

Court Declares That Owners' E-Mail Addresses Are Not Condominium Records

In a recent case, [Wu v. CCC](#), a condominium unit owner sued the condominium corporation after the corporation refused to provide the owner with the e-mail addresses of all of the unit owners. The owner claimed that the corporation had breached its obligations under section 55 of the [Condominium Act](#), 1998 (the “Act”).

Section 55 of the Act provides that upon receiving a written request and reasonable notice, a condominium corporation must permit owners, purchasers and mortgagees to examine the corporation's records. However, as set out in subsection 55(4), the right to examine the records does not apply to records relating to employees of the corporation (except for employment contracts), records relating to potential or actual litigation or insurance investigations or records relating to specific owners or units. If the condominium corporation does not permit an owner to examine the records without a reasonable excuse, then the corporation is liable to pay the owner (but not a purchaser or mortgagee) who has requested the records \$500, and the Small Claims Court may order the corporation to produce the records.

After carefully examining sections 55, 46.1 and 47 of the Act, the Judge held that the corporation's obligation to keep and provide the owners' addresses for service extended only to the owners' postal addresses in Ontario and therefore the e-mail addresses of the owners did not form part of the records of the corporation to which section 55 applies. By taking a strict interpretation of those sections of the Act, the Judge in this case did not have to consider any privacy concerns that would ensue if the e-mail addresses were provided. We suspect that most unit owners would not want their e-mail addresses being supplied without their consent.

The plaintiff owner also claimed that the records that the corporation did provide were inadequate as some of the records from 2006 and 2007 were not produced and portions of the board minutes had been redacted before they were provided to the plaintiff. Some of the documents from 2006 and 2007 were not supplied as they were missing from the corporation's records. As the corporation had made reasonable efforts to locate these records the Judge concluded that the corporation was not obliged to produce any records that no longer existed. (Of course this would not condone any intentional destruction of records!)

The Judge also concluded that there was no basis for the plaintiff's position that no redactions of the board minutes were permitted. Limited redactions of the board minutes are permitted to exclude information listed in subsection 55(4) of the Act and no evidence was provided by the plaintiff that the redactions were not permitted by the Act.

This case illustrates once again that in condominiums compromises are necessary. The right of all unit owners to review the condominium records to ensure that there is transparency in the corporation's operations must be balanced with the right of privacy of individual unit owners.