

OCTOBER 5, 2021

Consequences of Insufficient Production of Condo Board Meeting Minutes

CONDOMINIUM

The Ontario Condominium Authority Tribunal decision in *Robinson v. Durham Condominium Corporation No. 139*, **2021 ONCAT 81**, provides a caution to condominium corporations if they are providing incomplete or redacted meeting minutes to an owner upon request.

The *Alberta Condominium Property Act*, RSA 2000, c C-22 does not contain the same provisions that are discussed in *Robinson*. Section 44(1) of the Act and Section 20.51 of the Regulations do require that a condo corporation is to provide information or documents requested by an owner similar to Ontario. *Robinson* still provides a warning to condo corporations in Alberta when taking minutes or issuing copies of minutes to owners. If a meeting is to be done ‘in camera’, minutes should be recorded of the meeting in order to have a copy to provide to owners upon request. If redactions are to be imposed on any meeting minutes, there should be good reasons for doing so and the reasons should be expressly stated for each redaction (for example, legal strategy on a litigation matter that is subject to privilege). Additionally, unredacted minutes should be kept in case there is a challenge to the redacted board minutes that are produced to an owner. This should protect condo corporations from claims relating to failures to fully provide records upon request of an owner.

CASE SUMMARY: The *Robinson* case concerns a claim brought by Mr. Robinson, against the condominium corporation of which he owned a unit. Mr. Robinson made a request to obtain a record of owners and mortgagees and minutes of Board meetings from the previous 12 months. A Board response was provided and gave a list of the owners and mortgages and the board minutes to Mr. Robinson. However, within the Board minutes were references to ‘in camera’ meetings and minutes which were not identified or provided. Mr. Robinson asked the Board about the completeness of the minutes provided and the response from the Property Manager was that these were the board minutes “to the best of [her] knowledge”. Mr. Robinson then brought the matter before the Tribunal.

During the Tribunal process, the condo corporation provided Mr. Robinson with ten additional sets of redacted minutes which they referred to as the ‘in camera’ minutes. The Tribunal found that the condo corporation had failed to declare the ‘in camera’ minutes in the original Board response, or to identify that any minutes were eligible for an exemption under the Condominium Act, 1998, SO 1998, c 19 [NOTE: We do not have this same exemption in Alberta legislation]. In finding that the condo corporation failed to declare or properly exempt the ‘in camera’ minutes from their response to Mr. Robinson, it was determined that the Board has refused to provide records without reasonable excuse.

The Tribunal concluded that the condo corporation intentionally omitted board minutes and failed to disclose to Mr. Robinson that they were exempting parts of the board minutes. Prior to the Tribunal proceedings taking place, the condo corporation had not even provided the redacted ‘in camera’ minutes and provided no reasons for withholding them. For these reasons, the Tribunal awarded a penalty against the condo corporation in an amount of \$1,000 pursuant to section 1.44(1)(6) of the *Condominium Act*. This penalty was awarded as a reminder that condo corporations must disclose that they are relying on an accepted category of exemption if they intend to limit what is produced in board minutes.

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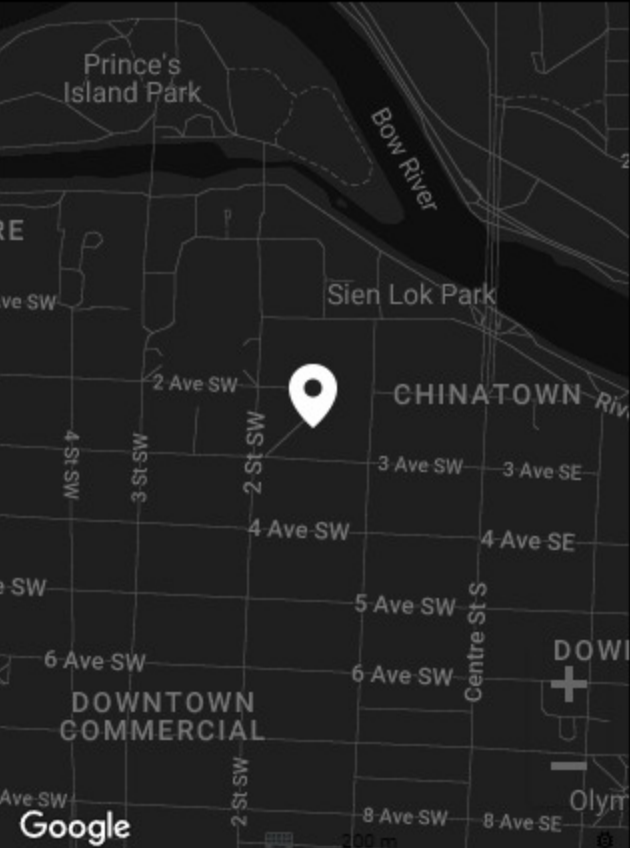
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