

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: February 18, 2026

CASE: 2026-00051N

Citation: Roe v. Oxford Condominium Corporation No. 28, 2026 ONCAT 27

Order under Rule 19.1 of the Condominium Authority Tribunal's Rules of Practice

Member: Patricia McQuaid, Vice-Chair

The Applicant,

Brian Roe

Self-Represented

The Respondent,

Oxford Condominium Corporation No. 28

Submission Dates: January 28, 2026 to February 4, 2026

DISMISSAL ORDER

- [1] This application is dismissed under Rule 19.1 of the CAT's Rules of Practice for the following reasons.
- [2] The Applicant filed a nuisance application with the Condominium Authority Tribunal ("CAT") against Oxford Condominium Corporation No. 28 ("OCC 28"). The Applicant is a unit owner in OCC 28. The Applicant states that odour and smoke/vapour in their unit are causing a nuisance. This is being caused by a faulty ventilation system which is not doing the proper exhaustion of odours from the unit. The Applicant further alleges that the Respondent, OCC 28, is not complying with "Article IV, Section 1 (d)" of its Declaration as they are allowing this condition to persist.
- [3] The Tribunal has jurisdiction over two types of nuisance issues:
1. Prescribed nuisances (Noise, Odour, Vibration, Light, Smoke, Vapour) governed by s. 117 (2) of the *Condominium Act, 1998* (the "Act"); and
 2. Provisions in the condominium corporation's governing documents that govern, prohibit or otherwise restrict any other nuisance, annoyance or disruption (as per s. 1 (1) (d) (iii.2) of Ontario Regulation 179/17).

- [4] To fall under the Tribunal's jurisdiction, an issue with unreasonable odour or smoke causing a nuisance under s. 117 (2) of the Act must identify the person and the activity they are doing which is causing the nuisance. This application identifies a building system which is not working properly, which is a condition of the system but not an activity being done by a person.
- [5] The provision identified by the Applicant ("Article IV, Section 1 (d)" of OCC 28's Declaration) states that:
- No Unit Owner shall do or allow to be done anything contrary to any statutes, bylaws or regulations of any governmental body having jurisdiction or anything deemed by the Board in its absolute discretion to be or result in a nuisance.
- [6] The Applicant did not identify any unit owner that is doing or allowing anything that is resulting in a nuisance but has identified a condition; that is, the faulty condition and operation of ventilation systems and related building components that are connected to the building systems. As such, the issue in dispute does not seem to fall within the provision identified by the Applicant.
- [7] The Tribunal issued a Notice of Intent to Dismiss the case to the Applicant in which it set out the issues with the application as set out above. The Applicant was given the opportunity to respond and explain why the case should not be dismissed.
- [8] The Applicant, in his response, indicated that the core of the dispute is about OCC 28's ongoing failure to investigate or address the condition of the ventilation and exhaust arrangements within his unit that are not functioning properly. To fall within the provision in the Declaration cited by the Applicant, there must be a unit owner who is doing something that is resulting in a nuisance. Again, the Applicant has not identified any such owner.
- [9] Whether or not the condition and operation of the ventilation systems affecting the Applicant's unit are faulty and whether or not OCC 28 ought to investigate further or remedy any issues resulting from the condition alleged, these are not issues captured by the wording of s. 117 (2) of the Act or Article IV, Section 1 (d) of OCC 28's Declaration. They may relate to s. 89 of the Act, the corporation's repair obligations, which are not within the Tribunal's jurisdiction.
- [10] I find that the Tribunal has no legal authority to hear or decide this dispute and therefore this case shall be dismissed.

ORDER

- [11] The Tribunal orders the case dismissed.

Patricia McQuaid
Vice-Chair, Condominium Authority Tribunal

Released on: February 18, 2026