CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 31, 2025
CASE: 2024-00736R
Citation: Smith v. Peterborough Condominium Corporation No. 38, 2025 ONCAT 127

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

Member: Nasser Chahbar, Member

The Applicant,
Robert Smith
Self-Represented

The Respondent,
Peterborough Condominium Corporation No. 38
Represented by Margaret Rea, Agent

Hearing: Written Online Hearing – February 10, 2025, to June 5, 2025

REASONS FOR DECISION

A. INTRODUCTION

[1] The Applicant is a unit owner in Peterborough Condominium Corporation No. 38 ("PCC 38"). The Applicant made three requests for records on October 4, 2024, November 1, 2024, and December 9, 2024. After the conclusion of Stage 2 – Mediation, the following non-core records remained at issue from each of the three records requests:

a. October 4, 2024: Letter from fire department letter about compliance with Fire Code.

b. November 1, 2024: Written quotations for alarm system upgrades.

c. December 9, 2024: Letter to Canada Revenue regarding past tax filings and a Response from Canada Revenue regarding past tax filings.

[2] Regard the first two records requests, PCC 38 charged a fee of $15 to produce each record which reflected 30 minutes of labour at a rate of $30 per hour. The Applicant argues that this fee was unreasonably high.

[3] As for the records request submitted on December 9, 2024 (the "CRA records"), the Applicant requested "Canada Revenue Agency Form T2 for every year since Babcock and Robinson became managers of this condominium". Babcock and Robinson ("BR") have been PCC 38's condominium management provider since 2000. Though the board has informed the Applicant several times that they and their accountant, Jeff Lingard, have contacted the CRA and are dealing with this matter, the Applicant would like written confirmation and/or correspondence with the CRA to prove that they are in fact engaged in processes to handle this matter. PCC 38 argues that no record of this type exists.

[4] For the reasons set out below, I find that PCC 38 did not refuse to provide the records without a reasonable excuse and that their actions do not warrant a penalty. I also dismiss the Applicant's claim disputing the fees charged to produce the records due to the minor nature of the minimal costs related to these records requests. Since the Applicant's claims were unsuccessful, I make no order for costs.

B. BACKGROUND

[5] This is not the first time these parties have been before the CAT. In fact, this is the eighth records case between the parties, two of which resulted in a Stage 3 – Tribunal Decision and one was dismissed because the issues were too minor to warrant a hearing. Based on each party's submissions, the issues in this case extend beyond those related to records and are the result of continuous acrimony between the parties.

[6] In addition, the Applicant made several submissions relating to previous records requests from previous cases. The parties were informed several times that I will only be considering evidence relevant to my analysis of the current issues to be decided.

C. ISSUES & ANALYSIS

[7] This issues to be addressed in this hearing are:

1. Is the Applicant entitled to receive copies of the requested records, and if so, is PCC 38 entitled to charge a fee to produce the records? Was the fee charged to produce the records reasonable?

2. Should PCC 38 be required to pay a penalty under s. 1.44 (1)6 of the Condominium Act, 1998 (the "Act") for failure to provide the Applicant with the records requested without reasonable excuse, and if so, in what amount?

3. Should the Applicant be awarded any costs?

Records Requests dated October 4, 2024, and November 1, 2024

[8] In October 2024, PCC 38 was advised that its fire alarm system needed to be upgraded after a fire inspection was conducted. The Applicant alleges that PCC 38 hired a different company to change the alarms, rather than "using the company which had satisfactorily serviced our alarm system for years". On October 4, 2024, the Applicant requested a copy of the letter that PCC 38 received from the fire department regarding the inspection. On November 1, 2024, the Applicant also requested a copy of all "written quotations for alarm system upgrades".

[9] PCC 38 responded to the Applicant's records requests within 30 days using the prescribed Board response form. PCC 38 approved the Applicant's requests and noted that the records existed in electronic format. They also requested $15 in labour charges at a rate of $30 per hour to produce the records. The Applicant claims that this amount was unreasonably high as "the responses themselves were emailed to me as attachments and attaching other documents is a matter of seconds, not half an hour each."

[10] The Applicant further alleges that during both Stage 1 – Negotiation and Stage 2 – Mediation, PCC 38 clarified that the records did not exist in electronic format at the time of the request. The Applicant provided an email screenshot from PCC 38's condominium manager, Margaret Rea, where she explains that she checked off the box that indicated the records were available electronically because they would eventually be transferred to such a format.

[11] The Applicant further indicated that he checked off the box to receive the records in paper copy if they were not available electronically, and that he would have willingly paid the associated fees (which he claims would have been less according to the Condominium Authority of Ontario's (CAO) standards) to produce the records. Even if the Applicant is correct that the records were still in paper format at the time of the request, there would have still been labour and photocopying charges to produce the records. The difference between what the Applicant was charged and what he believes he should have been charged if he initially received the records in paper copy is likely minimal.

[12] The Applicant continued to reference past cases where he accuses PCC 38's board of directors and condominium manager of making false statements and engaging in acts of misrepresentation. Whether the condominium manager's original response to the records request was inaccurate, the Applicant proceeded to file a case with the Tribunal to dispute the issue of a $15.00 fee to produce the

records they requested. I find this to be disproportionate and not a good use of Tribunal resources.

[13] The Applicant filed another recent case (*Smith v. Peterborough Condominium Corporation No. 38*, 2025 ONCAT 86) on this exact issue, which was subsequently dismissed based on Rule 19.1 (a) of the CAT's Rules of Practice which allows the CAT to dismiss a case when the "issues that are so minor that it would be unfair to make the Respondent(s) go through the CAT process to respond to the applicant(s)'s concerns." Given that I find the minimal charge requested to be reasonable in light of the facts before me and the very minor nature of this dispute, I dismiss the Applicant's case on this issue.

Records Requests dated December 9, 2024

[14] The Applicant requested records related to the filing of PCC 38's Canada Revenue Agency (CRA) tax returns ("the T2s") from the year 2000-2021. The Applicant claims that the board admitted that the T2s had never been filed and that their accountant, Mr. Jeff Lingard was instructed to contact the CRA regarding this matter. The Applicant alleges that he followed up with Mr. Lingard several times to which he received no response.

[15] The Applicant then contacted CRA directly to inquire about whether they had received any correspondence about the T2s. The Applicant claims that an agent from the CRA phoned him and said that they could not find anything related to this matter and instructed the Applicant to retrieve the case number from Mr. Lingard. The Applicant then contacted Mr. Lingard to retrieve the case number but was denied access to it when Mr. Lingard stated it was his company's policy that they only communicate with the corporation's condominium management company.

[16] In her witness statement, current board president Kathy Kemp stated that she herself contacted the CRA to speak with them regarding this matter and has worked directly with Mr. Lingard throughout the process. PCC 38 also stated that these matters were addressed at an owner's meeting held on February 21, 2024, which was distributed to all owners. They also affirmed that their board president contacted CRA regarding this matter and "to date, we have not received anything in writing".

[17] It is clear that the Applicant does not trust the board and their claims that they and their accountant have contacted the CRA and are dealing with the filing of PCC 38's previous T2s. Whether the Applicant trusts the board or not, I have no reason to conclude that the board is not telling the truth about contacting the CRA regarding the T2s, and that they currently have nothing in writing from the CRA to

prove to the Applicant that they are in fact taking steps to deal with this matter. There is no evidence before me to suggest that the Respondents are intentionally withholding any records related to sorting out PCC 38's tax issues with the CRA. Therefore, I cannot order PCC 38 to provide a record that, based on the evidence, does not exist.

Should PCC 38 be required to pay a penalty under s. 1.44 (1)6 of the Act for failure to provide the Applicant with the records requested without reasonable excuse, and if so, in what amount?

[18] The evidence before me does not support a finding of a refusal to provide the records without a reasonable excuse. PCC 38 accepted the Applicant's first two records requests and replied using the mandatory Board response form within 30 days of the request. The Applicant may disagree with the fees charged to produce these two records, but the nature of the minimal fees charged does not amount to an unreasonable refusal which warrants a penalty. It is true that in past cases, charging unreasonable fees to produce records effectively resulted in an unreasonable refusal to provide the records. However, this case is not one of them.

[19] Regarding the CRA regards, as I have found that no record exists, there is no refusal and therefore no penalty is warranted.

Costs

[20] The Applicant requested $200 in costs for their Tribunal application fees. The Respondent did not request any costs. Rule 48.1 of the Tribunal's Rules of Practice states that a successful party is entitled to a reimbursement of the Tribunal fees unless the Tribunal orders otherwise.

[21] The Applicant in this case was unsuccessful. Therefore, I find that they are not entitled to any costs.

D. CONCLUSION

[22] Given than this is the eighth case between the parties before this Tribunal, and the Applicant's lack of success here, it is my hope that the Applicant and Respondent attempt to resolve their issues more responsibly before the Applicant hastens to file a case with the Tribunal.

E. ORDER

[23] The Applicant's case is dismissed without costs.

Nasser Chahbar
Member, Condominium Authority Tribunal

Released on: July 31, 2025