

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: February 4, 2026

CASE: 2025-00165R

Citation: Di Iorio v. Toronto Standard Condominium Corporation No. 2227, 2026 ONCAT 11

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

Member: Nicole Aylwin, Vice-Chair

The Applicant,

Anthony Di Iorio

Represented by Pulat Yunusov, Counsel

The Respondent,

Toronto Standard Condominium Corporation No. 2227

Represented by Inderpreet Sandhu, Counsel

Hearing: Written Online Hearing – October 6, 2025 to January 8, 2026

REASONS FOR DECISION

A. INTRODUCTION

- [1] The Applicant, Anthony Di Iorio, is a unit owner of the Respondent, Toronto Standard Condominium Corporation No. 2227 (“TSCC 2227” or the “corporation”). On December 6, 2024, Mr. Di Iorio submitted a request for records to TSCC 2227. He submits that TSCC 2227 has refused to provide him records to which he is entitled without a reasonable excuse. He further submits that some of the records he has received have been overly redacted and that he has been charged an unreasonable fee to produce others. He has asked the Tribunal to award him a penalty under s. 1.44 (1) 6 of the *Condominium Act, 1998* (the “Act”) in the maximum amount of \$5,000 and damages under s. 1.44 (1) 3 of the Act in the amount of \$1,983.18. He requests that the Tribunal order TSCC 2227 to pay his Tribunal filing fees in the amount of \$200 and his additional legal costs in the amount of \$6,000.
- [2] TSCC 2227 submits that it has provided Mr. Di Iorio with all records to which he is entitled. For those they have not provided, it submits these records do not exist

and/or it was never in possession of them. It further submits all redactions made to the records provided are in accordance with the Act and all fees charged to Mr. Di lorio to deliver records were reasonable and in accordance with the Act.

- [3] For the reasons set out below, I find that Mr. Di lorio has been provided with all the records to which he is entitled, and no records have been refused to him without a reasonable excuse and therefore no penalty is awarded. Additionally, I find that while the corporation was entitled to estimate and charge a fee to provide the non-core records requested, it was not reasonable to have kept the fee once it was realized that the records did not exist and could not be provided. I therefore order TSCC 2227 to reimburse Mr. Di lorio for the amount charged (\$180). I also find that TSCC 2227 has not appropriately redacted its records and order them to review the redacted records and revise them as instructed further in this decision. I award no costs to either party.
- [4] Finally, I note that in final reply submissions, the Applicant's counsel made extensive submissions regarding the admissibility the statements made by Karolina Mierzwa, who was the condominium manager for TSCC 2227 at the time of the request. Counsel argued her statement contained several instances of hearsay and legal opinion. While I have considered all of Counsel's arguments on these points, I will not address each one. In this decision, I address them only to the extent that they are germane to the issues I have to decide. Further, while I have reviewed all for the evidence and submissions provided by the parties, I refer only to those necessary in this decision.

B. BACKGROUND

- [5] On December 6, 2024, Mr. Di lorio delivered a records request to the corporation, wherein he requested the following core (#1-9) and non-core (#10-13) records:
1. Records of owners and mortgagees,
 2. Records of notice related to leases of units under s. 83 of the Act,
 3. Periodic Information Certificates ("PICs") from the past 12 months,
 4. Budget for the corporation current fiscal year, including any amendments,
 5. Most recent approved financial statements,
 6. Most recent auditors report,
 7. The current plan for future funding of the reserve fund,

8. Mutual use agreements,
9. Minutes of meetings held within the last 12 months,
10. All existing and expired warranties and guarantees the corporation receives and that relate to all building elevators and elevator security systems,
11. As built architectural structural engineers, mechanical, electrical plans of all building elevators and elevator security systems,
12. As-built specification indicating all substantive changes, if any, from the original specifications of all building elevators and elevator security systems,
13. Any record of the building elevator manufacturer and controller model number and security system make and model number.

[6] On January 7, 2025, TSCC 2227 responded to the request through Ms. Mierzwa, who sent Mr. Di Iorio the board response forms (two were sent: one that addressed the core records and one that addressed the non-core records). The response forms indicated that TSCC 2227 would allow the examination of all core records and would provide the non-core records for the fee as listed on the response form.

[7] The parties agree that the response was delivered one-day after the prescribed 30-day timeline set out by s. 13.3 (6) of Ontario Regulation 48/01 (“O. Reg. 48/01” or the “Regulation”) and despite indicating they would provide all of the core records, the corporation did not provide the following records (the reasons for these omissions are discussed later in this decision):

1. The July 2024 PIC,
2. The current fiscal year budget,
3. Mutual use agreements,
4. Most recent approved financial statements.

[8] The corporation also failed to provide an accompanying statement as required by s. 13.8 (1) (b) of O. Reg. 48/01, outlining reasons for redactions and the provisions of the Act or Regulation that it was relying on for each redaction.

- [9] On February 6, 2025, Mr. Di Iorio wrote to Ms. Mierzwa to raise several concerns regarding the corporation's response. He asked Ms. Mierzwa why the corporation had not provided the four records listed in paragraph 7. He also requested clarification about the estimated fee. The response form indicated that to provide each non-core record (i.e. the elevator records) the fee would be \$45. Mr. Di Iorio inquired as to whether the total fee for all the non-core records combined was \$45 or whether the corporation was charging \$45 per record.
- [10] Ms. Mierzwa acknowledges that she received this email from Mr. Di Iorio and wrote back to him to tell him she would investigate and respond to his concerns shortly. However, she admits that shortly after doing so she misplaced his email and did not follow up as intended.
- [11] Mr. Di Iorio waited until March 18, 2025. When he did not hear back from Ms. Mierzwa, he submitted his acceptance of the fees quoted. The evidence shows that on March 24, 2025, Mr. Di Iorio received an email from Ms. Mierzwa that attached a letter dated January 8, 2025. The letter explained that the total estimated fee for providing the non-core records he was requesting was a total of \$180 plus HST. Despite the letter being dated January 8, 2025, there is no evidence that this letter was sent to Mr. Di Iorio prior to March 24, 2025.
- [12] According to Mr. Di Iorio, on April 3, 2025, \$180 was debited from his bank account using the pre-authorized withdrawal agreement for his monthly contribution to the corporation's common expenses.
- [13] On April 10, 2025, Ms. Mierzwa emailed Mr. Di Iorio several records pertaining to the elevators. These records were:
1. Elevator upgrade order agreement, March 20, 2013,
 2. TSSA inspection report, September 9, 2016,
 3. TSSA inspection report, April 5, 2017,
 4. Elevator maintenance agreement, May 1, 2024.
- [14] On April 16, 2025, Mr. Di Iorio wrote to Ms. Mierzwa indicating that the records provided did not fulfill his request and he repeated his request for the elevator records in the identical language set out in his initial records request form.
- [15] At this point, Mr. Di Iorio had already filed this Tribunal application and in his email to Ms. Mierzwa he reminded her to have the corporation join the case.

[16] Finally, according to Ms. Mierzwa, when Mr. Di Iorio filed the Tribunal application and thereafter, it became clear to the corporation that several records to which Mr. Di Iorio was entitled had not been provided to him. On July 10, 2025, Ms. Mierzwa sought to rectify this mistake by providing Mr. Di Iorio with the July 2024 PIC, the auditor's report and the accompanying statement for the redactions made to the board meeting minutes. She also at this time explained to Mr. Di Iorio that she had not provided any mutual use agreements as there were none to provide.

C. ISSUES & ANALYSIS

Issue No. 1: Did the Respondent reply to the Applicant's request for records in accordance with the Act?

[17] Mr. Di Iorio submits that TSCC 2227 failed to respond to his request for records in accordance with several provisions of the Act. He argues that it responded late to his request (by one day), did not provide the required accompanying statement for the redactions (until later during these proceedings), only provided some of the core records requested and provided none of the non-core records requested even though a fee was charged to produce them. Mr. Di Iorio argues that while two of these breaches were minor (the lateness and lack of accompanying statement), when all of them are put together they support a claim that the Respondent did not take its legal obligations seriously and he has asked me to make such a finding.

[18] I am not prepared to do so as the evidence does not support such a conclusion. Rather, what it demonstrates is that several errors were made by the corporation's agent which, when added together, do demonstrate a pattern of carelessness that is not condoned. For example, the evidence of Ms. Mierzwa, is, and I quote from her statement:

1. The July 2024 PIC was authorized to be delivered by the Board but inadvertently not produced,
2. The current fiscal year budget was authorized to be delivered by the Board but inadvertently unanswered in the response form and not produced,
3. Mutual use agreements were authorized to be delivered by the Board but not produced because no such agreements exist,
4. The most recent approved financial statements and auditor's report were authorized to be delivered by the Board but inadvertently not produced, and
5. The explanation document for the redactions made to the Board meeting

minutes was prepared but inadvertently not produced.

- [19] While a corporation may choose to have a condominium management service provider deal with records requests, the ultimate oversight is the board's. It is incumbent on the corporation to ensure that records requests are responded to in accordance with the Act. The fact that a corporation may choose to delegate the labour of the records request process to a condominium manager does not absolve the corporation of its responsibilities.
- [20] However, in this case, the evidence shows that the board did consider the request and gave appropriate instructions to the manager. While the corporation is expected to have oversight and to bear responsibility for any mistakes, in this case, it was not unreasonable to have assumed that the manager would carry out her duties and provide the records as per the board's instructions. Additionally, some of the mistakes made were minor and all of them rectified when discovered. Thus, in this case, I am not prepared to find that the corporation did not take its legal obligations seriously, however I strongly encourage TSCC 2227 to pay more careful attention to its obligations and to ensure that responses to records requests are made accordance with the Act.
- [21] Finally, to the extent that any of these identified errors impact the other issues in this case, I address them, as appropriate, under the relevant issues below.

Issue No. 2 Has the Respondent provided the Applicant with all the records to which he is entitled?

- [22] Mr. Di Iorio submits that he has still not been provided with all the records to which he is entitled. He maintains that the corporation has continued to refuse to him the requested mutual use agreements and records related to the elevator.

Mutual Use Agreements

- [23] Some context is helpful to understand the request for the mutual use agreements and the corporation's response. TSCC 2227 is connected to a neighbouring condominium property by a tunnel that links the two properties' garages. Without getting into details that are not relevant to the issues, it is sufficient to say that Mr. Di Iorio has an interest in how this tunnel is repaired, maintained and operated. For this reason, Mr. Di Iorio requested any mutual use agreements held by the corporation. He takes the position that because this tunnel is shared between the two corporations, there must be a mutual use agreement that governs its repair and maintenance.

- [24] According to TSCC 2227, the corporation does not have any mutual use agreements and has never had any such agreements.
- [25] I can appreciate why there may be some confusion around this record. When TSCC 2227 initially replied to Mr. Di Iorio's request for records the response form indicated that the board had determined that he could examine a copy of the record and indicated the record was kept by the corporation in electronic format. It was only on July 10, 2025, when Ms. Mierzwa finally responded to Mr. Di Iorio's queries about the missing records, that he was told that the corporation had no such agreements. At this time, Ms. Mierzwa pointed Mr. Di Iorio toward the corporation's declaration which she indicated may assist him. She provided no further details.
- [26] As part of its evidence, TSCC 2227 submitted its declaration which outlines the easement and right of access to the tunnel created at registration. It submits that this easement does not constitute a mutual use agreement under the Act. It further submits that it has sought to verify the absence of mutual use agreements and demonstrate their non-existence to Mr. Di Iorio through a title search of a random parcel register which confirmed there were no such agreements on title.
- [27] Mr. Di Iorio insists that there must be a mutual use agreement governing this tunnel. He submits the corporation is using semantics to deny him the record. For example, he points to the fact that Ms. Mierzwa in her email response to him wrote, "this corporation does not have **direct** mutual agreements." (my emphasis) He claims that the use of the term "direct" suggests there may be a document that governs the repair and maintenance of the tunnel but is not technically a "mutual agreement" and the corporation is trying to keep this document from him.
- [28] As Mr. Di Iorio points out, mutual use agreements are not required to be registered on title therefore a parcel register search may not establish that such an agreement does not exist. However, it also does not prove that one does exist. Ms. Mierzwa has very clearly stated on the record, that to her knowledge there are "no mutual use agreements to provide" and that her use of the term "direct" was used in the hopes of clarifying that the corporation was not party to any agreement governing shared facilitates or reciprocal use arrangements with any other property. Mr. Di Iorio may believe it would be best practice for the corporation to have a mutual use agreement governing the repair and maintenance of the tunnel, but this does not change the fact that there is no evidence that such an agreement exists. The corporation cannot provide a record that does not exist.

Elevator Records

[29] As previously noted, Mr. Di Iorio requested the following records related to the elevators in the building:

1. All existing and expired warranties and guarantees the corporation receives and that relate to all building elevators and elevator security systems,
2. As-built architectural structural engineer's, mechanical, electrical plans of all building elevators and elevator security systems,
3. As-built specification indicating all substantive changes, if any, from the original specifications of all building elevators and elevator security systems,
4. Any record of the building elevator manufacturer and controller model number and security system make and model number.

[30] According to Mr. Di Iorio, he requested these records due to some ongoing concerns he has had regarding the elevator security system and the operation of the elevator.

[31] In response to his request TSCC 2227 provided:

1. Elevator upgrade order agreement, March 20, 2013
2. TSSA inspection report, September 9, 2016
3. TSSA inspection report, April 5, 2017
4. Elevator maintenance agreement, May 1, 2024.

[32] The email that accompanied these records read, "Please find attached all of the records we have from your non-core request".

[33] TSCC 2227 does not dispute Mr. Di Iorio's entitlement to the records he requested, rather it submits that it has provided all records it has in relation to his request. It asserts that it advised him of this when they sent him the records. It further submits that it has never had in its possession any other records related to this request, including the requested warranties and as-built specifications as these were never turned over by the declarant. Finally, TSCC 2227 submits that it only realized it was not and was never in possession of the records when they were requested and could not be located.

[34] Mr. Di Iorio asserts that TSCC 2227 has presented no evidence that shows conclusively that the records were not turned over to the corporation by the declarant. He further argues, that even if that is the case, pursuant to the Act and the corporation's by-laws they are required to keep the records he requested and, if they do not have them, this amounts to a failure to keep adequate records as per s. 55 (1) of the Act. He submits that the corporation ought to have searched the elevator room for any related records and contacted the declarant or any vendors to ask for the records. He submits that failure to do so is a breach of the Act.

[35] Section 55 (1) sets out the records a corporation is required to keep. Section 55 (1) 11 states a corporation shall keep, "All other records as prescribed" and s. 55 (1) 12 mandates a corporation shall keep "Any additional records specified in the by-laws of the corporation."

[36] Section 13.1 (1) of O. Reg. 48/01 sets out the "other records as prescribed" these include:

8. A copy of all existing and expired warranties and guarantees that the corporation receives and that relate to the property or to any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.

...

10. All drawings and plans that the corporation receives and that relate to physical features of the property or of any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.

[37] Further, "Article III – Records" of the corporation's by-laws specifies that:

The corporation shall keep and maintain all records required by s. 55 of the Act, including the following:

...

(m) all existing warranties and guarantees for all equipment, fixtures and chattels included in the sale of either the units or common elements that are not protected by warranties and guarantees given directly to a unit purchaser;

(n) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;

(o) the as-built specifications indicating all substantive changes, if any, from the original specifications;

(p) all existing plans for underground site services, site grading, drainage and landscaping, and television, radio or other communication services;

(q) all other existing plans and information that are relevant to the repair or maintenance of the property;

[38] I accept that if the corporation had the records requested by Mr. Di Iorio or at any time had been in possession the warranties and/or as built drawings requested records, that the corporation may have been required to keep them, maintain them and provide them on request (keeping in mind the retention periods set out in s. 13.1 (2) of O. Reg. 48/01).

[39] However, there is no evidence before me that these records were ever received or in the possession of the corporation. In her sworn statement, Ms. Mierzwa states that to her knowledge, the corporation has never had any other elevator-related records in its possession and that she does not believe that legally the corporation can be asked to provide records that don't exist and/or not in the corporation possession.

[40] Mr. Di Iorio argues that no weight should be given to Ms. Mierzwa's statement on this point as she did not work for the corporation at the time of the turn-over, cannot possibly know what was turned over and she is not qualified to give 'opinion' evidence. Even if I do disregard Ms. Mierzwa's statement on this point, the fact remains that there is no evidence before me that allows me to conclude, as Mr. Di Iorio would like, that the corporation ever had or has the records he seeks and is simply not providing them. TSCC 2227 has stated at numerous points in this proceeding that it does not and never had such documents. TSCC 2227 has also provided written confirmation to Mr. Di Iorio of this fact. On August 29, 2025, it provided Mr. Di Iorio with an updated response form in which it confirmed that it did not have the records he sought. TSCC 2227 argues that this written confirmation is in line with remedies this Tribunal has ordered when there is doubt about the existence of specific records.¹

[41] Regarding Mr. Di Iorio's request for "any record of the building elevator manufacturer and controller model number and security system make and model number" this appears to be more of a request for information than any specific

¹ See *McCoy v. Simcoe Condominium Corporation No. 119*, 2024 ONCAT 41

record(s) and I note that s. 55 (3) of the Act does not set out entitlement to information, but the examination of records. Nonetheless, TSCC 2227 did attempt to be responsive generally to his request by providing records related to the maintenance and repair of the elevator that it did have.

[42] In summary, there is no evidence, aside from Mr. Di Iorio's assertions, that additional elevator records exist and/or are in the possession of the corporation. Given the evidence before me, I accept that on the balance of probabilities, the corporation likely did not receive the records requested from the declarant and I accept that the corporation has no further elevator records related to Mr. Di Iorio's request.

[43] This finding leaves me to address Mr. Di Iorio's second argument, that the failure to have, keep and maintain such records amounts to a failure to keep adequate records under the Act.

[44] Section 55 (1) of the Act requires a corporation to keep all records that are prescribed, but the language in s. 13.1 (1) 8 and 10 of O. Reg. 48/01 is specific. In both instances it says that the corporation should keep the records "it receives." The inference is that if the corporation has not received those records, it cannot be required to keep or maintain them. Therefore, I am not persuaded that the absence of these specific records amounts to inadequate record keeping.

Issue No. 3: Has the Respondent refused to provide records to the Applicant without a reasonable excuse? If so, should a penalty be assessed and in what amount?

[45] Section 1.44 (1) 6 of the Act allows the Tribunal to assess a penalty against a corporation if it finds that the corporation has refused, without a reasonable excuse, to provide an owner with records to which they are entitled.

[46] Mr. Di Iorio has requested that I assess the maximum penalty of \$5,000 against the corporation for refusing to provide the elevator records and the mutual use agreements to him without a reasonable excuse. A penalty can only be assessed if records are found to have been refused without a reasonable excuse. In this case, I have not found that the mutual use agreement or the elevator records were refused. Thus, there is no basis on which to award the penalty as requested.

Issue No. 4: Has the Respondent redacted the records provided in accordance with the Act? If not, what is the appropriate remedy?

[47] Mr. Di Iorio takes the position that TSCC 2227 has overly redacted the board

meeting minutes that were provided to him; specifically, the minutes for board meetings held on January 5, 2024, July 18, 2024, and September 30, 2024. For each of these dates, Mr. Di lorio received two sets of minutes: the regular board meeting minutes and a set of “in-camera” minutes.

[48] At the top of each set of in-camera minutes there is a paragraph preceding the minutes that reads:

This in camera document contains confidential, sensitive and/or personal information and in accordance with *The Privacy Act* and the *Condominium Act, 1998*, (Section 55(4) (c)) records relating to specific units or owners) is [sic] to be filed separately from the minutes of the board meetings and may be read only by Directors, Officers, Management staff, professionals and those persons whom the Directors may authorize.

[49] The remaining contents of all three sets of minutes, save for a couple of paragraphs that relate directly to Mr. Di lorio are redacted by being completely blacked out.

[50] Mr. Di lorio argues that in redacting so extensively TSCC 2227 has exceeded the exemptions allowed by s. 55 (4) (c) of the Act. He argues that the corporation should only redact unit numbers and names, and that this should be sufficient to protect the privacy of owners as intended under s. 55 (4) (c). As evidence of this he points to an example in the regular minutes where only a name and unit owner number is redacted. Mr. Di lorio agrees that the corporation is also able to redact any information that relates directly to lawyer-client privilege and litigation privilege, but insists that this should be done narrowly, and it should specifically be indicated when the corporation is relying on s. 55 (4) (c) and/or s. 55 (4) (b) of the Act.

[51] TSCC 2227 argues that Mr. Di lorio is incorrect in his position that only unit names and numbers should be redacted. It submits that the in-camera minutes often contain more sensitive discussions about enforcement, legal actions and confidential owner matters, and for this reason are more heavily redacted than the regular minutes.

[52] This dispute over whether the redactions made are in accordance with the Act is no doubt partly the fault of the corporation which by its own admission “inadvertently” did not send Mr. Di lorio the accompanying statement which detailed the specific sections of the Act that it was relying on to make each redaction. Therefore, the only indication of the reason for the redactions was the non-specific header paragraph that is clearly templated and attached to all the in-camera minutes. However, Mr. Di lorio now has the detailed accompanying

statement, which was provided to him in July 2025, and it was submitted as evidence in this hearing.

[53] Having reviewed the minutes, I agree that they are quite heavily redacted; however, there is no evidence before me that the redactions made are not in accordance with the Act. Subsection 55 (4) (c) reads:

The right to examine or obtain copies of the records under subsection (3) does not apply to,

...

(c) subject to subsection (5) records relating to specific units or owners

[54] The language of s. 55 (4) (c) of the Act does not indicate that only unit numbers and/or names are exempt but “records relating to”. It is possible that more than a unit number and/or name needs to be redacted to protect a unit owner’s privacy. It is not for this Tribunal to determine on a line-by-line basis what ought or ought not to be redacted. The board has some discretion when making these determinations.

[55] At the same time, I find that Mr. Di Iorio’s concern that the redactions may go farther than necessary to comply with s. 55 (4) (c) of the Act is reasonable. The complete redaction of every heading, paragraph and word (other than those that relate to Mr. Di Iorio), suggests that TSCC 2227 has simply blacked out all contents without considering whether some information could be preserved without disclosing private or personal information. I therefore order that TSCC 2227 review and more carefully revise the redacted board meeting minutes and provide the revised record to Mr. Di Iorio at no cost. Redactions made to satisfy s. 55 (4) (c) should be restricted to the information that is considered reasonably likely to identify another owner or unit. TSCC 2227 must also provide a new statement as required by s. 13.8 (1) (b) of O. Reg. 48/01 that explains the reason for each redaction and the indication of the provision under s. 55 of the Act or Regulation being relied on by the board.

Issue No. 5: Was the fee charged for the production of the records reasonable?

[56] Subsection 13.3 (8) of O. Reg. 48/01 sets out the basis on which a fee for records can be charged. Relevant to the issue before me is s. 13.3 (8) 1, which states:

The fee shall be a reasonable estimate of the amount required to reimburse the corporation for the actual labour and delivery costs that the corporation incurs for making the record requested available for examination or for delivering a copy of the record, which costs shall include the printing and

photocopying charges established under paragraph 3 and the actual labour costs that the corporation incurs during the examination.

- [57] Section 13.3 (8) 2 reads “[t]he fee shall be reasonable”.
- [58] In its response form, TSCC 2227 estimated that it would cost \$45 per record to produce the non-core elevator records, for a total cost of \$180. As noted in the background section, although Mr. Di lorio did have some questions about the fee, he agreed to proceed with the request and on April 3, 2025, TSCC 2227 debited his account \$180.
- [59] Mr. Di lorio argues that TSCC 2227 charged him yet failed to produce the records requested, which he asserts is not reasonable.
- [60] TSCC 2227 argues that it is entitled as per *Shoom v York Region Standard Condominium Corporation No. 1090*, 2022 ONCAT 145 (“Shoom”) to charge a fee for searching and locating records – even if they are not produced. It submits that at the time the fee was quoted and collected the corporation did not know whether the requested records existed. Only after it searched did it realize the records were never in the corporation’s possession and never provided by the declarant.
- [61] I do not find that Shoom stands for the proposition that a corporation is entitled to charge for records it does not produce for examination. In Shoom, after admitting the record it initially provided to Mr. Shoom was not what he sought, the corporation agreed to refund Mr. Shoom the fee he paid. The Tribunal then went on to determine what would be a reasonable fee for the production of a wide breadth of emails and service requests that were the records requested. While it is true that one of the factors that Tribunal considered when determining a reasonable fee was the time it might take to search for the records, what distinguishes that case is that the corporation knew there were records to produce in response to the request.
- [62] In this case, TSCC 2227 essentially takes the position that it was reasonable to charge Mr. Di lorio for the time and labour it took to determine the record does not exist and/or establish it is not in its possession. Subsection 13.3 (8) 1 of O. Reg. 48/01 does not indicate that a corporation can charge to determine if a record exists. Presumably, the work of determining whether a record exists and is available for examination is something that should be done prior to responding to a request for records, and the legislation does not contemplate that the person requesting records should pay for that labour. Subsection 13.3 (8) 1 of O. Reg. 48/01 clearly states that a fee can be charged for “actual labour and delivery costs that the corporation incurs for **making the record requested available for**

examination or for delivering a copy of the record". (My emphasis)

[63] Even if I accept that when estimating the fee TSCC 2227 thought it was likely to locate the records and provide them, when it could not produce the records it ought to have refunded him the fee. The Act provides clear guidance on this: s. 13.8 (1) (d) of O. Reg. 48/01 requires a corporation to refund the requestor if the difference between the estimation and the cost of delivering the record is less than estimated. In this case none of the specific records requested were delivered, thus the cost of delivering them was zero. Thus, I find it appropriate in this circumstance for TSCC 2227 to refund Mr. Di lorio the \$180 he paid to receive the records requested.

Issue No. 4: Is the Applicant entitled to compensation for damages?

[64] Mr. Di lorio requested damages in the amount of \$1,983.18 pursuant to s. 1.44 (1) 3 of the Act, which allows the Tribunal to make an order "directing a party to the proceeding to pay compensation for damages incurred by another party to the proceeding as a result of an act of non-compliance". Mr. Di lorio states this amount represents legal fees he incurred "to investigate the respondent's response and communicate with the respondent about its non-compliance."

[65] Notwithstanding the fact that it is unclear what "investigating" was required and/or done, there is no evidence that the fees quoted by Mr. Di lorio flowed from a specific act of non-compliance. I see no grounds for compensation in this case.

Issue No. 5: Is any party entitled to legal costs?

[66] Both parties have requested that the other pay their legal costs. Mr. Di lorio has also requested that TSCC 2227 pay reimburse him \$200 for his Tribunal fees.

[67] Subsection 1.44 (1) 4 of the Act states that the Tribunal may make "an order directing a party to the proceeding to pay the costs of another party to the proceeding."

[68] Subsection 1.44 (2) of the Act states that an order for costs "shall be determined in accordance with the rules of the Tribunal."

[69] The cost-related rules of the Tribunal's Rules of Practice relevant to this case are:

48.1 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.

48.2 The CAT generally will not order one Party to reimburse another Party for legal fees or disbursements (“costs”) incurred in the course of the proceeding. However, where appropriate, the CAT may order a Party to pay to another Party all or part of their costs, including costs that were directly related to a Party’s behaviour that was unreasonable, undertaken for an improper purpose, or that caused a delay or additional expense

[70] An award of costs is at the Tribunal’s discretion. In this case, each side has been partially successful and there was no conduct during the hearing that would give rise to a costs award. Thus, I find it appropriate that each party bear their own costs and fees.

D. ORDER

[71] The Tribunal orders that:

1. Within 30 days of the date of this decision TSCC 2227 reimburse Mr. Di Iorio \$180 for the fees paid to produce the elevator records.
2. Within 30 days of the date of this decision TSCC 2227 is to, at no cost to Mr. Di Iorio:
 - a. review and more carefully revise the redacted, “in-camera” board meeting minutes of January 5, 2024, July 18, 2024, and September 30, 2024, ensuring redactions made under s. 55 (4) (c) of the Act, are restricted to the information that is considered reasonably likely to identify another owner or unit;
 - b. provide the revised record to Mr. Di Iorio in electronic format along with a statement as required by s. 13.8 (1) (b) of O. Reg. 48/01 that explains the reason for each redaction and an indication of the provisions of s. 55 of the Act or the Regulation being relied on.

Nicole Aylwin
Vice-Chair, Condominium Authority Tribunal

Released on: February 4, 2026