, but the board did not clarify what the remaining \$220,000 was being used for.
- [11] The Applicant requested that the board obtain a second opinion regarding the cost of this project. After more pressure from owners, it was alleged that Mr. Napier agreed to contact another engineering company called ASR Engineers Inc. (“ASR”). At the time of ASR’s initial visit, the Applicant alleges that the preliminary evaluation for the repairs would cost “around \$400,000”. The Applicant stated in

her submissions:

In ASR's report there was nothing urgent/critical that would justify the need of a "Special Assessment". However, a "Special Assessment" would give the management the right to request an upfront down payment of \$16,667/unit.

- [12] It is for these reasons that the Applicant requests that the Tribunal order YCC 222 to produce their revised special assessment which dropped the amount to \$1,200,000 from the initial \$1,500,000.
- [13] As mentioned previously, YCC 222 made no submissions as to whether they have provided this record to the Applicant. Based on the Applicant's evidence and submissions, I am satisfied that this record exists and that it has not been provided. However, it has not been made clear whether the "revised special assessment" exists as one record, or whether it is multiple records. Therefore, I order YCC 222 to provide the Applicant with this record or any other records that relate to their revised special assessment at no cost to the Applicant.

April 19, 2024 – Request for records relating to unit owners' written opinion

- [14] The Applicant claims that ASR offered to present a formal quote by a licensed quantity surveyor after their first visit to the condominium. However, it is alleged that Mr. Napier declined the offer. The Applicant provided an email chain of correspondence where Mr. Napier stated that they consulted two different unit owners living in the building about whether another estimate is needed to confirm the costs of this project. One is allegedly a contractor and the other is an engineer.
- [15] In his email on April 18, 2024, Mr. Napier stated: "The report was given to another engineer and a contractor who both live in the building for their feedback. In their opinion there is no need to ask for another estimate as per both." Mr. Napier then provided a written excerpt from what looks like a written opinion from one of these individuals. Based on this opinion, Mr. Napier concluded that "the board has elected not to ask for another estimate and will not be asking this from ASR".
- [16] As a result of this email, the Applicant sought the written opinion provided by the unit owners. It is well known that a condominium corporation must keep records outlined under s. 13.1 (1) (9) of Ontario Regulation 48/01 ("O. Reg. 48/01"), which states:

All reports and opinions of an architect, engineer, or other person whose profession lends credibility to the report or opinion, that the corporation receives and that relate to physical features of the property or of any real or personal property that the corporation owns or that is the subject of an

agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.

- [17] As stated above, the owners that YCC 222 consulted only stated their opinion with regards to Synergy's report and whether they thought another quantity surveyor (estimator) was needed to assess the potential costs of repairing the parking garage. Such an opinion regarding an existing report can be distinguished from the records stated in s. 13.1 (1) (9) of O. Reg. 48/01, since the limited information provided regarding the opinion does not directly speak to any physical features or of any real or personal property as stated in the Act. Therefore, I am not satisfied that this opinion letter constitutes a record that YCC 222 must maintain as per the Act to which the Applicant is entitled to receive.

Is a penalty warranted under s. 1.44 (1) 6 of the Act?

- [18] Section 1.44 (1) 6 of the Act states that the Tribunal may order a corporation to pay a penalty if the Tribunal finds that the corporation has, without reasonable excuse, refused to permit a person to examine or obtain copies of records.
- [19] Based on the Applicant's submissions and the lack of participation from Mr. Napier during the Stage 3 – Tribunal Decision proceeding, there is no evidence before me to explain why YCC 222 has not provided the revised special assessment. It is well established in previous cases before this Tribunal that one of the purposes of assessing a penalty is to deter future similar action. Therefore, since this record has still not been provided to the Applicant, I conclude that YCC 222 has refused to provide this record without a reasonable excuse. In these circumstances, I assess a penalty of \$200. The Applicant did not make any request for costs; therefore, I make no order for costs.

D. ORDER

- [20] The Tribunal orders that:

1. YCC 222 shall provide their revised special assessment regarding the parking garage repairs, at no cost to the Applicant, within 15 days of the date of this decision.
2. YCC 222 is ordered to pay a penalty to the Applicant in the amount of \$200 under s. 1.44 (1) 6 of the Act within 15 days of the date of this decision.

Nasser Chahbar
Member, Condominium Authority Tribunal

Released on: July 11, 2025