

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: October 27, 2025

CASE: 2025-00363R

Citation: Kerr v. Leeds Condominium Corporation No. 16, 2025 ONCAT 182

Order under section 1.41 of the *Condominium Act, 1998*.

Member: Eleanor White, Member

The Applicant,

Martha Blackler Kerr

Self-Represented

The Respondent,

Leeds Condominium Corporation No. 16

Represented by Cheryl Wood, Counsel

Submission Dates: September 5, 2025 to September 10, 2025

DISMISSAL ORDER

- [1] The Applicant filed an application with the Condominium Authority Tribunal (CAT). The case proceeded to Stage 2 - Mediation on July 29, 2025.
- [2] The Applicant applied to the CAT as she was denied certain requests from her Request for Records, submitted to the Respondent on June 3, 2025. In her request form, the Applicant was seeking information relating to any site work, expenditures and planning for the west corner of the LCC 16 property, adjacent to her unit. The Applicant specified only the 'West corner' and a kayak rack in the details of her request form. The Applicant was also seeking a possible financial penalty because of the denial of her requests.
- [3] During Stage 2 – Mediation, the validity of the reasons for any denials was discussed and determined to be reasonable, as the denials were a result of either the ambiguity of the request (viewed as 'information' rather than a specific prescribed 'record') or the Respondent's denial of the existence of such record within the timeframe of the Applicant's request.
- [4] The Applicant was provided with the CAO Guide to Records, to assist her in making future records requests. The Respondent indicated it was willing to try to

work with her in allaying her concerns. During the Stage 2 process the Respondent did provide some additional information; however, there was no formal amendment made to the application to the CAT. The issues continue to be those represented on the Request for Records form dated June 3, 2025, and the July 2, 2025, Response to Request for Records, from the Respondent.

[5] During Stage 2 – Mediation, the CAT issued a Notice of Intent to Dismiss this application under Rule 19.1 of the CAT’s Rules of Practice.

[6] This case is dismissed for the reasons set out below.

Notice of Intent to Dismiss

[7] The Applicant filed a Request for Records (the ‘Request’) in accordance with the correct process on June 3, 2025. The Request was accompanied by a Cover Letter, dated on June 3rd as well. The covering letter summarized the requests as pertaining to “development work in the West corner of the property adjacent to (her) unit #54”.

[8] The Applicant requested the following, consisting of one ‘core’ record and five ‘non-core’ records:

Core record:

1. Board Meeting Minutes from June 2, 2024 to June 2, 2025. These were provided with the Response to Request for Records on July 2, 2025.

Non-Core records:

2. All landscape, architect, engineer or design (draft or final) for any planned or proposed work on the West corner area from January 1, 2023 to present. The Response to Request for Records form stated the following: “*see cover letter - no such records meet the request*”.
3. Any vendor or contractor quotes or contracts or invoices for work done for West corner development from January 1, 2023 to present. Again the response from the Respondent was “*see cover letter - no such records meet the request*”.
4. All communications with vendors, professional or consultants related to West corner development. Once again, the response from the Respondent was “*see cover letter - no such records meet the request*”.

5. All budget allocations or spending authorizations related to the work for the West corner project near Unit 54 for the period from January 1, 2023 to present. The Respondent responded with the Budgets for the 2 years within the requested period, with their Response to Request for Records.
- [9] The CAT provided the parties with an opportunity to provide submissions following the provision of a Notice of an Intent to Dismiss.

Applicant's Submissions

- [10] The Applicant was provided information in the discussions in Stage 2 as part of an effort to cooperate with the Applicant's concerns. Information included details of the removal and replacement of a shed, not mentioned in the Request for Records.
- [11] The Applicant remains concerned about any future development in an area of common elements adjacent to her unit. She finds the additional material provided as in the latter part of Stage 2 to be inadequate for her needs and expressed her desire to proceed to Stage 3 – Tribunal Decision to address the issues fully. The Applicant also drew attention to the very minor delay in submissions of the Respondent, and wished to include timeliness in her concerns to be addressed in adjudication.

Respondent's Submissions

- [12] The Respondent addressed the intent of the Tribunal processes, stating the denial of requests in the Applicant's Request for Records form was a true response indicating in their cover letter and their Response form that there was no such record to match the Applicant's request. The response is based on the definition of a 'record' in section 55 of the Act.
- [13] During the Stage 2 discussions, the Respondent, in an effort to work with the Applicant and upon the Applicant's specification in regards to the replacement of a shed on the property (not referred to in the Request), the Respondent was able to provide all information pertaining to that issue. This eventual understanding of the Applicant's request was not due to timeliness but lack of clarity in the Applicant's Request for Records. The Respondent maintains it discharged its duty under the Act.

Conclusion

- [14] There is no indication of a 'denial of a record without a reasonable excuse'. The denied requests did not refer to a prescribed Record, due to lack of clarity in

description or to lack entitlement in specific instances.

- [15] The Respondent indicated a willingness to continue discussion with the Applicant to allay any concerns regarding the common elements adjacent to her unit. The ensuing assistance resulted in clarification of issues and provision of additional materials.
- [16] The issues in dispute in this case were restricted to the original Request for Records submitted by the Applicant and the Response to the Request for Records from the Respondent. There was no amendment made to the Request form, only an opportunity in Stage 2 – Mediation, to assist the Applicant with her concerns, met with goodwill by the Respondent. I find no evidence that the Respondent did not discharge their duty under the Act in their response to the Request for Records dated June 3, 2025.
- [17] There is no issue to be advanced to Stage 3 – Tribunal Decision

ORDER

[18] The Tribunal orders that:

1. This case is closed in Stage 2 - Mediation under Rule 34.3 of the CAT's Rules of Practice.
2. Any documents and messages that have been shared for this Case in Stage 1 - Negotiation and / or Stage 2 - Mediation are private and confidential. That means that the Users cannot share, or tell anyone about, messages or documents they received from other Users during these stages without the permission of the other User.
3. The Users may share a copy of any document they received during the course of this case if required by law, such as to a government organization or a court.

Eleanor White
Member, Condominium Authority Tribunal

Released on: October 27, 2025