

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: December 31, 2025

CASE: 2025-00199R

Citation: Ty v. Ottawa-Carleton Standard Condominium Corporation No. 1106, 2025 ONCAT 222

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

Member: Elisha Turney Foss, Member

The Applicant,

Robert Ty

Self-Represented

The Respondent,

Ottawa-Carleton Standard Condominium Corporation No. 1106

Represented by Simon Brick, Counsel

Hearing: Written Online Hearing – June 10, 2025 to December 9, 2025

REASONS FOR DECISION

A. INTRODUCTION

[1] Robert Ty (the “Applicant”) is the owner of a unit of Ottawa-Carleton Standard Condominium Corporation No. 1106 (“OCSCC 1106”). On February 20, 2025, the Applicant made a Request for Records to OCSCC 1106 in which he requested multiple records.

[2] The Applicant requested the following:

Core records:

1. Minutes of board meetings held within the last 12 months (January 20, 2025, and February 19, 2025, inclusive)

Non-core records:

1. First Reserve Fund Study (“RFS”) (January 2024 to February 2025)

2. All invoices for the period between January 20, 2025, and February 19, 2025, inclusive
 3. A copy of all current agreements entered into by or on behalf of the corporation between January 20, 2025, and February 19, 2025, inclusive.
 4. Monthly bank statements of both the Operating Fund and the Reserve Fund between the time period of May 2024 to February 2025
 5. The latest version of the Performance Audit Tracking Summary (“PATs”) from the first-year Tarion Common Elements Warranty (May 2024 to February 2025)
- [3] On or about March 20, 2025, OCSCC 1106 provided the Board’s Response to the Request for Records form. OCSCC 1106 denied access to new agreements that were entered into during the time period as they claim no such records exist. OCSCC 1106 allowed access to the RFS but delayed producing those records as they were in draft form at the time of request. Also, OCSCC 1106 charged a fee of \$60 for the invoices, \$30 for the bank statements and \$900 for the PATs.
- [4] The Applicant asserts that OCSCC 1106 has refused to provide the RFS which he is entitled to, and a penalty is therefore warranted. The Applicant further alleges that he was charged an inappropriate fee for some of the non-core records requested.
- [5] Regarding the Applicant’s allegations that OCSCC 1106 did not provide the requested RFS record that the Applicant was entitled to, OCSCC 1106 submits they did provide access to RFS once it was finalized. Further, OCSCC 1106 submits that the fees claimed were reasonable.
- [6] I have reviewed and considered all of the parties’ evidence and submissions but will only refer to those necessary to determine the questions before me.
- [7] Based on the evidence before me and for the reasons set out below, I find that OCSCC 1106 provided the requested records that the Applicant was entitled to, and the fee requested by OCSCC 1106 for the invoices, bank statements and the PATs were reasonable.

B. ISSUES & ANALYSIS

Issue No. 1: Did OCSCC 1106 refuse to provide the Applicant with the RFS without a reasonable excuse?

- [8] As stated above, in the Board's Response to Request for Records, OCSCC 1106 granted access to the RFS to the Applicant. However, the Applicant alleges that OCSCC 1106 did not immediately provide the RFS, instead this record was provided in May 2025.
- [9] OCSCC 1106 submitted that they provided the record once it was finalized. When the Applicant requested the record, it was in a draft stage. OCSCC 1106 explained that this delay in finalizing it was caused by concerns about cost sharing provisions between the builder and OCSCC 1106. These concerns required legal consultation and further discussions between parties before the RFS could be finalized. This draft would have been subject to amendments and changes and therefore not finalized. The RFS was finalized and approved by the Board on May 5, 2025, at which time the Applicant was provided with a copy.
- [10] Regarding draft records, in *McKay v. Waterloo North Condominium Corp. No. 23*, 1992 CanLII 7501 ("McKay"), the court noted that a corporation is required to keep records to fulfill the purposes of assisting the corporation in fulfilling their duties and responsibilities and providing insight or information to unit owners who wish to confirm that corporations' duties have been fulfilled.
- [11] Regarding the draft RFS, the reasoning of the Tribunal in *Sakala v. York Condominium Corporation No. 344*, 2024 ONCAT 162 ("Sakala") is germane. At paragraphs 11 to 13 the tribunal stated

[11] Second, it is well established that draft documents do not form records of a condominium corporation, as that term is used in section 55 of the Act and the related provisions of its regulations.

[12] In my reasoning on this issue, I rely on the principles and analysis of records set out in *McKay v. Waterloo North Condominium Corp. No. 23*, (hereafter, "McKay") – arguably the seminal decision on this topic and appropriate to reference in this case. In McKay, the court noted that the records a corporation is required to keep under the Act fulfill two basic purposes: (1) to assist the corporation in fulfilling its duties and obligations, and (2) to provide insight or information for unit owners who wish to confirm that such duties and obligations have been duly fulfilled.

[13] A draft document is, by definition, a work in progress. Even if the draft in question is highly similar or identical to the final form of the document, the draft itself remains an unapproved, unfinished, and unauthoritative preliminary version of the document. With respect to an opinion or report in particular, it cannot be relied upon for certainty or to bind the provider of it since it remains open for correction or change. In this regard, a draft document does not serve either of the purposes described in McKay.

[12] OCSCC 1106 was prepared to provide access to the RFS to the Applicant when it was finalized; however, they concluded that the draft document was not suitable to fulfill the request. OCSCC 1106 communicated to the Applicant that the RFS was in draft at that moment but would be provided when finalized. OCSCC 1106 is not required to provide the Applicant with the draft copy of the RFS prematurely and I note that the Applicant was provided the RFS when it was finalized.

[13] Given the reasons above, I find that OCSCC 1106 did not refuse to provide the Applicant with the requested records. As such there is no basis for a penalty under s. 1.44 (1) 6 of the *Condominium Act, 1998* (the “Act”).

Issue No. 2: Is OCSCC 1106 entitled to charge a fee for the requested records and is the estimated fee reasonable?

[14] In the Board’s Response to the Request for Records, OCSCC 1106 charged a fee for the invoices, bank statements, and PATS which are non-core records.

[15] Subsections 13.3 (8) and (9) of Ontario Regulation 48/01 (the “Regulation”) establish when a condominium corporation can charge a fee to produce non-core records.

[16] I will address below whether a labour fee of \$30 per hour for the work was reasonable and I will address the total fee, including labour, for each record in dispute afterwards.

Reasonableness of Fee

[17] Subsection 13.3 (8) of the Regulation states:

1. The fee shall be a reasonable estimate of the amount required to reimburse the corporation for the actual labour and delivery costs that the corporation incurs for making the record requested available for examination or for delivering a copy of the record, which costs shall include the printing and photocopying charges established under paragraph 3 and the actual labour costs that the corporation incurs during the examination.

2. The fee shall be reasonable.

3. The board shall establish a charge of no more than 20 cents per page for printing or photocopying.

[18] OCSCC 1106 charged an hourly rate of \$30 per hour for reviewing records. The Tribunal has consistently indicated that what is a reasonable fee will be determined by a variety of factors, including, but not limited to, the nature of the work required to produce the record.¹ In this case, the work required a non-professional, unspecialized clerical work which typically shows hourly fees in the range of \$30-\$32 per hour.² OCSCC 1106 charged \$30 per hour for the work required in producing the record and I find this reasonable.

All Invoices – January 20, 2025 to February 19, 2025

[19] OCSCC 1106 estimated a fee of \$60 for two hours of work to produce invoices.

[20] The Applicant asserts that OCSCC 1106 is requesting a fee that is excessive. It is the Applicant's position that there is little work required to provide these records and OCSCC 1106 has provided unredacted invoices in the past.

[21] OCSCC 1106 submits that there were restrictions to access to the invoices under s. 55 (4) (b) and (c), and as such redactions were required. The relevant subsections are as follows:

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

...

(b) records relating to actual or contemplated litigation, as determined by the regulations, or insurance investigations involving the corporation;

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

¹ *Shaheed Mohamed v. York Condominium Corporation No. 414*, 2018 ONCAT 3, *Bolanos v. Carleton Condominium Corporation No. 14*, 2021 ONCAT 52, and *He v. Waterloo Standard Condominium Corporation No. 541*, 2020 ONCAT 34.

² *Shaheed Mohamed v. York Condominium Corporation No. 414*, 2018 ONCAT 3, and *Bolanos v. Carleton Condominium Corporation No. 14*, 2021 ONCAT 52

- [22] OCSCC 1106's position is that the invoices needed to be reviewed as some of them involved repairs and services for individual units or owners. Additionally, legal invoices may have information regarding litigation or contemplated litigation which would also require review to ensure redactions in accordance with the Act.
- [23] I accept that OCSCC 1106 would need to review the requested invoices to ensure that they properly redact the information for references pursuant to s. 55 (4) (b) and (c), and thus there would be associated costs involved in that review.
- [24] Given the above, I find that OCSCC 1106 is entitled to charge \$60 for invoices and the Applicant must pay this amount prior to receiving the records.

Bank Statements – May 2024 to February 2025

- [25] OCSCC 1106 estimated the amount of labour to produce the monthly bank statement between May 2024 to February 2025 to be one hour of labour at a rate of \$30 per hour. As discussed above, \$30 per hour is a reasonable rate for the level of effort and expertise required to review the bank statements and conduct redactions.
- [26] OCSCC 1106 estimated one hour of labour required to review 10 months of bank statements. I accept that this is a reasonable amount of time to review and prepare these records for the Applicant.
- [27] Given the above, I find that OCSCC 1106 is entitled to charge \$30 for the bank statements and the Applicant must pay this amount prior to receiving the records.

PATS

- [28] On the Board's Response to Request for Records form, OCSCC 1106 estimated that the PATS consisted of 714 pages and the review of these pages would require 30 hours of labour at \$30 per hour to provide access. This calculation resulted in an estimated cost of \$900.
- [29] As discussed above, \$30 per hour is a reasonable rate for the level of effort and expertise required to review and conduct redactions.
- [30] The Applicant takes the position that the \$900 amount is excessive and unreasonable for access to that record.

- [31] OCSCC 1106 acknowledged that they made an error when calculating the page count of the PATS. The record comprised of 168 pages instead of the 714 pages originally estimated. OCSCC 1106 contacted the Applicant via email to advise him of the error on June 15, 2025. The new estimated cost was \$168, which was arrived at based on an estimated two minutes per page to review and redact the record, and the labour rate of \$30 per hour.
- [32] OCSCC 1106 submitted that the PATS required extensive review and redactions as they dealt with repairs and issues involving specific units and owners as well as actual or contemplated litigation involving the corporation.
- [33] I accept that OCSCC 1106 would need to review the requested PATS to ensure proper redaction pursuant to s. 55 (4) (b) and (c), and thus there would be associated costs involved in that review.
- [34] I find that two minutes of work per page is a reasonable estimate to ensure that redactions are completed and to protect unit owner information.
- [35] While I accept that OCSCC 1106 originally provided an estimate that contained errors, they did correct the amount and provide this corrected fee estimate to the Applicant. However, I note that this correction was made in a June 15 email, which was after the commencement of the hearing on Stage 3 – Tribunal Decision. While this does not affect the entitlement to charge the fee, this was one of the reasons the Applicant filed this application, and I have considered this in my decision on costs.
- [36] Given the above, I find that OCSCC 1106 is entitled to charge \$168 for PATS and that the Applicant must pay this amount prior to receiving the records.

Issue No. 3: Should the Tribunal award costs?

- [37] The Applicant seeks costs of \$200, which are the filing fees he paid to the Tribunal; however, the Applicant was not successful with respect to his claim.
- [38] OCSCC 1106 is also seeking costs in the amount of \$13,445.50 for legal fees incurred to respond to this matter. They also state that the Applicant was unreasonable in his behaviour.
- [39] The Tribunal has the discretion to award costs under s. 1.44 (1) 4 of the Act. The Tribunal does not compensate for time. The CAT's Rules of Practice provide guidance on when costs may be ordered, as stated in Rules 48.2 and 49.1 below:

48.2 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.

...

49.1 The CAT generally will not order one Party to pay another Party compensation for time spent related to the CAT proceeding.

[40] I did not find that the parties failed to communicate or attempted to delay the proceedings, which would have caused me to believe that there were unreasonable delays. However, as I discussed above, OCSCC 1106 delayed in providing the Applicant with the corrected fee for the PATS, and I have taken this into consideration when determining that no costs are appropriate for OCSCC 1106.

[41] Ultimately, I can find no exceptional reasons to award legal fees to OCSCC 1106. I award no costs to either party.

C. ORDER

[42] The Tribunal orders that:

1. The Applicant shall pay to OCSCC 1106 a fee of \$60 for redaction of all invoices from January 20, 2025, to February 19, 2025;
2. The Applicant shall pay to OCSCC 1106 a fee of \$30 for redaction of bank statements from May 2024 to February 2025.
3. The Applicant shall pay to OCSCC 1106 a fee of \$168 for the PATS.
4. OCSCC 1106 shall provide the redacted records, as described above within 30 days of its receipt of the fee from the Applicant.

Elisha Turney Foss
Member, Condominium Authority Tribunal

Released on: December 31, 2025