

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: August 11, 2025

CASE: 2025-00148R

Citation: Kemp v. Leeds Standard Condominium Corporation No. 47, 2025 ONCAT 132

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

Member: Nasser Chahbar, Member

The Applicant,

John Kemp

Self-Represented

The Respondent,

Leeds Standard Condominium Corporation No. 47

Did not participate

Hearing: Written Online Hearing – May 23, 2025, to July 20, 2025

REASONS FOR DECISION

A. INTRODUCTION

- [1] On August 16, 2024, the Applicant submitted a request for records to Leeds Standard Condominium Corporation No. 47 (the “Respondent”), asking for Periodic Information Certificates (the “PICs”) throughout the past 12 months. The Applicant alleges that he did not receive a response to his records request until February 2025 after he followed up on the request with the board and condominium manager.
- [2] On February 24, 2025, the Respondent emailed two PICs to the Applicant. The Respondent did not use the mandatory Board response form. After receiving the two PICs, the Applicant noticed that one of them applied to the 2023 fiscal year, rather than the 2024 fiscal year as he originally requested. The Applicant claims that to date, he has not received the correct PIC and that a PIC for the time period ending on November 30, 2023, was never created or distributed to unit owners.
- [3] At the outset of the hearing, the Applicant also alleged that an Information Certificate Update (ICU) was not issued in accordance with the *Condominium*

Act, 1998 (the “Act”) and Ontario Regulation 48/01 (“O. Reg. 48/01”), to reflect the removal and reappointment of a board member in 2024. The Applicant also claimed that the Respondent failed to maintain adequate board meeting minutes by not including information about the removal and reappointment of this board member in the meeting minutes. Although these two requests were not included in the Applicant’s initial records request for the PICs, I allowed the Applicant to make submissions on these issues which would be addressed in my final decision.

- [4] The Applicant requested that I “ensure that board members are aware of the obligations mandated in the Condominium Act.” He also requested costs for his Tribunal fees and that I impose a penalty against the Respondent in the amount of \$5000 under s. 1.44 (1) 6 of the Act. The Applicant seeks an order for the Respondent’s board members to refresh their training by retaking the Condominium Authority of Ontario’s (CAO) mandatory director training course. The Applicant also asked that I order the Respondent “to provide a communication to all unit owners describing the breaches incurred and actions to resolve.”
- [5] For the reasons set out below, I find that the delay in providing the Applicant with the records amounted to a refusal to provide the records without a reasonable excuse. As a result, I order a penalty of \$300 and that the Respondent reimburse the Applicant half of Tribunal fees in the amount of \$100. As for the board meeting minutes, I find that the Respondent is keeping adequate meeting minutes in accordance with the Act. I will not order the Respondent’s board members to retake the CAO’s mandatory director training course. As for the Applicant’s final request, I will not order the Respondent to communicate to all owners their breaches of the Act, as this public decision effectively achieves this request, which can be shared with other unit owners.

B. BACKGROUND

- [6] The Respondent joined the case but did not participate in Stage 2 – Mediation despite invitations and messages from the Tribunal Member. On April 24, 2025, the Stage 2 – Mediation Tribunal Member (Mediator) requested Tribunal staff to contact the Respondent and advise them that this case may proceed without their participation. Tribunal staff confirmed to the Mediator that a voicemail message was left for the Respondent and that an email was sent, advising that the case was in progress and would proceed.
- [7] In Stage 3 – Tribunal Decision, the Respondent also did not participate. Vincent Bennett is the condominium manager and was listed as the representative for the Respondents. At the outset of the case, he did not respond to any of my messages or instructions. On June 12, 2025, Tribunal staff again contacted the Respondent

by phone and email, stating that this hearing was in progress and would proceed without their participation. Again, Mr. Bennett failed to respond. As such, I am satisfied that the Respondent has been provided with the opportunity to participate in this case.

C. ISSUES & ANALYSIS

[8] The issues to be addressed in this case are:

1. Has the Respondent refused to provide the Applicant with a Periodic Information Certificate (PIC) for the fiscal period ending on November 30, 2023, without a reasonable excuse?
2. Has the Respondent refused to provide the Applicant with an Information Certificate Update (ICU) to reflect the removal and/or reappointment of a board member in 2024, without a reasonable excuse?
3. Is a penalty warranted under s. 1.44 (1) 6 of the Act?
4. Is the Respondent maintaining adequate board meeting minutes as per the Act?
5. Should the Tribunal order the Respondent's board members to retake the CAO's mandatory director training course?
6. Is the Applicant entitled to costs?

Has the Respondent failed to provide the Applicant with a Periodic Information Certificate (PIC) for the fiscal period ending on November 30, 2023, without a reasonable excuse?

[9] Section 26.3 of the Act requires condominiums to issue PICs twice a year within 60 days of the end of the condominium's first and third quarters of their fiscal year. This certificate provides owners with information about the corporation's board of directors, finances, insurance policies and legal proceedings, and other key pieces of information that highlight the business of the corporation.

[10] The Applicant submits that when he made his request for the PICs issued during the past 12 months (between August 16, 2023 – August 15, 2024), he was expecting to receive a PIC for the fiscal periods ending on November 30, 2023 and May 31, 2024, as these were the two dates that align with the end of the first and third quarters of the Respondent's 2024 fiscal year.

- [11] After the Applicant followed up on their records request in February 2025, the Respondent sent over two PICs, one dated for the end of May 31, 2024, and the other, November 30, 2022 (rather than 2023). It may be the case that the November 2022 PIC was sent to the Applicant by mistake rather than the November 2023 PIC. It could also be that the Respondents did not complete a PIC for this time period. Based on the evidence before me and the Respondent's lack of participation, I cannot find that the PIC for the fiscal period ending on November 30, 2023, does not exist, nor will I order that one be created for this time period. In any event, the Respondent has issued more recent PICs that speak to the current affairs of the corporation.
- [12] After reviewing the Applicant's evidence and submissions, I find that he experienced significant delay in receiving the requested records. The Applicant filed their request in August 2024, and he received a reply several months later in late February 2025, only after he followed up with the board and condominium manager. In addition, when the Applicant asked why he did not receive a mandatory Board response form, the Applicant alleges that Mr. Bennett stated that he did not believe a mandatory Board response form was necessary in this case. The Applicant submitted an email thread showing these statements made by Mr. Bennett. This is incorrect and the Respondent should make itself aware of the requirements under the Act on this point.
- [13] Section 1.44 (1) 6 of the Act states that the Tribunal may order a condominium corporation to pay a penalty if the Tribunal finds that the corporation has, without a reasonable excuse, refused to permit a person to examine or obtain copies of records. It is well established in previous cases before this Tribunal that a delay in providing the records may amount to a refusal to provide the records without a reasonable excuse.
- [14] Although I cannot find that the Respondent intentionally withheld or refused to provide this record without a reasonable excuse, the delay the Applicant experienced in receiving these records amounted to a refusal to provide records without a reasonable excuse. In these circumstances, I assess a penalty of \$500.

Has the Respondent refused to provide the Applicant with an Information Certificate Update (ICU) to reflect the removal and/or reappointment of a board member in 2024, without a reasonable excuse?

- [15] On September 6, 2023, Howard Allan was appointed as a director for the Respondent. The Applicant alleges that on March 6, 2024, Mr. Allan was removed from the board, but sometime after March 8, 2024, he was reappointed after completing the CAO's mandatory director training. The Applicant provided a

screen shot of the CAO director profiles for Leeds Standard Condominium Corporation No. 47 to substantiate these dates. The Applicant cites section 11.2(3) of Ontario Regulation 48/01 (“O.Reg 48/01”), which states that an ICU must be issued “If there has been any change in a matter described in subclauses (2)(a)(i) to (vi), within 30 days of the change.” Section (2)(a)(iii) is captured by this clause where there is a change in “the directors or officers of the corporation.” The Applicant claims that no ICU was issued reflecting the removal and subsequent reappointment of Mr. Allan.

[16] The jurisdiction of the Tribunal is limited to the disputes set out in O. Reg. 179/17. The requirements for a condominium corporation to send PICs and ICUs are set out in section 26.3 of the Act. It is well established that the Tribunal does not have jurisdiction over this section, as referenced in the Tribunal’s decision in *Yeung v. Metropolitan Toronto Condominium Corporation No. 1136*, 2020 ONCAT 28. The Tribunal dismissed this application based on a lack of jurisdiction to decide issues relating to the timing of when PICs are provided.

[17] While the failure to deliver an ICU to owners regarding the appointment of a board member is a clear breach of s. 26.3 of the Act, the Tribunal does not have the jurisdiction to hear this issue as it pertains to the governance of the corporation. One may argue that it would have been good governance on the part of the Respondent to have issued the ICUs in accordance with the Act, but at this point, I cannot order records that do not exist in this case.

Are the Respondent’s board meeting minutes inadequate for not including information regarding the removal and reappointment of a board member?

[18] The Applicant argued that the Respondent’s board meeting minutes are inadequate because the dismissal and reappointment of Mr. Allan was not found in any of the minutes from January 5, 2024, to October 25, 2024. Additionally, these minutes show Mr. Allan participating in the meetings as a director. The Applicant asserts that the appointment of a director must be made by resolution at a duly called board meeting and be recorded in the meeting minutes. The Applicant references s. 32(1), s. 34(1) and 37(1) of the Act, which speak to the way business of the corporation should be conducted and the standard of care owed by officers and directors of the corporation.

[19] The Tribunal has adopted the standard established in *McKay v. Waterloo North Condominium Corp. No. 23*, 1992 CanLII 7501 (ON SC) when it comes to the issue of adequacy, which found that:

The Act obliges the corporation to keep adequate records. One is impelled to

ask -- adequate for what? An examination of the Act provides some answers. The objects of the corporation are to manage the property and any assets of the corporation (s. 12 (1)). It has a duty to control, manage and administer the common elements and the assets of the corporation (s. 12(2)). It has a duty to effect compliance by the owners with the Act, the declaration, the by-laws and the rules (s. 12 (3)). Each owner enjoys the correlative right to the performance of any duty of the corporation specified by the Act, the declaration, the by-laws and the rules. The records of the corporation must be adequate, therefore, to permit it to fulfil its duties and obligations.

- [20] Based on the standard mentioned above, I find that all of the board meeting minutes from January 2024 to October 2024 board are adequate. They include sufficient detail to give owners an understanding of the functioning of the corporation. There is no evidence before me to suggest that the reappointment of Mr. Allan was discussed during those meetings and that the board failed to document them. The minutes themselves may very well reflect the record of everything discussed at those meetings. The Applicant may ask whether the Respondent ought to have discussed and put forth a resolution for the reappointment of a board member during those board meetings. Although this question seems relevant to assessing the adequacy of the meeting minutes themselves, it is a separate issue that relates to the governance and decision-making practices of the board, which is outside of the Tribunal's jurisdiction and beyond the scope of this records case.

Should the Tribunal order the Respondent's board members to retake the CAO's mandatory director training?

- [21] Based on the evidence before me, I see no basis to order the Respondent's board members to retake the CAO's mandatory director training course. However, I strongly encourage the Respondent to fulfill their obligations under the Act and to ensure that their employees also abide by the Act, especially when it comes to records requests. Finally, the Applicant requested that I order the Respondent "to provide a communication to all unit owners describing the breaches incurred and actions to resolve." I will not make this order as this decision, which is available to the public, effectively achieves this request. It can be shared with other owners.

Is the Applicant entitled to costs?

- [22] The Applicant was somewhat successful in this case. He did not receive the records he requested and waited several months for a reply from the Respondent. However, I have found that the Respondent is maintaining adequate meeting minutes and that the issue regarding the ICUs is beyond this Tribunal's jurisdiction.

As a result, I find it fair that the Applicant be reimbursed half of his Tribunal fees, which amounts to \$100.

D. CONCLUSION

[23] The condominium management provider and board members of Leeds Standard Condominium Corporation No. 47 should read this decision. They all must take record requests seriously. Going forward, the Respondent should create and distribute PICs and ICUs to owners in accordance with the Act.

E. ORDER

[24] The Tribunal Orders that:

1. The Respondent will pay a penalty to the Applicant in the amount of \$300 under s. 1.44 (1) 6 of the Act within 15 days of the date of this decision.
2. The Respondent will pay the Applicant \$100 for their Tribunal fees within 15 days of the date of this decision.

Nasser Chahbar
Member, Condominium Authority Tribunal

Released on: August 11, 2025