

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: December 2, 2025

CASE: 2025-00052R

Citation: Hunaidi v. Carleton Condominium Corporation No. 75, 2025 ONCAT 205

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

Member: Elisha Turney Foss, Member

The Applicant,

Osama Hunaidi

Self-Represented

The Respondent,

Carleton Condominium Corporation No. 75

Represented by Graeme Macpherson, Counsel

Hearing: Written Online Hearing – June 7, 2025 to November 4, 2025

REASONS FOR DECISION

A. INTRODUCTION

- [1] Osama Hunaidi (the “Applicant”) is the owner of a unit of Carleton Condominium Corporation No. 75 (the “Respondent” or “CCC 75”). This decision involves three requests for records that the Applicant submitted to the Respondent.
- [2] The Applicant claims that the Respondent has refused to provide him with records that he is entitled to without reasonable excuse and that a penalty is warranted.
- [3] The Respondent submits that they were delayed in providing some records to the Applicant but with reasonable excuse.
- [4] The parties provided voluminous evidence and submissions, and while I have read and considered them all, I will only refer only to those necessary to determine the questions before me.
- [5] Based on the evidence before me and for the reasons set out below, I find that the Respondent did refuse to provide some records without reasonable excuse and delayed in providing records to the Applicant which amounts to a refusal without a reasonable excuse. I find that a penalty of \$500 is appropriate in this case. I also

award the Applicant costs in the amount of \$200 for his Tribunal filing fees.

B. BACKGROUND

- [6] The Applicant submitted an application to the Tribunal regarding three requests for records dated November 12, 2024, November 28, 2024, and January 9, 2025.
- [7] At the outset of the hearing, the Applicant raised additional issues outside of what was set out in the Stage 2 Summary and Order. As such, I made the decision to proceed based on the issues submitted in the original application, which was the refusal of records without reasonable excuse for the November 12, 2024, November 28, 2024, and January 9, 2025 requests.

C. ISSUES & ANALYSIS

Preliminary issue: Request to remove Adjudicator

- [8] On July 9, 2025, the Applicant submitted a request that I be removed as the Adjudicator. The basis for the request was that I decided to rely on the original application to the Tribunal as the issues the Applicant presented deviated from what was presented in the Stage 2 Summary and Order.
- [9] The Supreme Court of Canada has established the test for reasonable apprehension of bias in the case *Committee for Justice and Liberty et al. v. National Energy Board et al.*, 1976 CanLII 2 (SCC) at p. 394 which is: “what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude. Would [they] think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly.”
- [10] I provided the Applicant with an opportunity to make submissions regarding his request. The Applicant stated that he believes that my decision to limit the case to the original issues set out in the application filing was prejudicial and beyond the scope of my duties as an Adjudicator. After reviewing the submissions, I denied the Applicant’s request.
- [11] Just because a party does not agree with an Adjudicator’s decision it does not mean that there is bias.
- [12] Applying the test from *Committee for Justice and Liberty et al. v. National Energy Board et al.*, 1976 CanLII 2 (SCC), the Applicant has not provided any information which support a conclusion that an informed person would think that I could not decide fairly in this case. Given these reasons, the Applicant’s request for my

recusal was denied.

[13] After issuing the ruling in this matter, I proceeded to receive the parties' evidence and submissions on the issues of this case.

Issue No. 1: Has the Applicant been refused records to which he is entitled without a reasonable excuse?

[14] As stated above, the Applicant made three records requests: on November 12 and 28, 2024 and on January 9, 2025.

[15] In his November 12, 2024 request, the Applicant requested the following records:

1. CCC 75's declaration.
2. CCC 75's by-laws.
3. Record of Owners and Mortgagees.
4. Budget for CCC 75's current fiscal year, including any amendments.
5. The current Plan for Future Funding of the Reserve Fund.
6. Minutes of meetings held within the last 12 months.
7. Final report of the 2020 Class 2 Reserve Fund Study.
8. Final report of the 2023 Class 3 Reserve Fund Study.
9. Latest draft report of the 2024 Class 2 Reserve Fund Study.
10. Reports of all engineering assessments commissioned by CCC 75.
11. Minutes of all Board of Directors' (the "Board") meetings in 2024, including minutes of meetings with CCC 75's engineers, lawyers, and financial advisers.
12. Call for bids for parking garage repairs.
13. Bids received by the Board for parking garage repairs.
14. Engineering and construction contracts for parking garage repairs in 2023 and 2024.
15. Contract's invoices for parking garage repairs in 2023 and 2024.

16. Invoices from Keller Engineering from January 1, 2023 to November 12, 2024.
17. Communication records (emails, letters, etc.) of Board members and Property Manager with CCC 75's engineers, lawyers, and financial advisers in 2024, from January 1, 2024 to November 12, 2024.
18. Communication records (emails, letters, etc.) between Board members and Property Manager in 2024.
19. Call for bids for property management of CCC 75 from January 1, 2024 to November 12, 2024.
20. Bids received by the Board from property management companies from January 1, 2024 to November 12, 2024.
21. Contract between Apollo CI Property Management and CCC 75.
22. All contracts with Keller Engineering in 2023 and 2024.
23. Form 15 for the \$3 million special assessment and funding changes to the reserve fund.
24. Latest draft or final 2024 operating budget.
25. Complaint against former Property Manager submitted to Condominium Management Regulatory Authority of Ontario ("CMRAO").

[16] In his November 28, 2024 request, the Applicant requested the following records:

1. CCC 75's rules.
2. Periodic Information Certificates from the past 12 months.
3. Most recent approved financial statements.
4. Most recent auditor's report.
5. Notices of Future Funding of the Reserve Fund (under s. 94 (9) of the *Condominium Act, 1998* – the "Act").
6. Notices of Change filed with the Condominium Authority of Ontario ("CAO") in 2024.
7. Information Certificate Updates.

8. Directors and Officers Liability Insurance Policy, including insurance company name, coverage amount and terms of the policy.
9. Minutes of Annual General Meetings for 2024.
10. Minutes of Board's meetings.

[17] In his January 9, 2025 request, the Applicant requested the following records:

1. Statements signed by the owners who withdrew their support for the Requisition for Owners' Meeting dated December 22, 2024.

[18] The Respondent acknowledged that they provided some of the requested records on March 14, 2025. On May 13, 2025, the Respondent provided the Applicant with the parking garage repair records and the 2024 redacted Board's meeting minutes.

[19] The Respondent did not provide their responses to the requests on the prescribed Board Response to Request for Records form but instead in a letter. Given the volume of the requested records, the records provided and refused by the Respondent, in their letter responding to the requests, are listed in the charts below.

Request for Records: November 12, 2024

Record	Record Provided	Respondent's Reason for Refusal
CCC 75's declaration	Yes	
CCC 75's by-laws	Yes	
Record of Owners and Mortgagees	Yes	
Budget for CCC 75's current fiscal year, including any amendments	Yes	
The current Plan for Future Funding of the Reserve Fund	Yes	

Record	Record Provided	Respondent's Reason for Refusal
Minutes of meeting held within the last 12 months	Yes	
Final report of the 2020 Class 2 Reserve Fund Study	Yes	
Final report of the 2023 Class 3 Reserve Fund Study	No	Not provided because the record was in draft.
Latest draft report of the 2024 Class 2 Reserve Fund Study	No	Not provided because the record was in draft.
Reports of all engineering assessments commissioned by CCC 75	Yes	
Minutes of all Board's meetings in 2024, including minutes of meetings with CCC 75's engineers, lawyers and financial advisers	Yes	
Call for bids for parking garage repairs	No	Section 97 (1) of the Act excludes repairs to common elements that the Corporation has an obligation to carry out and that are reasonably close in quality to the original.
Bids received by the Board for parking garage repairs	No	Section 97 (1) of the Act excludes repairs to common elements that the Corporation has an obligation to carry out and that are reasonably close in quality to the original.
Engineering and construction contracts for	Yes	

Record	Record Provided	Respondent's Reason for Refusal
parking garage repairs in 2023 and 2024		
Contract's invoices for parking garage repairs in 2023 and 2024	Yes	
Invoices from Keller Engineering from January 1, 2023 to November 12, 2024	Yes	
Communication records (emails, letters, etc.) of Board members and Property Manager with CCC 75's engineers, lawyers and financial advisers in 2024	No	The record related to actual or contemplated litigation.
Communication records (emails, letters, etc.) between Board members and Property Manager in 2024	No	Did not find the request specific enough. Also found that requesting communication between the parties within the year was unreasonable.
Call for bids for property management of CCC 75 from January 1, 2024 to November 12, 2024	No	The Corporation is not required to keep this record.
Bids received by the Board from property management companies from January 1, 2024 to November 12, 2024	No	The Corporation is not required to keep this record.
Contract between Apollo CI Property Management and CCC 75	Yes	
All contracts with Keller Engineering in 2023 and 2024	No	The Corporation was sourcing the record.

Record	Record Provided	Respondent's Reason for Refusal
Form 15 for the \$3 million special assessment and funding changes to the reserve fund	Yes	
Latest draft or final 2024 operating budget	No	The record was in draft, and the final copy was sent to all owners.
Complaint against former Property Manager submitted to CMRAO	No	The record related to actual or contemplated litigation.

Request for Records: November 28, 2024

Record	Record Provided	Respondent's Reason for Refusal
CCC 75's rules	Yes	
Periodic Information Certificates from the past 12 months	Yes	
Most recent approved financial statements	Yes	
Most recent auditor's report	Yes	
Notices of Future Funding of the Reserve Fund (under s. 94 (9) of the Act)	No	Duplicate from November 12, 2024 request.
Notices of Change filed with the CAO in 2024	No	No reasons given

Record	Record Provided	Respondent's Reason for Refusal
Information Certificate Updates	Yes	
Directors and Officers Liability Insurance Policy, including insurance company name, coverage amount and terms of the policy	Yes	
Minutes of Annual General Meetings for 2024	Yes	
Minutes of Board's meetings	Yes	

Request for Records: January 9, 2025

Record	Record Provided	Respondent's Reason for Refusal
Statements signed by the owners who withdrew their support for the Requisition for Owners' Meeting dated December 22, 2024	No	The Corporation cannot provide responses or requests to the Board from individual owners.

Delay in responding the requests for records

[20] The Respondent acknowledged that they did not provide a response to the Applicant within the 30 days after receiving the request for records forms as prescribed under s. 13.3 (6) of the Ontario Regulation 48/01.

[21] The Tribunal has previously considered a failure to provide a response to a

records request within the prescribed time to be a refusal to provide records.¹ However, the Respondent submits that the reason for delay in providing a response was due to the volume and scope of the requests.

- [22] The Respondent relies on *Kim v. York Condominium Corporation No. 96*, 2022 ONCAT 90 (“Kim”), where the owner made three separate requests for records and the corporation was unable to provide records within the prescribed time. The Kim decision differs from this situation as the Tribunal determined that the request communication was missed because of the numerous communications between the parties. It was an oversight that the record was missed. The facts in Kim differ from what is presented in this case.
- [23] Ultimately, it is the Board’s responsibility to ensure that they meet their obligations under the Act. In this case, the Respondent did not provide a response to the Applicant in the prescribed time limit which resulted in them not meeting their obligation to provide the records to the Applicant to which he was entitled.
- [24] Aside from the issues involving the delay in providing the Applicant with a response, the following subsections will address specific records and issues around their provisions.

Contract with Keller Engineering

- [25] Originally, the Respondent stated that they were attempting to obtain this record. Respondent has since acknowledged that they have provided the Keller Engineering contract to the Applicant during the mediation stage of this case.
- [26] Section 55 (1) 8 of the Act requires that the Corporation retain current agreements. In this case, the Respondent was attempting to fulfil this record request, however, a significant delay was caused by their failure to retain this record.
- [27] While I acknowledge that the Respondent was attempting to obtain the requested record, as stated above, a failure to provide a response to a records request within the prescribed time is considered to be a refusal to provide records. Therefore, the Applicant has been refused the Keller Engineering contract to which he is entitled without a reasonable excuse.

¹ *Zugec v. Wentworth Standard Condominium Corporation No. 566*, 2022 ONCAT 81; *Ji v. Toronto Standard Condominium Corporation No. 1611*, 2022 ONCAT 42; and *Ji v. Toronto Standard Condominium Corporation No. 1611*, 2021 ONCAT 122.

Owner's statements for the Requisition for Owners' Meeting

- [28] In response to the Applicant's January 9, 2024 request, the Respondent refused to provide access to the emails containing owners' statements withdrawing their support for the Requisition for Owners' Meeting. The Respondent explained that they were attempting to protect the privacy of the other owners.
- [29] During mediation, the Respondent modified their position. They provided the Applicant the emails and redacted all personal information including name and email address.
- [30] It appears that the Respondent denied access to this record because it related to specific units and owners. Section 55 (3) of the Act states that a corporation shall permit an owner "to examine or obtain copies of the records of the corporation in accordance with the regulations, except those records described in subsection (4)." Section 55 (4) (c) states:

The right to examine or obtain copies of records under subsection (3) does not apply to,

...

(c) subject to subsection (5), records relating to specific units or owners;

- [31] While the Applicant now has access to this record, s. 55 (4) (c) of the Act is clear that owners are not entitled to information relating to specific units and owners. The Applicant would not be entitled to this record in an unredacted format.
- [32] Therefore, I find that the Applicant was not entitled to this record as requested.

Latest draft report of the 2024 Class 2 Reserve Fund Study, final report of the 2023 Class 3 Reserve Fund Study, and final budget for 2024

- [33] The requested draft report of the 2024 Class 2 Reserve Fund Study, final report of the 2023 Class 3 Reserve Fund Study, and the final budget for 2024 were not provided to the Applicant as the Respondent determined that they were in draft form when requested.
- [34] I rely on *Sakala v. York Condominium Corporation No. 344*, 2024 ONCAT 162 ("Sakala") in defining "draft document". In Sakala, a draft is an "unapproved, unfinished, and unauthoritative preliminary version of the document." These types of documents do not provide the certainty needed for the corporation to fulfil their duties or provide insight on how they are performing their duties.

[35] The Respondent submits that the requested draft documents were not yet in their completed form, and when finalized the Respondent would provide the records.

[36] I accept that these records were draft records. Therefore, given the above, the Applicant was not entitled to receive the 2024 Class 2 Reserve Fund Study, 2023 Class 3 Reserve Fund Study and final budget for 2024 in their draft form.

Call for bids for parking garage repairs and call for bids for property management

[37] The Respondent submitted that they did not provide the requested bids because the former property manager did not provide them. Further, it is their position that they do not have to retain these documents.

[38] Section 55 (1) of the Act provides a list of the types of records that a condominium corporation is required to keep. That list is not exhaustive. The fact that a record is not listed under s. 55 (1) is not determinative of entitlement to a record but it may explain why a record was not retained by a corporation.

[39] In this case, the Respondent did not retain these records and therefore, cannot provide them to the Applicant. I find this to be a reasonable excuse as to why the Respondent was unable to provide these documents to the Applicant.

Complaint against former Property Manager

[40] The Respondent originally submitted that this record was refused due to actual or contemplated litigation. Since then, the Respondent acknowledges that they did not proceed with filing a complaint, therefore, the record does not exist. The Respondent provided a witness' statement from a Board member confirming that no complaint was filed. I accept the Respondent's explanation.

[41] Given the above, there is no evidence that this record exists.

Communications between Board members and Property Manager with CCC 75's engineers, lawyers, and financial advisers

[42] The Respondent originally provided the explanation that this record was involved in actual or contemplated litigation. During the hearing, they modified their explanation that this request was broad and constitutes a "fishing expedition."

[43] In response, the Applicant submitted that this request is not arbitrary but the result of the Respondent's systematic failures, which involves the Applicant's concerns regarding the Board's record keeping and decision making.

- [44] The Tribunal has considered this term, “fishing expedition,” in the decision *Martynenko v. Peel Standard Condominium Corporation No.935*, 2021 ONCAT 125 (“Martynenko”) cited by the Respondent:

The term “fishing expedition” is used in law to describe a search or investigation, including demands for records or information, undertaken for the purpose of discovering facts that might be disparaging to the other party or form the basis for some legal claim against them, that the seeker merely hopes or imagines exist. Most cases where the term is used appropriately involve a person casting a wide net, as it were – such as requesting records that cover a broad period of time and/or wide range of topics – in the hopes of acquiring some fact or detail that could satisfy what is essentially an unfocussed vindictiveness or dislike for the other party.

- [45] I find this definition from Martynenko to be very instructive. In this case, the Applicant provided a very broadly worded request without any mention of a topic for these communications, and the time provided is for all of 2024. Further, I am concerned that the Applicant is requesting these records for the purpose of finding some wrongdoing on the part of the Respondent. The Applicant provided that the Respondent has systemic failures, but the request does not point to specific subjects in his request. I agree that this portion of the request is a fishing expedition.

- [46] Given the above, I find that the Applicant is not entitled to these records.

Notices of Change for 2024

- [47] Regarding the Notices of Change, the Respondent submitted that they are prepared to provide these to the Applicant and the reason for the delay was that the specific employee that logged into the CAO system had to collect these records and they were not readily available. However, the Respondent now has these records and is willing to provide them to the Applicant.
- [48] Section 55 (1) 3.1 of the Act states that returns and notices that a corporation has filed with the Registrar under Part II.1 of the Act are records that the corporation is required to keep.
- [49] While the Respondent stated that they were willing to source the records, and while I understand that it might take some time to obtain them, it seems unlikely that it would take this much of a delay. The time needed to log into the system and provide these records are minimal and would not result in the months delay in providing them. This is a delay that amounts to a refusal without a reasonable excuse.

[50] Given the above, the Applicant has been refused the Notices of Change to which he is entitled without a reasonable excuse.

Issue No. 2: Should a penalty be assessed and, if so, in what amount?

[51] The Applicant submitted that the Tribunal should impose the maximum penalty of \$5000 against the Respondent. The Applicant submits that the Respondent has shown a pattern of non-compliance.

[52] The Respondent submitted that no penalty is warranted.

[53] Section 1.44 (1) (6) of the Act allows the Tribunal to award a penalty if it finds that a corporation has, without reasonable excuse, refused to permit a person to examine or obtain records to which they are entitled.

[54] I have found that the Respondent has refused without reasonable excuse to provide records to the Applicant due to their delay in providing a response to the requests for records. Additionally, the Respondent initially delayed access to Keller Engineering contract, and denied access to the Notices of Change without reasonable excuse.

[55] The maximum penalty is appropriate in cases where there is a sustained pattern of non-compliance. There was no evidence of this.

[56] In determining the penalty, I have considered the length of the delay and the type and number of records in dispute. Considering these factors, I find that a penalty of \$500 is appropriate.

Issue No. 3: Is any party entitled to costs?

[57] The Applicant has requested to be reimbursed his Tribunal fees. The Respondent requested that they receive costs.

[58] Rule 48.1 of the Tribunal's Rules of Practice provides that "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."

[59] In this case, the Applicant was successful, and he is entitled to be reimbursed the total amount of his Tribunal fees. The Respondent shall pay the Applicant \$200 in costs.

D. ORDER

[60] The Tribunal orders that:

1. Under s. 1.44 (1) 6 of the Act, within 15 days of this Order, the Respondent shall pay a penalty of \$500 to the Applicant.
2. Under s. 1.44 (1) 4 of the Act, within 15 days of this Order, the Respondent shall pay \$200 to the Applicant for the cost of filing this application.
3. Within 15 days of this Order, the Respondent shall provide the Applicant with the requested Notices of Change, if they have not already done so.

Elisha Turney Foss
Member, Condominium Authority Tribunal

Released on: December 2, 2025