

Corrected Decision

This decision was amended to correct the name of the Respondent's counsel.

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: October 7, 2025

CASE: 2024-00781R

Citation: Ladha v. York Condominium Corporation No. 43, 2025 ONCAT 170

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

Member: Nasser Chahbar, Member

The Applicant,
Shahnool Ladha
Self-Represented

The Respondent,
York Condominium Corporation No. 43
Represented by Natasha Mazzitelli, Counsel

Hearing: Written Online Hearing – May 6, 2025 to August 22, 2025

REASONS FOR DECISION

A. INTRODUCTION

- [1] On August 4, 2024, the Applicant submitted a request for records to York Condominium Corporation No. 43 ("YCC 43"), requesting 13 core and non-core records. YCC 43's legal representative at the time responded to the request on September 3, 2024, approving the Applicant's request without charging any fees to produce the records. On September 7, 2024, the Applicant confirmed YCC 43's response and requested to move forward with the delivery of the records.
- [2] The Applicant alleges that the non-core records and some of the core records were not provided by the 30-day deadline of October 7, 2024. The Applicant followed up with YCC 43's condominium manager, Mr. Irfan Naeem, on October 15, 2024. Mr. Naeem replied on October 22, 2024, stating that YCC 43 retained a

new lawyer and “were in the process of transferring all the legal files to their office”. In the same email, Mr. Naeem stated that “the Board has revisited their policy to provide non-core documents free of cost and decided to charge \$30 per non-core item.” He attached a revised Board Response form showing a total fee of \$180 and requested the Applicant’s confirmation.

[3] On October 28, 2024, the Applicant responded and reiterated that she already provided confirmation to proceed with the board’s first response form that did not request any fees and asked that the records be delivered by October 31, 2024. Mr. Naeem did not reply to the Applicant beyond this point, so an application was filed with the Tribunal on December 21, 2024.

[4] The case proceeded to Stage 2 – Mediation on January 10, 2025. YCC 43 provided all the records to the Applicant at no costs, except three non-core records that allegedly did not exist. The Applicant was satisfied with the provision of the remaining records but raised issues relating to the adequacy of the following core and non-core records:

1. Minutes of meetings held within the last 12 months (from March 2024 – August 2024)
2. Specifications for all components of the Hallway Project (the “hallway project”)
3. Voting Results from the Annual General Meeting (the “AGM”) held on June 28, 2024 (the “voting results”)

[5] The Applicant is seeking a statement from YCC 43 that acknowledges their failure to comply with provisions of the *Condominium Act, 1998* (the “Act”). The Applicant also requests the Tribunal to order YCC 43 to distribute a written list of decisions to all unit owners made outside of Board meetings that involved significant expenditures during the period covered by the records request. The Applicant also seeks an order that YCC 43 produce an adequate version of the voting results from the AGM that includes the alleged missing information. The Applicant requests to be reimbursed her Tribunal fees, as well as an order to have YCC 43 “provide a credit, by cheque, toward the common expenses attributable to [her] unit, in an amount equivalent to [her] proportional share of the Tribunal’s filing fee, any penalty imposed, and the legal fees incurred by the Corporation in this proceeding.” The Applicant is also seeking a penalty for YCC 43’s alleged contraventions of the Act.

[6] For the reasons set out below, I find that the initial delay, along with the further

delay resulting from YCC 43's decision to reissue their Board Response form and request fees for the non-core records, amounted to a refusal to provide the records without a reasonable excuse. Therefore, I assess a penalty of \$300. As for the remaining issue of adequacy, I find that YCC 43's board meeting minutes at issue in this case, as well as the remaining records concerning the hallway project and voting results, are adequate in accordance with the Act. The Applicant was partially successful in this case. Therefore, I order YCC 43 to reimburse half of the Applicant's Tribunal fees in the amount of \$100. No costs are awarded to YCC 43.

B. BACKGROUND

- [7] One of the main factors of this records dispute was a change in counsel for YCC 43 two weeks after the Applicant's records request was approved. In addition, one month prior to the Applicant's records request, the board decided to rescind their practice of providing non-core records to unit owners free of charge.
- [8] Both the Applicant and YCC 43 made numerous claims and allegations that stem from these two facts, which helped to explain the context surrounding this records request. However, most of the issues pertaining to the records dispute were resolved during Stage 2 – Mediation. The Applicant also made several submissions that extended beyond the agreed upon issues at the outset of the hearing. Therefore, I only refer to the evidence needed to address the issues before me. In addition, each party's submissions contained allegations beyond the scope of the Tribunal's jurisdiction, which were not considered in my assessment of the issues.

C. ISSUES & ANALYSIS

- [9] This issues to be addressed in this case are:
1. Should the Tribunal assess a penalty under section 1.44 (1)(6) of the Act?
 2. Has the Respondent failed to keep adequate records as per the Act? If so, what is the appropriate remedy?
 3. Is either party entitled to costs?

Issue #1: Should the Tribunal assess a penalty under s. 1.44 (1)(6) of the Act?

- [10] The Applicant submitted their records request on August 4, 2024. YCC 43 initially responded to the Applicant's request on September 3, 2024, when their legal representative at the time approved the request without requesting any fees for producing the non-core records. Mr. Naeem was copied on these emails sent back

and forth between the Applicant and YCC 43's previous counsel. Two weeks after the request was approved and confirmed by both parties on September 7, 2024, YCC 43 went through a change in legal representation. YCC 43 claims that this change played a factor in the delay in processing and sending off the records.

- [11] Furthermore, YCC 43 stated that their previous counsel erroneously approved the records request without requesting a fee to produce the non-core records. The Applicant did not receive the records within the 30-day deadline, so she sent a follow up email to Mr. Naeem on October 15, 2024. Mr. Naeem replied on October 22, 2024, and sent a new Board Response form to the Applicant which included a \$30 fee for each non-core item, which totalled \$180. The Applicant disputed the fee and stated that her request was already approved and that the time frame to deliver the records had already expired. The Applicant alleges that Mr. Naeem did not reply to her emails beyond this point, which resulted in her decision to file an application with the Tribunal.
- [12] In a board meeting that took place on July 18, 2024, the board passed a resolution to "rescind the approval to provide non-core records free of charge." No further details were provided in the meeting minutes regarding this change going forward. In the September 18, 2024, board meeting minutes, the board again discussed this changed and made a resolution "to provide non-core records for \$30 per item." This latter date was two weeks after prior counsel for YCC 43 already approved the Applicant's records request without any charges for the non-core records.
- [13] On October 22, 2024, the board decided to reverse the prior approval of the Applicant's records request and apply the new board practice of charging \$30 per non-core record. Whether YCC 43's decision to charge the Applicant for the non-core records after their previous counsel had approved them for free is not a determinative issue when it comes to assessing a penalty. The question here is whether this decision, which resulted in a further delay due to the dispute over the fees, amounted to an unreasonable refusal to provide records. The Applicant claims that the board's decision to issue a new Board Response form in which they requested fees for the non-core records was unwarranted, and that the delay resulting from this decision amounted to a refusal to provide records.
- [14] Both parties agree that YCC 43's previous lawyer approved the Applicant's records request. The Applicant's evidence also established that Mr. Naeem was copied on those emails, which made him aware of the lawyer's approval with no request for fees. Nearly two months after the request was initially approved, the board reversed their decision and chose to withhold the records until payment was made by the Applicant.

- [15] I am not convinced that a change in legal representation, along with a change in board practice, were good enough reasons for not providing the records to the Applicant when the request was already approved. Whether YCC 43's counsel made a mistake by not requesting the fees for the non-core records, they were still the actively appointed legal representative of the corporation at the time the request was made and for more than two weeks after the records request was approved. The records could have been provided during this time frame. In addition, Mr. Naeem was aware of previous counsel's approval of the records request and did not raise any concerns until October 22, 2024, almost two months later when the Applicant sent a follow up email after not receiving the records.
- [16] The Applicant should not have to bear the responsibility of YCC 43's previous lawyer for their alleged mistake of approving the request for non-core records free of charge. Once the request was approved, the board was obligated to deliver the records within 30 days as per the Act. They did not, which resulted in the initial refusal to provide the records. Once the Applicant followed up, they continued to withhold the records until the Applicant made payment, which I find to be unreasonable due to the prior approval without any fees. After the Applicant filed their application with the Tribunal, it was not until Stage 2 – Mediation that the records were provided. Taken together, I find that the YCC 43's actions amounted to an unreasonable refusal to provide the records. In these circumstances, I find it appropriate to assess a penalty of \$300.

Issue #2: Has YCC 43 failed to keep adequate records as per the "Act"?

1. Board meeting Minutes from March 2024 to August 2024

- [17] The Applicant argued that YCC 43's February 6, 2024, June 4, 2024, and July 10, 2024 board meeting minutes are inadequate because they fail to include several decisions made by the board during that time frame. Among these decisions are:
1. The board's approval of the decision to engage legal counsel to prepare the comprehensive Record Requests process implemented on May 17, 2024, nor any record authorizing the significant associated cost.
 2. The meeting package for the AGM on June 28, 2024, included a draft of the "Proposed Director Qualifications By-law" for discussion purposes. However, there is no indication in the minutes that the Board passed a resolution authorizing the proposal, engaged legal counsel to draft it, or approved the related expenditure.
 3. At least three Tribunal cases were filed against YCC 43 in the first half of

2024. None of these legal actions nor the Board's decision to retain legal counsel or approval of the significant associated legal costs is mentioned in the minutes.

4. For a case that settled at the Tribunal, the minutes do not reference a case number or applicant name, making it unclear to future boards or management which Tribunal case the settlement agreement pertains to.

[18] The Applicant claims that these omissions contravene section 32 of the Act, which states a board “shall not transact any business of the corporation except at a meeting of directors at which a quorum of the board is present.” The Applicant further references sections 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. The Applicant cites *Mawji v. York Condominium Corporation No. 415*, 2021 ONCAT 72 and claimed that board minutes must reflect all decisions constituting any transactions of the corporation’s business.

[19] When it comes to the issue of adequacy of records, Tribunal decisions frequently refer to *McKay v. Waterloo North Condominium Corp. No. 23*, 1992 CanLII 7501 (ON SC), 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 the board meeting minutes from March 2024 to August 2024 board are adequate. They include sufficient detail to give owners an understanding of the business transacted, and decisions made at those meetings. There is no evidence before me to suggest that there was other business discussed during those meetings in which the board failed to document in the minutes. The meeting minutes may very well reflect the record of everything discussed. The Applicant may propose that YCC 43 ought to have discussed and recorded other board business during those board meetings or other duly called meetings, to properly document the missing board decisions which arose during those months. 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 relates to conducting business outside of board meetings. This issue is outside of the Tribunal's jurisdiction and beyond the scope of this records case.

- [21] The Applicant alleges that YCC 43 is not following the Act when it comes to the way they run the corporation. As stated, it is not within the jurisdiction of the Tribunal to determine whether the Respondent is correctly governing itself with respect to their decision-making practices. In other cases, the Tribunal has acknowledged the requirement of the Act that business of the corporation only be transacted by resolutions of the board, and that this includes keeping a reasonably accurate record of such resolutions in the minutes of the board meetings. Therefore, YCC 43 is encouraged to ensure its practices align with such statutory requirements under the Act.

2. Specifications for all components of Hallway Project

- [22] The Applicant claims that YCC 43 agreed to provide this record in their initial and revised Board Response form, with a requested fee in the latter. However, it became clear during Stage 2 – Mediation that YCC 43 did not have this record in their possession. To fulfill this request, the record was created by the contractor, Tiron, at the request of YCC 43 on March 5, 2025, which was then provided to the Applicant more than four months after this record was approved for a second time in the second Board Response form. The Applicant argues that the newly created record by Tiron is inadequate, as specifications were only provided for some of the hallway components. The Applicant stated that “the delay in providing this record, and inadequacy, warrants a penalty.”
- [23] YCC 43 claimed that they relied on the advisement and business records of Tiron and that the board members are not “hallway project” experts. They further stated that the Applicant's issue is with Tiron's drafting of the record and what they did not include, as “the corporation is quite simply required to maintain a record of such documents.”
- [24] After reviewing the record, I disagree with the Applicant's claim that it is inadequate. The Applicant stated that this record failed to include specifications regarding the “lighting, baseboards, ceiling tiles, fire hose cabinets, hardware, etc”, and that for these reasons, the record is inadequate. The record that Tiron produced included the specifications of five hallway components, which included the wall tiling, wall covers, floor tiling, carpet and suite door specifications. As a result, I find that the information included provides any owner with a sufficient understanding of the materials used to complete the hallway projects.

[25] As for the Applicant's request for a penalty regarding this record, a penalty cannot be issued for reasons that relate to the inadequacy of records. The issue of delay leading to an unreasonable refusal in receiving this record was already addressed above in my analysis regarding the issuance of a penalty.

3. Voting Results at June 28, 2024, AGM

[26] To satisfy this request, YCC 43 provided two documents to the Applicant during Stage 2 – Mediation titled: "Voting Results Proxy Check" and "Erroneous voting results from June 28, 2024 AGM". YCC 43 explained that with respect to this request, the AGM was chaired by their previous legal counsel who had incorrectly counted invalid and incomplete votes, which resulted in the election of board members who were not voted onto the board. When YCC 43's new counsel took over, a new and proper count of the votes cast during the June 28, 2024 AGM was conducted, and it was these results that were provided to the Applicant. YCC 43 claims that all the information they have in their possession regarding this request has been provided to the Applicant.

[27] The Applicant claims that both documents are inadequate for the following reasons:

1. The documents are not on letterhead, nor do they identify the condominium corporation, making it impossible to verify their origin or authenticity
2. They do not indicate the meeting type or date, namely the AGM on June 28, 2024.
3. They address only proxy votes, omitting the full voting results.
4. No data was provided directly from Condo Nexus, the electronic voting/hosting platform.
5. There is no report on the number of invalid proxies.
6. There are no results for the votes on the owner-occupied director position.
7. There are no results for the votes on the removal of board directors.

[28] In the Applicant's records request, she made a request for "Voting results at AGM June 28, 2024". In essence, the Applicant is seeking information regarding the voting results that resulted from this meeting. Whether or not the Applicant's claims are correct, I am not satisfied that these records are inadequate for the purposes of the Act. I accept that all records in YCC 43's possession that include

information regarding the voting results were provided to the Applicant. They may not organize or summarize the voting results in a way that appeases the Applicant, but this is not a determinative factor when it comes to assessing the adequacy of records. As such, I find that these records are adequate in relation to YCC 43's obligations under the Act, as they provide a sufficient understanding of the voting results. Therefore, I am satisfied that the Applicant's request for information has been fulfilled with the provision of these records.

Issue #3: Is party entitled to costs?

[29] The Applicant requested an order that YCC 43 reimburse her Tribunal fees. YCC 43 requested costs on a full indemnity basis, but they did not specify the amount.

[30] With regards to the Applicant's claim for costs, the Tribunal's Rule 48.1 provides:

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.

[31] The Rule relevant to YCC 43's claim for costs is 48.2 which states:

The CAT generally will not order one Party to reimburse another Party for legal fees or disbursements ("costs") incurred in the course of the proceeding. However, where appropriate, the CAT may order a Party to pay to another Party all or part of their costs, including costs that were directly related to a Party's behaviour that was unreasonable, undertaken for an improper purpose, or that caused a delay or additional expense.

[32] The Applicant was partially successful in her application as a result of my finding that a penalty is warranted in this case. In addition, the Applicant was required to file a case with the Tribunal after YCC 43 stopped responding to her further inquiries after the board issued their second Board Response form. Had they continued to communicate, a potential resolution could have been reached without the need to file an application with the Tribunal. At the same time, most of the issues were resolved during Stage 2 – Mediation, and the Applicant was unsuccessful regarding her claims about the adequacy of the records provided. In these circumstances, I order YCC 43 to reimburse the Applicant half of her Tribunal filing fees totaling \$100.

[33] I do not find that YCC 43 is entitled to costs as the Applicant was somewhat successful in her claims, and they have not shown that this application was undertaken for an improper purpose. They also did not provide any submissions

as to why they are entitled to costs.

[34] The Applicant requested an order to have YCC 43 “provide a credit, by cheque, toward the common expenses attributable to my unit, in an amount equivalent to [her] proportional share of the Tribunal’s filing fee, any penalty imposed, and the legal fees incurred by the Corporation in this proceeding.” I am not convinced that the circumstances in this case warrant an order of this nature, as actions could have been taken from both parties at different times which could have avoided the filing of this application. As such, I will not make this order.

D. ORDER

[35] The Tribunal orders that:

1. The Respondent will pay a penalty to the Applicant in the amount of \$300 under section 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 her Tribunal fees within 15 days of the date of this decision.

Nasser Chahbar
Member, Condominium Authority Tribunal

Released on: October 7, 2025