

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** August 19, 2025

**CASE:** 2024-00767R

**Citation:** Gruszewski v. Niagara North Vacant Land Condominium Corporation No. 317, 2025 ONCAT 140

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

**Member:** Nasser Chahbar, Member

**The Applicant,**

Bill (Bolek) Gruszewski

Self-Represented

**The Respondent,**

Niagara North Vacant Land Condominium Corporation No. 317

Represented by Conrad Eidt, Agent

**Hearing:** Written Online Hearing – February 21, 2025 to July 11, 2025

### **REASONS FOR DECISION**

**A. INTRODUCTION**

- [1] The Applicant is a unit owner in Niagara North Vacant Land Condominium Corporation No. 317 (“NNVLCC 317”). On October 22, 2024, the Applicant submitted a records request for the following records:
  - 1. All board meeting minutes from January 1, 2024 – October 22, 2024
  - 2. Any section 98 agreements from January 1, 2024 – October 22, 2024
- [2] After receiving no response to his records request, the Applicant was required to file his case with the Tribunal. This case proceeded directly to Stage 3 – Tribunal Decision as a default proceeding, at which time NNVLCC 317 joined the case. NNVLCC 317 satisfied the Applicant’s records request during Stage 3 – Tribunal Decision. The Applicant is seeking costs for their Tribunal fees and requests the Tribunal to impose a penalty against NNVLCC 317 in the amount of \$2,000 under s. 1.44 (1) 6 of the *Condominium Act, 1998* (the “Act”) for refusing to provide the records without a reasonable excuse. The Applicant also requested that I order

NNVLCC 317's board members to refresh their training by retaking the Condominium Authority of Ontario's (CAO) mandatory director training course. The Applicant also asked the Tribunal to ensure that NNVLCC 317 does not increase his monthly condominium fees to effectively make him pay a portion of the costs and penalty if one is imposed.

[3] For the reasons set out below, I find that the delay the Applicant experienced in receiving the records amounted to a refusal to provide the records without a reasonable excuse. As a result, I assess a penalty of \$800, and I order NNVLCC 317 to reimburse the Applicant \$150 for his Tribunal fees. I will not order NNVLCC 317's board members to retake the CAO's mandatory director training course. As for the Applicant's final request, I have no basis to consider whether NNVLCC 317 would increase his monthly condominium fees to directly or indirectly account for any costs incurred in this case. Therefore, I make no orders on this issue.

**B. BACKGROUND**

[4] Conrad Eidt is the condominium manager and representative for NNVLCC 317 in this case. During Stage 3 – Tribunal Decision, Mr. Eidt participated sporadically throughout the hearing process. At the outset of the case, he did not respond to any of my messages or instructions. After several messages from myself and Tribunal staff prompting his participation, Mr. Eidt responded by stating that he was resigning from his position as the condominium manager and will no longer be involved in this case.

[5] A few weeks later, Mr. Eidt clarified that he was not resigning and that he would fulfill the Applicant's record's request. He did not follow my further instructions, and he did not respond to any of my messages for the remainder of the hearing. The records were subsequently provided to the Applicant and as such, the only issues that remain for me to decide are the issues of costs and whether a penalty is warranted in this case.

**C. ISSUES & ANALYSIS**

[6] The issues to be addressed in this case are:

1. Has the Respondent refused to provide records to the Applicant without a reasonable excuse? If so, what is the appropriate remedy, and should the Tribunal assess a penalty under s. 1.44 (1) 6 of the Act?
2. Is the Applicant entitled to costs?

**Has the Respondent refused to provide records to the Applicant without a reasonable excuse? If so, what is the appropriate remedy, and should the Tribunal assess a penalty under s. 1.44 (1) 6 of the Act?**

- [7] Section 1.44 (1) 6 of the Act states that the Tribunal may order a condominium corporation to pay a penalty if the Tribunal finds that the corporation has, without a reasonable excuse, refused to permit a person to examine or obtain copies of records.
- [8] The Tribunal has found that in some instances, a delay in providing records may amount to a refusal to provide records without a reasonable excuse. Based on the Applicant's evidence and submissions, I find that he experienced significant delay in receiving the requested records. The Applicant filed his request in late October 2024 and did not receive the records until March 2025 after he filed his application with the Tribunal, over five months later.
- [9] While waiting for a response from NNVLCC 317, the Applicant inquired about the records in January 2025, and a board member emailed the Applicant and stated that they had no issue in approving the records request and providing the records. However, no records were provided to the Applicant thereafter. Therefore, I find that NNVLCC 317's delay in providing the records amounted to a refusal to provide the records without a reasonable excuse.
- [10] One of the purposes of assessing a penalty is to deter future similar action when it comes to fulfilling records requests. In this case, there was no dispute over entitlement to the records. NNVLCC 317 offered no explanation as to why the records were not provided to the Applicant. NNVLCC 317 failure to fulfill the Applicant's records request for over five months constituted a direct breach of the Act and showed a clear disregard of their obligations under the Act. These are actions that should not be repeated when processing future records requests.
- [11] Based on the facts before me in this case, I find a moderate penalty of \$800 to be appropriate to encourage NNVLCC 317 to meet its obligations under the Act going forward.

**Is the Applicant entitled to costs?**

- [12] Rule 48.1 of the Tribunal's Rules of Practice states:

If a Case is not resolved by Settlement Agreement or Consent Order and a CAT Member makes a final Decision, the unsuccessful Party will be required to pay the successful Party's CAT fees unless the CAT member decides otherwise.

[13] The Applicant was successful in this case and therefore, I order NNVLCC 317 to reimburse his full Tribunal fees of \$150 (\$25 for the filing fee and \$125 for Stage 3 – Tribunal decision). I will not order NNVLCC 317's board members to retake the CAO's mandatory director training course as I do not have enough evidence or submissions on this matter to determine whether such a remedy would be appropriate in this case. However, I strongly encourage NNVLCC 317's board members to fulfill their obligations under the Act, especially when it comes to records requests.

[14] The Applicant also asked that the Tribunal ensure that NNVLCC 317 does not increase his monthly condominium fees in order to make him pay a portion of any costs or a potential penalty. The Applicant did not provide any submissions to support this allegation. As a result, I have no basis to assess whether NNVLCC 317 would take such an action, and I make no determination in this regard.

**D. ORDER**

[15] The Tribunal orders that:

1. NNVLCC 317 will pay a penalty to the Applicant in the amount of \$800 under s. 1.44 (1) 6 of the Act within 15 days of the date of this decision.
2. NNVLCC 317 will pay the Applicant \$150 for their Tribunal fees within 15 days of the date of this decision.

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Nasser Chahbar  
Member, Condominium Authority Tribunal

Released on: August 19, 2025