CONDOMINIUM AUTHORITY TRIBUNAL

DATE: May 13, 2019
CASE: 2018-00127R
Citation: Sohail Benjamin v Peel Standard Condominium Corporation No.1008, 2019 ONCAT 10

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

Adjudicator: Kathryn Kertesz, Member

The Applicant
Sohail Benjamin
Self-Represented

The Respondent
Peel Standard Condominium Corporation No. 1008
Arjun Vishwanth, Counsel

Hearing: Written electronic hearing, July 16, 2018 to April 5, 2019

REASONS FOR DECISION

A. OVERVIEW

[1] Mr. Sohail Benjamin is a unit owner of Peel Standard Condominium Corporation No. 1008 ("the Respondent"). In March 2018, he made a records request under s. 55 of the *Condominium Act, 1998* (the "Act") to PSCC1008. Many of those records have been provided. Three types of records that were requested remain outstanding. Mr. Benjamin is claiming costs in this matter and a penalty from PSCC1008 for its failure to provide the records in the prescribed time under the Act.

[2] PSCC1008 is relying on section 13.3 (1)(a) of Ontario Regulation 48/01 to the Act ("the Regulation") as grounds for denying Mr. Benjamin access to the requested records. This section of the Regulation states that the right to access records does not apply unless the request is solely related to a person's interest as an owner (or purchaser or mortgagee) of a unit having regard to the purposes of the Act.

[3] For the reasons set out below, I find that Mr. Benjamin is entitled to the records he has requested. I find that the Respondent has not demonstrated, on a balance of

probabilities, that Mr. Benjamin is disentitled to the requested records under the Act. I also find that Mr. Benjamin is entitled to costs as outlined below.

[4] Further, the Respondent shall pay a penalty for their failure to provide a requested record without a reasonable excuse. Mr. Benjamin was entitled to receive a copy of the first quarter 2018 Periodic Information Certificate ("PIC"). The Respondent was obliged to maintain a copy of this core record but failed to do so.

[5] The Respondent is entitled to costs of photocopying the non-core requested records when these records are provided in paper format. Both amounts are calculated as set out below.

B. ISSUES & ANALYSIS

[6] This hearing concerned a records request made by Mr. Benjamin in March 2018 under section 55 of the *Condominium Act, 1998* (the "Act"). The online written hearing was held from July 16, 2018 to April 5, 2019. Original counsel for the Respondent was Maria Dimakas. The Respondent replaced her with Arjun Vishwanth in October 2018.

[7] The Users were able to resolve some of the records requests during Stage 2 – Mediation. Three types of records remained in dispute. During the hearing, Mr. Benjamin clarified his request for electronic or paper copies of the following records:

a) Contracts between the Respondent and specified contractors concerning "all cleaning, security, fitness, and property management from December 2016 to March 2018," as well as all property management contracts entered into during this period;

b) The "first quarter PIC". Based on the evidence before me, Mr. Benjamin is requesting the first quarter 2018 PIC; and

c) The 2017/2018 Auditor's Report.

[8] The issues to de determined by the Tribunal are:

a) Is the Respondent entitled to refuse to permit the applicant to examine or obtain records under subparagraph 13.3 (1)(a) of Ontario Regulation 48/01 to the Act (the "Regulation")?

b) Is Mr. Benjamin otherwise entitled to the records he is requesting under subsection 55(3) of the Act?

c) Is the Respondent entitled to costs for the production of the records and, if so, in what amount?

d) Is Mr. Benjamin entitled to claim costs in this matter and if so, in what amount?

d) Is Mr. Benjamin entitled to any penalty from the Respondent for its failure to provide the records and if so, in what amount?

[9] The Respondent proposed to introduce testimony from five witnesses. However, during the hearing the Respondent withdrew one of its witnesses. The four remaining witnesses were: Mr. Nanvin Jain (President of the Condominium Board), Ms. Tamika Marks (Director of the Condominium Board), Mr. James Salamah (prior Director of the Condominium Board) and Ms. Kristy LaMonday (previous Property Manager).

Issue 1: Is the Respondent entitled to refuse to permit the applicant to examine or obtain records under subparagraph 13.3 (1)(a) of Ontario Regulation 48/01 to the Act (the "Regulation")?

[10] Subsection 55(3) of the Act provides that condominium owners such as Mr. Benjamin are entitled to request specified records from a condominium corporation. Whether and how this general entitlement applies to the specific records requested by Mr. Benjamin will be considered below. First it is necessary to address the position taken by the Respondent that Mr. Benjamin's past conduct disentitles him from receiving the records he requests.

[11] Mr. Benjamin requested records under s. 55(3) of the Act. The board seeks to justify its refusal to provide the records citing 13.3(1)(a) of the Regulation, which states that the owner is only entitled to records if "the request is solely related to that person's interests as an owner, … having regard to the purposes of the Act."

[12] In the request for records form, an owner must certify that the request is in relation to their interests as an owner. Since Mr. Benjamin checked off the appropriate attestation, the onus falls to the Respondent to prove otherwise. The Respondent relies on prior conduct of the Applicant to demonstrate that the request is not related to his interests as an owner. For the reasons stated herein, I am not persuaded by the Respondent's argument. The fact that Mr. Benjamin's behaviour is considered disruptive does not demonstrate that his request is not related to his interests as an owner. The Respondent might not like his conduct and might reasonably believe it ultimately undermines his interests and those of other

owners, but this does not mean the request did not relate to those interests having regard to the purposes of the Act.

[13] Witnesses for the Respondent testified to several alleged incidents of past conduct that have resulted in the condominium corporation no longer trusting Mr. Benjamin to use any record provided to him appropriately. One allegation is that Mr. Benjamin circulated unaudited financial statements that he was given in confidence by the Respondent. The Respondent also alleges that Mr. Benjamin authored a letter spreading false rumours about the Respondent Board of Directors. The Respondent asserts that Mr. Benjamin refused to sign a confidentiality agreement that the Respondent sought as part of a settlement of this matter. Further, the Respondent's witnesses testified that Mr. Benjamin conducted himself in ways that the condominium corporation finds unacceptable, including disrupting condominium board meetings, questioning the decisions of board members and being upset when he was not initially elected to the Board of Directors.

[14] Regarding the allegation that Mr. Benjamin circulated unaudited financial statements of the condominium corporation that had been disclosed to him in confidence, Ms. LaMonday, the previous property manager, wrote in her testimony that Mr. Benjamin was provided unaudited financial statements in "good faith". She testified that the Applicant was asked to keep them to himself as the audit was not yet completed, but that he then provided copies of the unaudited statements to those who attended "his" event in the Party Room/Lounge on June 13, 2018. In cross-examination, she elaborated on this point by saying that:

> Only you SB [Sohail Benjamin] were provided with these documents and then they were provided to everyone else.

[15] When questioned about what direct evidence she had for her testimony that the Applicant released documents to owners and tenants, she responded that multiple residents brought it her attention and to the attention of the Board.

[16] Ms. Marks, the current Director of the Condominium Board also testified to this incident and, during cross-examination, wrote:

> There is nothing wrong with requesting the information but there is something wrong with presenting misinformation to homeowners, and tenants in the hopes of trying to discredit the Board's successes.

[17] Mr. Jain and Mr. Salamah also testified about this incident. Mr. Vishwanth, summarized the Respondent's position as follows:

> These unaudited reports were later found to have been distributed to condo owners and tenants during an unsanctioned and non-Board approved meeting which appeared to be led by the Respondent. As feared, the distribution of the unaudited reports caused confusion and mixed feelings toward the Board because the individuals in possession of these reports were presented with inaccurate financial reports. While there is no dispute that these unaudited financial reports were indeed distributed, the Applicant's position appears that someone else could have distributed these reports and he did not do so.

[18] Mr. Benjamin testified that the Respondent has not demonstrated that he was the one who handed out the unaudited financial statements. Mr. Benjamin also testified that he had not agreed to keep these statements confidential and had refused to sign a confidentiality agreement. I am not persuaded by the Respondent 's evidence that Mr. Benjamin circulated these documents. The Respondent's witnesses were unable to testify to anything beyond their suspicions and based material parts of their testimony on hearsay evidence. They referred to unnamed owners saying that Mr. Benjamin had released the documents. It was open to the Respondent to call any of these owners as witnesses, but the condominium corporation chose not to provide direct evidence of the serious allegation they were making. Given that Mr. Benjamin denies agreeing not to release the audited statements, it is relevant to note that the agreement was unwritten and there is no evidence, beyond the assertions by the Respondent that there was a non-disclosure agreement. For these reasons, I conclude that the Respondent has not demonstrated that Mr. Benjamin released documents that he was bound to hold in confidence.

[19] Furthermore, the record request was made in March 2018. The alleged occurrence of inappropriately sharing the records occurred on June 13, 2018. This was well after the corporation had already failed to provide the records requested in March. The Board appears to be relying on a retroactive justification for not providing the records requested based entirely on the Applicant's disruptive behaviour.

[20] Another example cited by witnesses for the Respondent was the allegation that Mr. Benjamin authored a letter dated May 31, 2018 spreading false rumours about the Board. In his testimony, Mr. Benjamin denied having authored the letter. I am still unconvinced after the witness testimony as to the authorship of this letter. And therefore, I conclude that the Respondent has not demonstrated, on a balance of probabilities, that Mr. Benjamin wrote the offending letter.

[21] Ms. LaMonday, and Mr. Jain, witnesses for the Respondent, cited Mr. Benjamin's refusal to sign a confidentiality agreement in exchange for the release of the requested records as part of the proposed settlement of the issues at the

mediation stage as another example of “bad faith”. They asserted that this confirms that the request for records was not “solely related to that person’s interests as an owner, a purchaser or a mortgagee of a unit”. I cannot comment on what took place during mediation. However, given that this incident related to a proposed settlement and given that a confidentiality agreement is not a requirement for settlement generally, these past events should have no bearing in the Tribunal Decision phase of this matter. Just because an Applicant refuses to agree to a confidentiality agreement in a mediation does not support the bad faith argument raised by the respondent as a reason to disentitle the applicant to records, he may be entitled to under the Act.

[22] Witnesses for the Respondent testified to behaviour on the part of Mr. Benjamin that they characterized as disruptive. Mr. Salamah, prior Director of the Board writes during cross-examination:

> Instead of supporting the board, SB [Sohail Benjamin] did the complete opposite, questioning many decisions the board made, spreading false rumours, manipulating residents by providing incorrect and false information. These blanket statements that have no accuracy or validity made essentially to scare homeowners and try to undermine the BOD hard work and diligence trying to do the best for the Corporation.

[23] Mr. Salamah continued, in cross-examination,

> It is clear from your actions that that any records that were provided to you were used for purposes other than your personal interest as a Condo owner and I believe my testimony will confirm that regardless of your assertions that you did not request/use the records provided to you for improper purposes, you have indeed done so and therefore were not entitled to the records that have not been provided to you.

[24] Mr. Benjamin, in answers to questions posed by me in the hearing, testified that:

> The reason I requested these core records is because this is my very first property that I ever purchased and is also my Principal Residence. I invested a lot of money into my home and I am very curious on my investment and how it is being handled. These records were solely related to my interest as an Owner due to the curiosity and this was also mentioned to Property Management on March 2, 2018 when the records request was made.

[25] I have reviewed in some detail the assertions made by the Respondent regarding Mr. Benjamin’s previous conduct in the previous paragraphs given the extensive evidence lead by the Respondent on this issue, there is no provision in the Act that requires an owner to display non-disruptive or “good” conduct as a condition to

obtaining records under subsection 55(3) of the Act. Furthermore, I note that the record request was made in March 2018. The alleged occurrence of inappropriately sharing the records occurred on June 13, 2018. And the allegation regarding the letter spreading false rumours was the end of May. Both incidents are well after the corporation had failed to provide the records requested in March. The Board appears to be relying on a retroactive justification for not providing the records requested based on the Applicant's disruptive behaviour subsequent to their refusal

[26] The Respondent's position that Mr. Benjamin is disentitled to the records he seeks under subparagraph 13.3 (1)(a) fails on three grounds. First, the Respondent has not proven, on a balance of probabilities, that Mr. Benjamin misused records given to him in the past. Second, the Respondent has cited examples of Mr. Benjamin's past conduct which do not relate directly to records or their use. Even if this conduct were disruptive, it is not disqualifying. Third, the Respondent has not established a connection between the conduct it complains of and Mr. Benjamin's current records request. It is this current request that is the subject of this hearing and it is the purpose of the current request that I must consider. The Respondent led no evidence of the purpose for Mr. Benjamin's current request other than speculation based on his alleged past conduct.

Issue 2: Is Mr. Benjamin otherwise entitled to the records he is requesting under subsection 55(3) of the Act?

(a) Electronic or paper copies of contracts between the Respondent and specified contractors concerning "all cleaning, security, fitness, and property management from December 2016 to March 2018"

[27] Mr. Benjamin requests all property management contracts entered into by the Respondent between December 2016 and March 2018. Mr. Benjamin requests either electronic or paper copies of contracts entered into between December 2016 and March 2018 between the Respondent and the following contractors concerning "all cleaning, security, fitness and property management from December 2016 to March 2018":

1. MultyCare Maintenance Systems Ltd.

2. Minute takers Inc.

3. Swan Dust Control Ltd.

4. ONYX Fire protection Services Inc.

5. Green Air Mechanical Inc.
6. MVP Landscaping
7. Mechanical -HVAC Contract
8. Wellbeats -2409449 Ontario Ltd.
9. Miller Waste Solutions Group Inc.
10. Probe Security
11. Century Builders Hardware Ltd
12. MLD Holdings Inc.
13. Results Fitness Lifestyle Inc.
14. Total Power Ltd.

[28] The Respondent submits that Green Air Mechanical referred to in item 5 above is the HVAC contractor referred to in item 7, above. Therefore, these two records are the same. The Respondent also submits that the contractors referred to in items 1, 3 and 4 are service providers used on an as-needed basis. The Respondent does not have a written contract with these suppliers. I accept these submissions and conclude that the Respondent is excused from providing records of contracts where there are legitimate reasons for no contracts existing. Therefore, the records that the Respondent is not excused from providing are those set out in items 2, 5, 6, 8 through 14, inclusive and all property management contracts entered into by the Respondent from December 2016 to March 2018.

[29] These records are records which the condominium corporation is required to keep under subsection 55(1) of the Act and they are records Mr. Benjamin is entitled to examine or obtain copies of under subsection 55(3) of the Act. The Respondent is directed to provide Mr. Benjamin with these records, in electronic format where possible and, where provided in paper format, subject to its costs of photocopying, discussed below.

(b) Electronic or paper copy of the 1st quarter, 2018 PIC

[30] This record is a core record as defined by subsection 1(1) of the Regulation. Mr. Benjamin is entitled to a copy of this record under subsection 55(3) of the Act. However, Mr. Jain, President of the Board testified that:

> It was presented to the Board by the previous Management firm that the first quarter Periodic Information Certificate was issued to the owners. Currently, the Board is unable to find the documentation to effectively determine if that representation was a misrepresentation.

[31] Mr. Vishwanth writes, in his closing submission:

> The Board of Directors put their trust in the prior Property Management and had no reason to suspect they were wrongfully informed that the Periodic Information Certificate had been issued to all owners. It was only upon a full document search by the new Property Management that it was discovered that the Board of Directors had been misinformed about the PIC by prior Management.

[32] The PIC cannot be found and therefore cannot be provided to Mr. Benjamin. It may or may not have ever existed. The question is whether the Respondent was under an obligation to create and maintain the PIC. Subsection 26.3 of the Act establishes the obligation to create and distribute PICs. Concerning the obligation to maintain the PIC, there is no express period during which the PIC must be maintained in the Act. However, in the definition of the PIC as a core record, the Regulation provides:

> All periodic information certificates that the corporation, within the 12-month period before receiving a request for records or a requester's response, sent to the owners under section 26.3 of the Act or was required by that section to send to the owners

If follows from this that the minimum period during which the Respondent was required to maintain the PIC was 12 months after distributing it. In other testimony, Mr. Jain indicated that the first quarter 2019 PIC is due between June 1 and July 31, 2019.

[33] Section 11.1(4) of the Regulation states:

> (4) For the purpose of clause 26.3 (a) of the Act, the following time periods are prescribed as the time periods at which a corporation shall send a periodic information certificate to the owners, instead of at least once every three months:
>
> 1. Within 60 days after the last day of the first quarter of the corporation's current fiscal year if this section is in force on that last day.
>
> 2. Within 60 days after the last day of the third quarter of the corporation's current fiscal year if this section is in force on that last day.

> 3. The additional time periods, if any, that are set out in a by-law of the corporation passed on or after the day this section comes into force. O. Reg. 180/17, s. 5 (2).

The corporation must send the PIC within 60 days of the end of the 1st quarter of the condominium's fiscal year. Although Mr. Benjamin requested the PIC in March 2018, before the PIC was required to be distributed. I conclude the Respondent was under an obligation create and maintain the PIC during the time period of this proceeding and did not provide it to Mr. Benjamin.

[34] The explanation provided by the Respondent does not excuse it from its obligation to create, distribute and maintain the PIC. The Respondent cannot avoid its responsibility by delegating it to a property management company. However, given that the PIC cannot be found and may not even exist, no order will issue directing it to be provided to Mr. Benjamin.

(c) Electronic or paper copies of the 2017/2018 Auditor's report

[35] Mr. Benjamin requests an electronic or paper copy of the 2017/2018 auditor's report. This is a core record as defined in the Regulation. Mr. Jain testified that the report was distributed to all owners with the AGM package. He confirmed that the Respondent would have no problem issuing another copy of the 2017/2018 to Mr. Benjamin. The Respondent is directed to provide the 2017/2018 auditor's report to Mr. Benjamin, in electronic format if possible and, if provided in paper format, since it is a core record there will not be recoverable photocopying costs.

Issue 3: Is the Respondent entitled to claim a cost for producing the records and if so, how is the cost to be calculated?

[36] The combined effect of subsection 55(3) and subparagraph 55(3.1)(c) of the Act, read together with subsections 13.3 (7), (8) and (9) of the Regulation, is that the Respondent has the discretion to charge a reasonable amount for the labour and delivery costs of the non-core records produced. It may also charge up to $0.20 per page for photocopying paper versions of non-core records.

[37] Ms. Marks, director of the Board testified that, "The Board would also like to note that as copies of the contracts are non-core records there may be a nominal fee associated with providing them." Beyond that, the Respondent made no claim for the cost of producing the records. The Respondent did not quantify any costs for the production of the records.

[38] Mr. Benjamin is requesting all records in electronic format. Where possible, the Respondent is directed to provide the records in electronic format. There should

be no costs of production for electronic records. Where records are being provided in paper format, the Regulation establishes a maximum amount of $0.20 per page for photocopying. The Respondent will be entitled to photocopying fees of $0.20 per page for any records provided in paper format. This charge is consistent with the “nominal” fee referred to by Ms. Marks.

Issue 4: Is Mr. Benjamin entitled to his costs in this matter and, if so, in what amount?

[39] Costs in a proceeding are in the discretion of the Tribunal under subparagraphs 1.44(1)4 of the Act and under the Tribunal’s Rules of Practice.
Rule 32 states:

> 32.1 The CAT may order a User to pay to another User or to the CAT any reasonable expenses or other costs related to the use of the CAT, including:
>
> (a) any fees paid to the CAT by the other User;
>
> (b) the other User’s expenses or other costs that were directly related to this other User’s participation in the Case; and
>
> (c) the other User’s or the CAT’s expenses or other costs that were directly related to a User’s behaviour during the Case that was unreasonable or for an improper purpose, or that caused an unreasonable delay.

[40] There are two considerations in the award of costs. First, does the conduct of a User justify the award of costs to the other party and, second, in what amount? While the Respondent was within its rights to advance a basis for denying Mr. Benjamin the records he sought, other aspects of the Respondent’s conduct of the case had the result of putting Mr. Benjamin to time and expense that could have been avoided. There were instances where Mr. Vishwanth, Counsel for the Respondent did not follow my instructions and persisted in entering irrelevant material to the hearing despite my cautioning. This at times disrupted the hearing, caused delay and contributed to the proceeding taking approximately 10 months to complete. The Respondent raised issues that were irrelevant to its argument and related to actions in other forums. This created an unreasonable delay in the hearing process. I therefore conclude that it is appropriate for the Respondent to pay Mr. Benjamin a reasonable amount for the costs and expenses he has incurred.

[41] Mr. Benjamin is claiming an unspecified amount equivalent to six days that he states he took off work because of matters related to his records request and proceeding through the three Tribunal stages. The Tribunal’s online dispute

resolution system was developed to help people resolve disputes conveniently, quickly and affordably in a method that can occur outside the traditional confines of a business day. Based on this, I do not find it reasonable for Mr. Benjamin to claim the cost of six days of work to proceed through the Tribunal Online Dispute Resolution process. Posting messages on the Tribunal platform may be done at any time during the day or night, allowing for great flexibility in allocating time to the process. Therefore, I will not award Mr. Benjamin any amount for his time off work. However, since there were several unnecessary delays by the Respondent, which I had to caution them about and also, as outlined above, contributed to a more lengthy process and hearing, I find it reasonable that the Applicant be awarded $500 to compensate him for the Respondent's behavior that caused unnecessary delays in this hearing.

[42] Mr. Benjamin claims $200 for the fees he paid to the Tribunal to initiate each stage of this proceeding. It is appropriate for the Respondent to reimburse this amount since he was successful in advancing his entitlement to the records. I direct the Respondent to pay $200 to Mr. Benjamin within 30 days of the date of this Order.

[43] Mr. Benjamin also claims legal expenses in the amount of $3,004.48. It should be noted that Mr. Benjamin was self-represented. The Respondent also claimed legal expenses, totalling $24,397.16, to deal with this case. Rule 33.1 of the Tribunal's Rules of Practice states:

> The CAT will not order one User to pay to another User any fees charged by that User's lawyer or paralegal, unless there are exceptional reasons.

[44] There are no "exceptional reasons" in this case that would justify an award of legal fees to either User. The issues in the case were straightforward and the system is designed for Users to be able to represent themselves and therefore avoid legal costs. I make no award of legal costs to either Mr. Benjamin or the Respondent.

Issue 5: Is Mr. Benjamin entitled to any penalty from the Respondent for its failure to provide the records and if so, in what amount?

[45] Subsection 1.44(1) 6 of the Act gives the Tribunal the jurisdiction to order a penalty be paid to Mr. Benjamin if the Tribunal considers that the Respondent refused to provide Mr. Benjamin the records he requested without reasonable excuse. In this case, the Respondent took the position that Mr. Benjamin is not entitled to the records because it questioned his good faith and the overall purpose for his request. As mentioned, I found that the Respondent had not established that Mr. Benjamin's request violates the provisions of subparagraph 13.3(1)(a) of the Regulation and therefore disentitles him to the records. Even though the argument

failed, the Respondent was entitled to advance their position in defending their refusal of the request and therefore, I do not find that the fact that it took this position to be grounds for a penalty to be imposed by the Tribunal.

[46] However, does the failure to provide Mr. Benjamin with the PIC he has requested give rise to a penalty? I conclude that it does. Based upon the facts presented by the Users in this case, the Respondent's failure to create or, if created, to maintain the PIC constitutes an unreasonable basis for its refusal to provide the record to the Applicant. The non-existence of the record is due solely to a failure to comply with a clear and unequivocal legal obligation; there is no reasonable excuse for the refusal on these facts. Therefore, a penalty in this case is justified.

[47] The appropriate penalty depends on the specific facts in each case. In assessing the amount, the Tribunal should consider the purpose of the penalty. A penalty may communicate to the interested public what conduct is considered unacceptable. The amount of the penalty may also serve as a reflection of the importance that the Tribunal attaches to providing dispute resolution in a fair, convenient and timely manner. In this case, the failure to create and maintain prescribed records is unacceptable conduct and cannot be accepted as a reason to deny the Applicant records to which he was otherwise entitled

[48] In the circumstances of this case, I consider that $500 is a reasonable penalty.

C. ORDER

[49] The Tribunal directs the Respondent to provide Mr. Benjamin the following records, in electronic format if possible, within 14 days of the date on which Mr. Benjamin pays the amount set out in paragraph 50 below:

a) Copies of all property management contracts entered into by the Respondent between December 2016 and March 2018.

b) All cleaning, security, and fitness contracts entered into between the Respondent and the following contractors between December 2016 and March 2018:

1. Minute takers Inc.

2. Green Air Mechanical Inc.

3. MVP Landscaping.

4. Wellbeats – 2409449 Ontario Ltd.

5. Miller Waste Solutions Group Inc.

6. Probe Security

7. Century Builders Hardware Ltd.

8. MLD Holdings Inc.

9. Results Fitness Lifestyle Inc.

10. Total Power Ltd.

c) The 2017/2018 auditor's report for the Respondent.

[50] There will be no charge for any electronic record which the Respondent provides to Mr. Benjamin under this Order. The Respondent may charge Mr. Benjamin the amount of $0.20 per page for the costs of photocopying any record provided in paper format for non-core records listed in paragraph 49. Mr. Benjamin will pay this amount before he receives the records listed in paragraph 49 of this Decision.

[51] The Tribunal directs the Respondent to pay costs to Mr. Benjamin in the amount of $200 for Tribunal fees and $500 for his expenses pursuant to Rule 32.1(c).

[52] The Tribunal also directs that the Respondent pay to Mr. Benjamin a penalty in the amount of $500 within 30 days of this Order.

[53] In order to ensure that Mr. Benjamin does not have to pay any portion of this penalty or costs, he will be given a credit toward his common expenses in the amount equivalent to each of its units' proportionate shares of the penalty.

[54] If the penalty is not paid within 30 days of this decision, Mr. Benjamin may deduct the amount of the penalty from any fees owing for its common expenses.

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Kathryn Kertesz
Member, Condominium Authority Tribunal

Released on: May 13, 2019