



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

Dale Box

Applicant

-and-

Middlesex Condominium Corporation No. 474

Respondent

DECISION

Adjudicator: Naomi Overend

Date: December 12, 2013

File Number: 2013-15255-1

Citation: 2013 HRTO 2057

Indexed as: **Box v. Middlesex Condominium Corporation No. 474**

[1] This is an Application filed under s. 34 of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the "Code"), alleging discrimination with respect to housing because of disability.

[2] The parties entered into an agreement ("Minutes of Settlement"), dated December 9, 2013, which requests that the Tribunal issue an Order. The parties have agreed that this Decision incorporates the parties' agreement and resolves the Application.

[3] On the joint request of the parties, the Tribunal makes the following Final Order in this Application pursuant to s. 45.9 (2) of the *Code*:

1. The parties agree the applicant has a medical condition, the symptoms of which are treated by the use of a hot tub which the applicant owns and has installed on her exclusive use common element.
2. The respondent shall permit the hot tub to remain in its current position to accommodate the needs of the applicant, on the following conditions:
 - a. Proof of paid insurance on the hot tub by an insurance agent shall be given to the Condominium Board on a yearly basis. Amount of insurance shall be \$2 million dollars.
 - b. The applicant agrees to indemnify the Condominium Corporation for any bodily or personal injury or damage to property caused by the hot tub.
 - c. Any cost increase of the condo's insurance (because of a hot tub being on the property and the liability it brings) will be charged to the applicant and must be paid for yearly until either the hot tub is removed or the unit is sold, to a maximum of \$100.00.
 - d. Use of hot tub by the applicant is to be considered as therapeutic only. No other people may use the hot tub whether the applicant is in residence or not.
 - e. The respondent requires the applicant to comply at all times with the requirements of the applicant's insurance policy covering the hot tub.

- f. The respondent shall have the right to enter the applicant's exclusive use common element for the purpose of ensuring the lock mechanism on the hot tub is engaged, upon being advised that the applicant will be away from her unit for an extended period of time (7 days or more).
- g. No liability will be assigned to the respondent and its directors, the other 3 corporations at Cherryridge, the property management company, or any other unit owner, save the applicant, in the event of damage, injury, or death caused by the hot tub and/or activities surrounding its use.
- h. The hot tub may not be moved from its present location to any other exclusive use or common areas on the property.
- i. Any damage to the common elements will be repaired immediately by the applicant at her cost. The board of the respondent will determine whether the repairs have been completed satisfactorily by a qualified contractor. Should the applicant be away when the damage or accident occurs, the respondent will undertake the repairs and charge the costs back to the applicant, payable within 30 days. A lien will be applied to the unit in the case of late or non-payment.
- j. Should the applicant not be in residence for more than 200 days per year, then the hot tub must be removed from the exclusive use common areas and stored elsewhere (i.e. in the garage, off of the property).
- k. If and when the applicant intends to sell the unit, the hot tub must be removed from the exclusive common area before the property is listed on the market and will be removed at the applicant's expense before any showings of the unit are permitted. It will be made clear to any selling agent that the hot tub was not sanctioned by the board of directors and that the hot tub will not be sold with the unit.

Dated at Toronto, this 12th day of December, 2013.

"Signed by"

Naomi Overend
Associate Chair (Acting)