



May 2014

Morley v. London Condominium Corporation No. 2 [2014] HRTO 371

A unit owner within the Condominium, applied to the Human Rights Tribunal of Ontario alleging that the Condominium had violated confidentiality provisions within previously executed Minutes of Settlement. The Minutes of Settlement arose from an application brought by the unit owner alleging that limitations on access to her unit constituted discrimination.

The unit owner alleged that the Condominium violated the confidentiality clause within the Settlement in the following ways: 1) by circulating a newsletter prior to the annual general meeting (“AGM”) which disclosed that an entrance ramp was installed at the unit, that the Human Rights legal matter was resolved, and that the Corporation was able to recover its costs; and 2) by including the AGM minutes from 2012 in a meeting package which made reference to the Human Rights lawsuit, the party who brought it, and the amount of damages claimed. The Condominium claimed that the confidentiality clause referred specifically to disclosure by the unit owner, and therefore did not apply to the Condominium. As a result, the Court had to determine the following issues: 1) Whether the confidentiality clause applied to the Condominium; and 2) If it did apply, whether the Condominium violated it by circulating the newsletter and the meeting minutes?

Upon an analysis of the Minutes of Settlement as a whole, the Court determined that both parties were in fact prohibited from disclosing the content of the settlement. Further, the Court determined that because the information contained in the newsletter indirectly disclosed the terms of the settlement, the Condominium did in fact violate the confidentiality clause. With respect to the circulation of the AGM minutes, the Court concluded that since the Settlement did not specifically prohibit the parties from disclosing the fact that litigation was commenced, and the remedy sought, the Condominium did not violate the confidentiality provision in this regard. However, the Court did award the unit owner \$1,000.00 as a result of the finding that the Condominium had violated the confidentiality clause by circulating the newsletter.

Bottom Line: This case may provide some guidance when disclosing unit owner information. Specifically, condominiums should err on the side of caution when disclosing information or records to other unit owners that may reference specific unit numbers, unit owner names, or settlement terms resulting from mediation or litigation. Overall, it appears that condominiums must delicately balance the need to keep unit owners informed about the condominium’s affairs, against any disclosure restrictions that may be contained in the *Act* or specific settlement documentation. This case hopefully gives greater insight into section 55(4)(c) of the *Condominium Act, 1998*, in that unit owner information should be carefully protected at all times.

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