

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** November 28, 2025

**CASE:** 2025-00433R

**Citation:** Govindu v. York Condominium Corporation No. 456, 2025 ONCAT 197

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

**Member:** Nicole Aylwin, Vice-Chair

**The Applicant,**

Franklin Govindu

Self-Represented

**The Respondent,**

York Condominium Corporation No. 456

Represented by Dimitra Savva, Agent

**Submission Dates:** October 31, 2025 to November 17, 2025

### **DISMISSAL ORDER**

- [1] The Applicant, Mr. Govindu, filed this application with the Tribunal regarding an April 2025 request for records. It proceeded to a Stage 2 – Mediation in October 2025.
- [2] In his application, Mr. Govindu claimed that the Respondent, York Condominium Corporation No. 456 (the “Respondent” or the “corporation”), denied him access to the records requested. The requested records were initially described by Mr. Govindu as “email correspondence used to prepare, draft, edit or approve” a “libelous” letter sent to unit owners in September 2023 that named him and addressed ongoing disputes and issues between him and the corporation. At several points during the mediation and then in his submissions, he modified this request, at times indicating he was only seeking copies of his own emails that he sent to the corporation, and which were referenced in the letter, while at other times indicating he was seeking all “relied upon source emails” and all “relied-upon inputs.”
- [3] Based on my review of the information provided to me in Stage 2 – Mediation, along with the records request form and initial application problem description, it

appeared that Mr. Govindu was seeking access to information, not records. Section 55 of the *Condominium Act, 1998* (the “Act”), over which the Tribunal does have jurisdiction, applies to requests for records, not requests for information.

- [4] Under Rule 19.1(c) of the Tribunal Rules of Practice (“Tribunal Rules”), the Tribunal can dismiss a case at any time if it determines that that it has no legal power to hear or decide upon the dispute. As the Tribunal has no jurisdiction to hear disputes over access to and the production of information, on October 31, 2025, I issued a Notice of Intent to Dismiss (“NOID”) and asked both Mr. Govindu and the Respondent to make submissions on the question of whether the case should be dismissed. Both Mr. Govindu and the Respondent provided submissions in response to the NOID.
- [5] In its submissions, the Respondent raised an additional ground for dismissal, specifically, Rule 19.1 (b) of the Tribunal Rules which states that the Tribunal can dismiss an application where a case has no reasonable prospect of success. The Respondent argued that even if the emails were records, Mr. Govindu was not entitled to them as they relate to “contemplated litigation” and it would be unfair to make the Respondent proceed through the Tribunal process when there was no reasonable prospect of success.
- [6] Mr. Govindu was provided with the further opportunity to reply to the Respondent’s submissions.
- [7] For the reasons set out below, I am dismissing this case pursuant to Rule 19.1(b) of the Tribunal Rules as there is no reasonable prospect of success. It would be unfair to require the parties to proceed and incur the time and expense of a continued mediation and/or a full hearing.

## **ANALYSIS**

- [8] Rule 19.1 (c) of the Tribunal Rules allows the Tribunal to dismiss an application, at any time, where a case is about issues that the Tribunal has no legal power to hear or decide.
- [9] As noted, based on what has been provided to me, I questioned whether the email correspondence sought by Mr. Govindu was in fact a record of the corporation, or rather was information about how the letter was drafted and by whom.
- [10] Mr. Govindu argues that the fact the corporation referred to emails in the September 2023 letter, makes them a record. Nonetheless, he argues that the question of whether the emails are record of the corporation is a decision to be

made on the merits of the case, not a jurisdictional one.

- [11] The Respondent argued the emails Mr. Govindu seeks are not records of the corporation and referred me to *Kai Sin Yeung v MTCC 1136, 2019 ONCAT 11* (“Yeung”), wherein the Tribunal found that a mere reference to emails in the minutes was “insufficient” to qualify them as records of the corporation. It asserts the facts in this case are similar to those in Yeung.
- [12] Considering the parties submissions, the issue of whether these emails are records could require a full hearing and therefore it would be premature for me to dismiss the application at this stage on the grounds that the Tribunal has no legal power to hear or decide this dispute.
- [13] However, I am persuaded by the submissions before me that this case ought to be dismissed under Rule 19 (b) of the Tribunal Rules, which states that the Tribunal can dismiss a case at any time where a case has no reasonable prospect of success.
- [14] The Respondent argues that even if the emails were found to be records of the corporation, Mr. Govindu would not be entitled to them as they are exempt from examination under s.55 (4) (b) of the Act, which exempts records from examination if they relate to “actual or contemplated litigation”.
- [15] It is clear from the submissions of both Mr. Govindu and the Respondent that the Mr. Govindu is contemplating litigation (beyond the issues in this application) against the corporation in relation to the September 14, 2023 letter and was doing so prior to the request for records. According to the Respondent, Mr. Govindu began threatening to sue the corporation for libel and slander nearly immediately after the letter was circulated.
- [16] Most recently, on August 6, 2025, Mr. Govindu sent an email to the Respondent titled “Final Legal Warning – Libelous and Defamatory Letter Dated September 14, 2023” wherein Mr. Govindu indicates he will be filing a claim with the Superior Court of Justice - unless the corporation takes a number of actions as set out by him, one of which is produce the records at issue in this application. It further indicates that the “nature of the issues” involved in this matter go beyond the jurisdiction of the Tribunal and are only properly addressed by the Superior Court as they include, according to Mr. Govindu, “defamation” “breach of statutory and fiduciary obligation” and require “injunctive relief” that only the Superior Court can provide.
- [17] The Respondent submits this email is only one of many threats of legal action

made by Mr. Govindu about the letter.

- [18] Mr. Govindu did not dispute the contents of the letter or that he was contemplating “parallel” legal proceedings. He argued that the emails and correspondence he seeks were not created for the purpose of litigation and are not covered by solicitor client privilege and thus are not subject to the exemption provided by s. 55(4) (b). He further argued that any consequences faced by the corporation because of the letter are “lawful proceedings.” He submits that the emails should be produced regardless of any parallel or contemplated court claims about the letter.
- [19] The Tribunal has been consistent in the interpretation given to “actual or contemplated litigation” as set out in s. 55(4) (b) of the Act, which is to maintain litigation privilege with respect records of the condominium corporation that may relate to actual or contemplated litigation. This includes litigation between the unit owner and the corporation.
- [20] It is clear from the submissions before me, that Mr. Govindu was making a claim against the corporation and contemplating litigation at the time the records request was made and that Mr. Govindu’s purpose in obtaining the requested records, if indeed, they are records, is to obtain evidence to support his claims of libel and slander against the corporation. Accordingly, the exception to examination as set out in s. 55(4) (b) would apply.
- [21] In this case, based on the facts and submissions before me, I find that even if the emails requested are records (a point I make no finding on) it would be unfair to allow the case to proceed through the remainder of a mediation and a full Stage 3 - Tribunal Decision hearing as it has no reasonable prospect of success. Mr. Govindu is clearly contemplating litigation and was at the time he made the request. The documents requested (emails) have a direct relationship to that contemplated litigation. The Tribunal has been consistent and clear that records related to contemplated litigation are exempt from examination under s. 55(4) (b) of the Act.<sup>1</sup> Accordingly, I dismiss this case under Rule 19.1 (b) of the Tribunal Rules as there is no reasonable prospect of success.

## **ORDER**

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<sup>1</sup> See for e.g. *Mara Bossio v. Metro Toronto Condominium Corporation 965*, 2018 ONCAT 6; *Rahman v. Peel Standard Condominium Corporation No. 779*, 2023 ONCAT 46; *Steenkamp v. York Condominium Corporation No. 279*, 2021 ONCAT 49

[22] The Tribunal orders that:

1. This application is dismissed.

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Nicole Aylwin  
Vice-Chair, Condominium Authority Tribunal

Released on: November 28, 2025