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**RUDSKI, Arleen
RUDSKI, Samuel**
Applicants

v.

**CONDOMINIUM L'ELYSÉE
ASSOCIATION**

Respondent

THE APPLICATION FOR REVIEW

Ms Arleen Rudski and Mr. Samuel Rudski own a condominium unit at 5720, Rembrandt Avenue in the City of Côte St-Luc in the Condominium L'Elysée. In the context of an internal discussion among the owners about where to situate a new garbage slab for the refuse containers, Ms Rudski requested access to a series of documents from the Elysée Condominium Association.

Her written request, dated December 4, 2000, listed the following documents which she wished to « review » :

- 1) All minutes of Administrators meetings for period of January 1/2000 to date.
- 2) Declaration of Co-Ownership of Condominium Elysée.
- 3) Minutes of Co-Owners Annual Meeting held in June/2000.
- 4) Minutes of Information Meeting for Co-Owners held on September 17/2000.
- 5) Architectural and Structural Plans of Condo L'Elysée.
- 6) All Service contracts involving Condo L'Elysée.
- 7) Access to accounting records and vouchers from January 1/2000 to date.
- 8) A copy of plans submitted to city of Cote St.Luc for permit to build garbage slab.

Her written request was repeated on December 12, 2000.

When she did not receive a reply, Ms. Rudski made an application for review which was received by the Commission d'accès à l'information (Commission) on January 29, 2001. A hearing took place at the Commission's office in Montreal on April 30, 2001.

After hearing the testimony of Ms. Rudski and Mr. Moe Weisberg, a condominium administrator, as well as the representations of M^c Gordon Zelman, counsel for the Elysée Condominium Association, the parties agreed upon the following measures :

1. The Association will have delivered to Ms. Rudski, at her condominium, the documents requested under the numbers 1) to 4) above, namely :

- 1) All minutes of Administrators meetings for period of January 1/2000 to date.
- 2) Declaration of Co-Ownership of Condominium Elysée.
- 3) Minutes of Co-Owners Annual Meeting held in June/2000.
- 4) Minutes of Information Meeting for Co-Owners held on September 17/2000.

The parties agree that this delivery will take place by May 11th 2001 at the latest and will be done by the janitor or another representative of the Association.

2. Ms. Rudski is of the opinion, after due consideration, that the documents requested above in 5) Architectural and Structural Plans of Condo L'Elysée and 6) All service contracts involving Condo L'Elysée are not necessary to her at this point.

3. Ms. Rudski understands from the testimony of Mr. Moe Weisberg that the documents referred to in 8) above are no longer in the possession of the Condominium Association and are in the sole possession of the City of Côte St-Luc. She agrees that she can consult them there.

The only remaining issue in dispute at the close of the hearing is 7) Access to accounting records and vouchers from January 1/2000 to date.

THE RELEVANT FACTS AND LAW CONCERNING ACCESS TO ACCOUNTING RECORDS

The Association's position in refusing access to the accounting records is that the accounts and financial statements are sent to the auditors at the year end. According to the testimony of Mr. Weisberg, the fiscal year 2000-2001 for the Association ends on April 30, 2001. The records are sent to the accountants who prepare the financial statements which are sent out in advance of the annual general meeting to be held on June 25, 2001.

When Ms. Rudski and her husband requested this information in December 2000, Mr. Weisberg stated that the condominium administrators did not wish to give it to her because she was suing the administration at that time. In addition, he testified, they found the request very vague.

The Act respecting the protection of personal information in the private sector states that a person can request information which is covered by the Act that is « [...] any information which relates to a natural person and allows that person to be identified » (section 2).

In this case, the information requested is accounting information relating to the administration of the condominium. It does not fall with the category of personal information covered by the Act because it does not relate to the individuals making the application and nor does it allow their identification. Thus the Commission does not have jurisdiction to rule on this aspect of the Rudskis' application. This question was examined in the case of *Louis Boucher c. Assurances Générales des Caisses Desjardins*¹ where the Commission decided it had jurisdiction concerning information on insured property because, in the context, the information allowed the owner to be identified :

However, in the present case neither party alleges that the accounting information relates to the Rudskis personally or particularly permits their identification.

¹ [1999] C.A.I. 52 à 57.

The Commission does note, however, that the Association is free to share this information with the applicants if it chooses, providing it masks any personal information concerning third parties which may be found there. However, the Commission d'accès à l'information cannot order any divulgation of the information requested.

The Civil Code of Quebec governs the relations between divided co-owners of immoveables. The following article may be useful to the parties in this dispute in deciding what information is to be made available and when, to the co-owners.

Art. 1070 The syndicate keeps a register at the disposal of the co-owners containing the name and address of each co-owner and each lessee, the minutes of the meetings of the co-owners and of the board of directors and the financial statements.

It also keeps at their disposal the declaration of co-ownership, the copies of the contracts to which it is a party, a copy of the cadastral plan, the plans and specifications of the immovable built and all other documents relating to the immovable and the syndicate.

DECISION

Therefore, the Commission concludes that it does not have jurisdiction in the matter of the accounting information, rejects the request for review and closes the file.

Montreal, May 24, 2001

JENNIFER STODDART
Commissioner

M^e Gordon Zelman

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Attorney of Respondent