



Owners Request for Records

By [Denise Lash](#) on September 09, 2011



What records are unit owners entitled to inspect and how should boards and property management respond?

[Section 55 of the Condominium Act](#) provides some guidance as to what constitutes a "record" and what records owners do not have the right to examine. This section also provides that requests to examine the records shall be made in writing and that the examination shall be at a reasonable time for all purposes "reasonably related to the purposes of the Act. In addition, the person requesting copies of the records is required to pay a reasonable fee to compensate the Corporation for labour and copying charges.

What is unclear is what owners are required to state when they request a record. Are owners required to provide the reason that they are requesting the records so that the Corporation can confirm that request is for a purpose "reasonably related to the purposes of the Act"?

In 2009 the [Court of Appeal of Ontario](#) looked at a unit owner's right to examine the records and found that repeated requests by a unit owner for examination of records which the Corporation (and the lower court) felt constituted harassment, did not mean that the Corporation could prevent this owner from contacting management staff or members of the board or attending at the management office. The Court did uphold the lower court's decision in part which ordered that the unit owner, Michael Lahrkampt, submit any future requests in writing to the Corporation and that no more than one request be made for the same records. Mr. Lahrkampt was also required to make payments for reasonable photocopying charges in advance.

Mr. Lahrkampt then went on to request records in writing, but the Corporation refused to provide them on the basis that the requests were not "reasonably related to the purposes of the Act".



This resulted in Mr. Lahrkamp proceeding to [Small Claims Court](#), seeking \$500 in damages pursuant to Section 55 of the Condominium Act for the Corporation's failure to provide the following records:

- Front Lobby expenditures, audited expenditures or letters of representation
- Records relating to his unit
- Proxies and Ballots from the 2009 and 2010 AGM
- Notice of House Rules
- Minutes of Directors Meeting

The Corporation's position was that Mr. Lahrkamp was on a pure "fishing expedition" without any evidence to support his suspicion of impropriety.

In its decision the Court found the following:

- Front lobby expenditures, any other audited expenditures and the letters of representation - Mr. Lahrkamp had a weak basis for the request of these records. In addition, there was a burden posed on the Corporation with respect to the time required to retrieve the records and the expense in doing so. The Corporation was not required to provide.
- Records relating to suite 1407 (Mr. Lahrkamp's residence) from 2003 - Mr. Lahrkamp did not provide reasons for requesting these records and again this would involve considerable expense and time to produce, therefore, the Corporation did not have to provide.
- Owners List - The Corporation did not have to provide. The reason for requesting the list was described as a need to communicate with others, which reason was too vague and infringed on the privacy rights of the other owners.
- Proxies and Ballots used at the 2009 and 2010 AGM - Mr. Lahrkamp made it clear that he wanted the proxies and ballots for "validation of election results." The reason provided was valid and Mr. Lahrkamp was entitled to examine the proxies and ballots.
- Notices of House Rules - Mr. Lahrkamp was concerned about the validity of the house rules and was not satisfied with the discrepancy in two differently worded rules which the Corporation was unable to properly explain. The Corporation was unable to provide the Court with a reasonable excuse for not providing records of the house rules, therefore, Mr. Lahrkamp was entitled to these records.
- Board of Directors Meetings - December 4, 2007 to present - The availability of minutes of the Board meetings is fundamental to the rights of the individual unit owners and the Court found there was no basis for requiring that a reason should be provided by Mr. Lahrkamp. The Court found that the evidence did not disclose that the Corporation had a reasonable excuse to refuse Mr. Lahrkamp's request for the minutes.

The Court also stated that the Condominium Act does not specifically require a reason for every request, nor a reason for every refusal of a record.

The final outcome:



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(a) Judgment for Mr. Lahrkampt for \$500.00 plus court costs of \$175.00 and prejudgment interest at the court rate from September 1, 2009; and

(b) The Corporation was ordered to produce for examination the proxies and ballots used at the AGM of 2009 and 2010, the minutes of the board of directors meeting from December 4, 2007 to the present and all notices of house rules as provided in subsection 58(6) of the Act.

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