CONDOMINIUM AUTHORITY TRIBUNAL

DATE: May 26, 2020
CASE: 2019-00225R
Citation: Patricia Gendreau v. Toronto Standard Condominium Corporation No. 1438, 2020 ONCAT 18

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

Adjudicator: Michael H. Clifton

The Applicant
Patricia Gendreau
Self-represented

The Respondent
Toronto Standard Condominium Corporation No. 1438
Susana Cardoso, Counsel

Hearing: March 4 - May 4, 2020 – Written, on-line hearing

REASONS FOR DECISION

[1] As is usual for cases that come before this Tribunal, this is a case in which the Request for Records is just a single aspect, or even a symptom, of other more serious and contentious concerns between the parties. However, the current jurisdiction of the Tribunal does not allow us to substantively address or resolve those other issues.

[2] The Applicant requested a broad range of core and non-core records from the Respondent, a standard condominium corporation. The Respondent's response indicated that all requested records would be provided, and the Respondent did deliver all of the core records, though with some delays. The Respondent's response also provided that the non-core records would only be given subject to prior review by the corporation's solicitor for redaction. Estimated costs for review and redaction were set out in the response form.

[3] Regarding the use of the forms and timing of these steps, all this appears to have been done in general compliance (other than delay in the delivery of some of the requested core records) with the applicable provisions of the Condominium Act, 1998 (the "Act") and Ontario Regulation 48/01 (the "Regulation"). However, this

matter comes before the Tribunal because the Applicant believes the Respondent's estimated fees for review and redaction of the requested non-core records are unreasonable and that redaction of the majority of such records is not necessary.

[4] The Respondent submits that its estimated fees are reasonable, and that its board of directors has a duty to submit each requested record to review for redaction. Whether there is such a duty, and whether the fees estimated by the Respondent are reasonable, are the issues to be determined in this hearing, in addition to the usual questions pertaining to the applicability of costs awards or penalties.

ISSUE 1. Is there a duty to review the requested records for redaction?

[5] The Respondent submits that a condominium board of directors has a general and implied duty to review for redaction all records that are subject of a request for records on account of both subsection 55(4) of the Act and the Personal Information Protection and Electronic Documents Act (PIPEDA). The Respondent further alleges that in this case the board also has an express duty to review all of the requested records for redaction on account of its belief that the Applicant is contemplating litigation.

[6] I will first address the question of whether the board of directors is obligated to review requested records for redaction on account of PIPEDA. The Respondent submits that a condominium board of directors would breach its statutory standard of care if it did not ensure the requested records do not contain personal information protected under PIPEDA, citing as specific examples of such information, "an employee's name, age, income and address." The Applicant flatly rejects the idea that PIPEDA applies to condominium corporations.

[7] I am aware of the previous decision of this Tribunal in *Syed Razi Haider Naqvi v Peel Condominium Corporation No. 389*, 2020 ONCAT 11 (CanLII) ("Naqvi"), which states at paragraph 18,

> The purpose of PIPEDA includes "to govern the collection, use and disclosure of personal information in a manner that recognizes the right of privacy of individuals with respect to their personal information." Section 4(1)(a) states that PIPEDA applies to organizations in respect of personal information that "the organization collects, uses or discloses in the course of commercial activities." There is no evidence before me to indicate that the Respondent is engaged in commercial activities. And, even if it could be argued that the Respondent was engaged in commercial activities, section 7(3)(i) states that the organization may disclose information without an individual's knowledge or consent if it is required by law. As noted above, section 55(3) of the Act states

> that the corporation “shall” permit an owner to examine records.

I find myself in agreement with this reasoning.

[8] In this hearing, the Respondent’s counsel submitted that since PIPEDA applies to every organization “that collects, uses or discloses personal information in the course of commercial activities,” it applies to condominium corporations because,

> the definition of commercial activity … can be argued to reasonably capture condominium corporation’s [sic] collection, use, disclosure and retention of personal information when entering into employment and/or service provider agreements … as an employer and contractor for services.

[9] I am not persuaded by this submission. While it is clear that in some respects the activities of a condominium corporation appear to have a commercial nature, I note that subsection 17(1) of the Act specifies that the sole objects for which a condominium corporation is created are “to manage the property and the assets, if any, of the corporation **on behalf of the owners**” (emphasis added). Based on this provision, it appears that a condominium’s activities, such as entering into employment and/or service provider agreements, are carried out solely on behalf of the unit owners in relation to their capacity or interests as owners. In a residential condominium property at least, those must be residential in character rather than commercial. By way of comparison, I expect that a non-condominium residential household does not qualify as an organization subject to PIPEDA simply because it hires landscapers or cleaners for their property. It is similarly not evident that PIPEDA should apply to such activities when they are engaged in by a residential condominium corporation on behalf of its owners collectively.

[10] In any event, this line of analysis need go no further, as I am not required to reach a conclusion as to whether PIPEDA might apply to condominium corporations in a general sense, but only whether it applies to requests for records under subsection 55(3) of the Act. For the same reasons as those expressed in the decision in Naqvi, I find that it does not.

[11] Subsection 55(3) reads as follows (emphases added):

> The corporation **shall** permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing, to examine or obtain copies of the records of the corporation in accordance with the regulations, **except those records described in subsection (4)**.

The plain meaning of this section is that a qualified requester for records is entitled to access the records of the condominium, and the condominium is obligated to

provide them, subject only to the exceptions set out in subsection 55(4) of the Act. In this regard, subsection 7(3)(i) of PIPEDA states (emphasis added):

> For the purpose of clause 4.3 of Schedule 1 [being "Principle 3 – Consent"], and despite the note that accompanies that clause, **an organization may disclose personal information** without the knowledge or consent of the individual only **if the disclosure is… required by law**.

Since disclosure of records to requesters under subsection 55(3) of the Act is a statutory requirement, it falls wholly within this exception set out in PIPEDA. I therefore find that there is no duty on a condominium board of directors under PIPEDA to review requested records for redaction of such personal information as might otherwise be protected by that Act.

[12] Secondly, Respondent's counsel submitted that an implied duty to review requested records for redaction is imposed by subsection 55(4) of the Act. As already noted, this section of the Act sets out certain exceptions to the general right of access to records under subsection 55(3) of the Act. It states:

> (4) The right to examine or obtain copies of records under subsection (3) does not apply to,
>
> (a) records relating to employees of the corporation, except for contracts of employment between any of the employees and the corporation;
>
> (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; or
>
> (d) any prescribed records.

[13] Counsel submits that, on account of this section, a condominium board must review records that have been requested for any possible redaction that might be needed to protect the kind of information that falls within the scope of those exceptions. I respectfully disagree that such a duty is evident from a reading of subsection 55(4) alone but find that the Respondent's position is better supported by other provisions of the Act.

[14] It is subsection 55(3), for example, that states "The corporation shall permit [a qualified requester to have access to all of the condominium's records] … **except** those records described in subsection (4)" (emphasis added). Likewise, subsection 55(6) of the Act states that while a condominium corporation may, despite clause 55(4)(b), disclose records relating to actual or contemplated litigation, it cannot

disclose the records described in clauses 55(4)(a), (c) or 55(4)(d) (subject to certain other allowances set out in the Act and the Regulation). I find that these sections, rather than subsection 55(4) itself, do impose an obligation on condominium boards to carefully protect certain kinds of record from disclosure. The question that follows in the context of this case is: how is this duty required to be carried out?

[15] The Respondent's counsel submits that a condominium board must submit each requested record to careful, formal review for the possibility that it might or might not contain protected kinds of information. The Applicant, alternatively, suggests that this position is excessive and unreasonable. In this regard, I am inclined to agree with the Applicant.

[16] It bears noting that the Applicant's submissions on this matter, themselves, appeared somewhat extreme. She often appeared to suggest – erroneously – that unit owners are entitled to access to unredacted records simply on the basis of the principle of "transparency." However, at the same time, the Applicant stated in regard to one or more records, that she acknowledged redaction of those records was needed. Overall, it is evident that the Applicant's position was that a condominium board should be measured when determining whether or not a particular record requires formal review for redaction.

[17] In this regard, the Applicant cited the decision of this Tribunal in *Bryan Mellon v. Halton Condominium Corporation No. 70*, 2019 ONCAT 2 ("Mellon"), in which it was found that the Respondent in that case "may have gone farther in its redactions than is necessary to comply with subsection 55(4)(c) of the Act," and that, "if it has done so, the Applicant's rights under subsection 55(3) of the Act may have been compromised, if not breached." The Applicant cites this decision as evidence that a condominium corporation must avoid excessive redaction of records. While I take this principle to be correct, this does not directly address the question of whether or not formal review for redaction is necessary; however, I find that the same underlying principle – that a condominium board must be reasonable in carrying out its duties – does.

[18] As suggested in the Applicant's submissions, it is sometimes evident from the nature of the requested record whether it is reasonably likely to contain information that should be redacted on account of the exceptions set out in subsection 55(4). For example, the service contracts requested by the Applicant, such as those for cleaning and security, are not part of the condominium's records relating to employees, do not relate to specific units or owners, do not relate to any actual or contemplated litigation, and are not any of the types of record listed in subsection

13.11(2) of the Regulation as being exempted under clause 55(4)(d) of the Act. No evidence was presented that such documents were reasonably believed to contain any such prohibited information, or that the reasonable care or diligence that the board is obligated to apply under the Act would preclude such records from simply being given to the Applicant as requested.

[19] The Applicant also noted that some of the records she requested had already been disclosed by the board to unit owners. For example, her statement that "the package that was sent to all owners and Mortgagees for the 2019 Annual General Meeting included the unredacted insurance contract," was uncontradicted. Surely it is reasonable to conclude that any record that the corporation has already made available to owners in an unredacted form should not require review for redaction simply because it becomes the subject of an owner's subsequent request for records. The same idea would, of course, apply even more emphatically where disclosure of a record is required under either the Act, its regulations, or the condominium's governing documents.

[20] Based on the foregoing considerations, I find that although a condominium board does have a general duty under the Act and the Regulation to protect certain categories of record or information from being disclosed in response to a request for records under subsection 55(3) of the Act, there is no requirement to submit every record requested to formal review for redaction in order to fulfill that duty.

[21] Thirdly, the Respondent submitted that a particular duty for it to submit each record to review for redaction arose on account of the board's belief that the Applicant was contemplating litigation. Given that the Act itself, as quoted above, states that records relating to actual or contemplated litigation may be disclosed despite the exception set out in clause 55(4)(b), I cannot find that such a belief, even where it is based on clear, convincing and incontrovertible evidence, imposes such a requirement; however, such a belief could indicate that the board's decision to submit the requested records to such a review is a reasonable one.

[22] The Respondent submits that its belief that the Applicant's request for records relates to contemplated litigation is reasonably based upon the Applicant's prior conduct. In this regard, the Respondent cites the following:

a. that the Applicant retained a well-known litigation lawyer to pursue a request for records (the Applicant's first) in 2011, and that the said lawyer threatened litigation when the Applicant was unsatisfied with the corporation's response to that request;

b. that for the Applicant's second request for records, made in March 2019, she

again employed a well-known litigation lawyer;

c. that the Applicant's third request for records, from July 2019, which is the subject of this case, was submitted "for the sole purpose of commencing these CAT proceedings against the corporation"; and lastly,

d. that the Applicant is in some way involved with a class-action lawsuit against the Respondent, having "rallied and influenced" other unit owners to commence the suit, which the parties both confirmed to be *Paus v Concord Adex Developments Corp.*, 2015 ONSC 5122 (CanLII) ("Paus").

I find that none of these allegations supports a reasonable view that the Applicant, in making her current request for records, is contemplating litigation.

[23] The Applicant confirmed that the lawyer who represented her when she made her first request for records in 2011, was a well-known condominium and litigation lawyer. That lawyer represented the Applicant for approximately two-and-one-half months, for the sole purpose of assisting with the requests for records. The request was ultimately successfully fulfilled. The fact that the Applicant's lawyer might have threatened litigation to achieve this objective is hardly evidence of a litigious intent on the part of the Applicant, and might reveal more about the position or attitude of the Respondent (to which the lawyer was evidently responding) than about the Applicant. In any event, the request in question took place almost a full eight years before the Applicant made even a second request for records, and no litigation ever ensued. It is not reasonable to posit a litigious intention based on this historical event.

[24] It is further inappropriate to suggest that merely hiring a lawyer represents contemplation of litigation, even if the lawyer is known for litigation work. Unit owners and others are entitled to seek legal counsel from any lawyer (or other legal professional) they believe to be competent in regard to laws and legal processes relating to condominiums, and doing so should not be relied upon to characterize them negatively for the purpose of resisting a valid request for records or to justify an excessive approach to redaction and its associated costs.

[25] The Applicant's second and third requests for records must be considered together. The second request was made on March 22, 2019, and the third, which is the subject of this case, was made on July 8. As the Applicant explained, after the Respondent did not reply favourably to her March 22 request, the Applicant brought her case to the Tribunal but it was deemed abandoned when she mistakenly missed a critical deadline early in the proceedings. Therefore, she again requested the records in July, in order to try again. This set of facts, which

the Respondent's evidence does not contradict, again does not indicate a litigious intention. Although it might be technically accurate that "The Request for Records submitted in July 2019 by the Applicant was submitted for the sole purpose of commencing these CAT proceedings against the corporation," given the context, I do not accept the proposed implication of this statement. Further, the Respondent's counsel admits that the Respondent merely replied to the July 2019 request "in the same way it did with the Applicant's March 2019 Request for Records." It was clearly within the power of the Respondent to seek to avoid further legal proceedings by doing otherwise than repeating its prior conduct. I reject the suggestion that this string of events, and the prior request from 2011, serve to characterize the Applicant as litigious or as having an "extensive litigation history," as the Respondent stated.

[26] Lastly, the Respondent submitted no credible evidence linking the Applicant to Paus. At best, the Respondent submitted circumstantial allegations and, in any case, all such claims were wholly refuted by the evidence of the Applicant, which includes a letter from the lawyer conducting the class-action suit stating that the Applicant is not and, in any case, does not qualify to be, a class member in that case. Neither was there any evidence provided to me that demonstrated any of the records requested by the Applicant relate to Paus or any other actual or contemplated litigation.

[27] In this regard, the Respondent also submitted allegations relating to the Applicant's conduct generally. Through its witness, Robert Purves, the Respondent described a number of incidents allegedly occurring in late 2018 and early 2019, in which the Applicant posed various questions to some of the condominium's service providers and management staff. Mr. Purves further stated that the Applicant's "general practice" involved accosting other residents, holding open the elevator door and following residents onto their floors to pursue conversations with them "beyond a reasonable level of comfort." The evidence submitted by the Respondent ultimately disclosed only about four incidents with comparable facts, two of which were between the Applicant and Mr. Purves, and all of which occurred only during the course of these proceedings. While such incidents present a picture of the Applicant as recently being emphatically concerned about certain issues relating to management and care of the condominium, and desiring information relating to the same, (and noting without judgment that the Applicant denies the Respondent's allegations as to her character and conduct, and instead asserts that she has been bullied and unfairly defamed by the Respondent) they do not reasonably disclose that the Applicant was contemplating litigation, or that such an idea relates in any way to her request for records.

[28] I find no evidence that reasonably supports a belief that the Applicant was contemplating litigation in regard to her request for records or otherwise, or that supports the Respondent's contention that such a belief reasonably gives rise to a requirement that the board submit every record requested by the Applicant to careful review for redaction by the solicitor for the corporation.

ISSUE 2. Are the fees estimated by the Respondent reasonable?

[29] Given that the Respondent's primary support for its estimate of fees for providing the requested records was that the Respondent's board is under a duty to submit the requested records to formal review by the corporation's solicitor for redaction, and the finding above that there is no such duty, it is evident that the fees in question cannot be found, on that basis, to be reasonable.

[30] The Respondent also submits, however, that it has simply been its practice "to refer all substantial Requests for Records to counsel for response and review of the records requested." Further, the Respondent set the hourly rate for such review at $130, being more than $100 less than its lawyer's usual hourly rate, based upon the Tribunal decision in *Robert Remillard v Frontenac Condominium Corporation No. 18*, 2018 ONCAT 1, which concluded that this rate was reasonable for the redaction at issue in that case.

[31] It is trite law that a condominium board has broad discretion with respect to its management of the affairs of the corporation. That discretion includes the right to institute a practice of always referring all substantial requests for records to legal counsel for response and review of the records requested. However, the question before me is not whether such a practice is within the range of things that a condominium board might validly or even reasonably decide to do, but whether it is reasonable that the cost of so doing is imposed upon the requester of records. Based on some of the reasons already set out above in this case, I cannot find that it is reasonable to impose such costs on the requester of records.

[32] To be clear, this is not a determination that the cost of redaction should never be imposed upon a requester of records; that would be an unreasonable and erroneous conclusion. It is also not reasonable for condominium boards to make decisions based solely on past practice or policy, without any consideration of relevant circumstances. This principle applies where the decision to review records for redaction is made just as a matter of course, without regard to such factors as the type or likely content of the records in question. It also applies where the review for redaction is required to be performed by legal counsel, again regardless of whether the records in question really require that level of expertise in order to adequately discharge the legitimate duties or concerns the board might have in

relation to the request in question. If such decisions are not reasonable, then imposing the fees for them on the requester of records also cannot be viewed as reasonable.

[33] The Respondent cited *Shaheed Mohamed v. York Condominium No. 414*, 2018 ONCAT 3, in which redaction is described as "substantive work requiring specialized knowledge," to support the suggestion that review and redaction should be carried out by legal counsel. This submission misapplies that statement, since it disregards that the degree of specialized knowledge required to review and redact a record may vary. In many cases, it should not be inconceivable that a director, a manager of a condominium, a staff member, or another person, could possess the necessary knowledge and skills to perform such a function, likely at a considerably lower rate (if any) than even the reduced rate proposed to be charged by the Respondent for its solicitor's review in this case.

[34] Applying the foregoing reasoning to each of the non-core records requested by the Applicant, I find as follows:

a. The Respondent's budgets for the years 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, and 2018-19.

   The Respondent estimates that it would require 1.5 hours of its solicitor's time to review these records, which consist of 20 pages, resulting in an estimated fee of $195. The Respondent submitted that these records, in particular, "may contain information that would be restricted under subsection 55(4)(b) of the Act." The Respondent also submitted that, because the budgets contain a line item for "staff bonus," it is exempted from a request under subsection 55(3) of the Act due to clause 55(4)(a) (prohibiting disclosure of records relating to employees). However, as noted by the Applicant, each year the corporation includes its budget, unredacted, in its annual general meeting package delivered to all owners and mortgagees. Typically, budgets are also reflected or restated in the financial statements of a condominium, which is also presented at the annual general meeting. The corporation's budget must also be included with every status certificate it issues. In view of these facts, I find that it is not reasonable to require review of the Respondent's past budgets for redaction. As the Respondent's response to the request for records indicates there would not be any fee charged for providing copies of the record electronically, but only for the proposed redaction, I conclude that no fee should be charged to the Applicant for provision of these records.

b. Contracts between the Respondent and its former and current cleaning

companies, its condominium management service provider, its security service provider, and in relation to its purchase and the servicing of a condominium management software product and any other software packages, including RFP's and tenders received by the corporation.

Collectively, the Respondent estimates its solicitor would require 7.2 hours to review what appear to be six contracts, or types of contract, comprising 147 pages, resulting in an estimated fee of $936. The Respondent submits that where no other unit owner has ever requested such records, their "specific contents" would be unknown and therefore require review. I am not persuaded that this is a reasonable excuse to impose these costs on the requester. Even if the specific contents of a record are not remembered, the question the board should consider is simply how likely it might be that the record would contain any of the information that should be excluded from disclosure under subsection 55(4) of the Act. In most cases, this can be assessed based on the type of record, and the answer should be the same whether the record is one that is requested frequently or for the first time. None of the evidence before me suggests it is reasonably likely that any of these records constitutes a part of the Respondent's employee records, relates to actual or contemplated litigation (including but not limited to Paus), relates to a particular unit or owner, or is any of the types of record listed in subsection 13.11(2) of the Regulation. The Respondent's most pronounced concern relating to these records related to its belief that PIPEDA should apply to requests for records, which I have concluded is not the case. Therefore, as the Respondent did not identify any likely contents of these records that would be exempt from the Applicant's right to receive them, there again appears to be no basis for submitting these records to a review for redaction. Also, the Respondent's response again indicates there would be no fee for providing copies of the record electronically, so no fee should be charged to the Applicant for provision of these records.

c. All contracts of employment for employees of the Respondent.

The Respondent estimates that it would require 3 hours of its solicitor's time to review these records, which contain about 60 pages, resulting in an estimated fee of $390. As noted above, employees' employment contracts are exceptions to the exception set out in clause 55(4)(a) of the Act. This suggests that the intention of the legislature is that qualified requesters of records are typically entitled to receive these records without redaction. They do not fall under other categories of record exempted under subsection 55(4), and I have determined that the Respondent's stated concern that

PIPEDA prohibits it from disclosing records that might contain "an employee's name, age, income and address," does not apply. As such, I find there are no grounds for submitting these records to a review for redaction; and since, again, the Respondent's response indicates no fee for providing copies of the record electronically, no fee should be charged to the Applicant for doing so.

d. Copies of the corporation's current insurance policies, including Directors and Officers liability insurance.

The Respondent estimates that its solicitor would require 0.4 hours to review these records, which consist of 2 pages, resulting in an estimated fee of $52. The Applicant correctly notes that any person who requests a status certificate of the corporation is entitled to a copy of a certificate or memorandum of insurance for each of the Respondent's current insurance policies. She also points out that the notice package sent to all owners and mortgages for the Respondent's 2019 annual general meeting included unredacted copies of these records. For the Respondent's part, it admitted that "it is less likely that there will be necessary redactions to the insurance policies," but asserted that the review had to be done anyway simply because the Applicant had included these records in its request. As my findings above indicate, this assertion is not reasonable. Again, there is no justification for a review for redaction of these records, and the Respondent again indicates no fee for providing copies of them electronically.

[35] As a result of the foregoing, the Applicant, who the Respondent had already affirmed is entitled to receive all the records she requested in electronic format, is also entitled to the same without payment of any fee.

[36] I note that the Respondent would have been entitled to charge a fee for the production of the electronic copies of these records, if there was any actual cost incurred for that work. I presume that not setting out a fee for that work in its response to the Applicant's request was a matter of honesty on the Respondent's part and it can be commended for that.

[37] I also wish to point out that the foregoing analysis and my conclusions are not intended to suggest that the Respondent cannot still submit all of the requested records to its solicitor for review for redaction, if the board of directors wants, or believes it is appropriate or desirable, to do so. This is within the range of its discretion. However, my conclusion is that charging the requester of records a fee for that work, when there is no clear justification for it in reference to subsection 55(4) of the Act and having regard to such factors as the nature and likely content

of the records in question, does not constitute a reasonable fee.

ISSUE 3. Should there be any award of costs or a penalty in this case?

[38] Both parties were asked to make submissions as to costs and penalties in this case.

[39] The Respondent submits that no costs order should follow in this case, as the Respondent has already incurred significant legal costs that are not generally recoverable at the Tribunal. Further, counsel for the Respondent submits that each party participated in the process in a timely and respectful manner, which is also my observation. Neither party conducted itself in any way that would ordinarily attract costs over and above costs that follow the event.

[40] Respondent's counsel also submits that there should be no penalty under clause 1.44(1)6 of the Act in this case, as the Respondent did not refuse to produce the requested records, but simply has not done so till now because the Applicant has not paid the estimated fee in order to obtain them, as the provisions of the Regulation set out.

[41] The Applicant did not make specific submissions in regard to either costs or a penalty, but did complain that the Respondent's estimate of fees for production of the records was egregious. I am also conscious of the suggestion in her submissions that charging excessive fees could be a strategy intended to prevent a unit owner from going through with a request for records, which could amount to an effective refusal.

[42] Nevertheless, I do not believe a penalty is warranted in this case. The evidence in this case does not lead me to believe that the Respondent intended to refuse to provide the Applicant with the requested documents. It appears plausible that the board genuinely believed it was required to submit the records for review and redaction by the corporation's solicitor, and established its fees for this work accordingly, with the intention of setting them at a rate which had already been found by this Tribunal to be reasonable. Although I have determined that the position taken by the Respondent was ultimately not reasonable, this is not a case of an unreasonable refusal to provide records.

[43] As for costs, the Tribunal has discretion under the Act and its rules to make an award of costs for reasons it believes are fair and just. I note that the decision reached above is consistent with the outcome sought by the Applicant. In addition, although the conduct of each party was exemplary throughout these proceedings, it does not appear to me that the Applicant should have had to proceed to the

Tribunal to resolve this case, let alone to have done so twice. Further, the fact that the Respondent has incurred substantial legal costs (a portion of which is, in principle, borne by the Applicant anyway as a unit owner) is not a reason not to make a costs award. With all this considered, I grant an award of costs in the amount of $225 in favour of the Applicant, being the filing fees for this case and the Applicant's original application fee of $25 relating to her March, 2019, request for records.

ORDER

[44] For the reasons set out above, it is hereby ordered as follows:

1. The Respondent shall provide to the Applicant all of the non-core records requested in the Applicant's July 8, 2019 request for records that have not yet been delivered, in electronic format, and at no charge, within 30 days of the date of this decision. For clarity, the following are the requested non-core records that, as of the time of the hearing, had not been delivered:

    a. the Respondent's budgets for each of the following fiscal periods: 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, and 2018-19;

    b. all contracts between the Respondent and the following other entities or service providers, along with the related RFP's and tenders received by the Respondent:

        i. the Respondent's former cleaning companies;

        ii. the Respondent's current cleaning companies;

        iii. Canlight Management Inc.;

        iv. G4S;

    c. all contracts, including service contracts and terms of service, entered into by the Respondent in relation to the purchase and servicing of Concierge Plus and all other computer programs purchased by the Respondent, along with the related RFP's and tenders received by the Respondent;

    d. all contracts of employment for employees of the Respondent; and

    e. the Respondent's current insurance policies, including the Directors and Officers liability insurance;

2. That the Respondent shall pay costs in the amount of $225 to the Applicant within 30 days of the date of this decision.

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Michael H. Clifton
Member, Condominium Authority Tribunal

Released on: May 26, 2020