

In the Court of Appeal of Alberta

Citation: Didow v Edmonton (City), 2026 ABCA 203

Date: 20260622

Docket: 2603-0060AC

Registry: Edmonton

Between:

**Jill Didow, Kim Tenhove, Greg Christenson,
Andrew Ross, and Georgie Columbus**

Applicants

- and -

**The City of Edmonton, Edmonton Subdivision & Development Appeal Board,
and SUM Developments**

Respondents

**Reasons for Decision of
The Honourable Justice Kevin Feehan**

Application for Permission to Appeal

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I. Overview

[1] Jill Didow, Kim Tenhove, Greg Christenson, Andrew Ross and Georgie Columbus apply for permission to appeal a decision of the Edmonton Subdivision and Development Appeal Board dated February 20, 2026, in which the Board upheld a decision of a development officer permitting the construction of a residential-use building in the form of a four-dwelling rowhouse with unenclosed front porches and four secondary basement suites.

[2] For the reasons below on the preliminary issue of jurisdiction, the application for permission to appeal is dismissed.

II. Relevant Rules and Statutory Provisions

[3] The *Alberta Rules of Court*, AR 124/2010, provides with respect to permission to appeal:

14.44(1) An application for permission to appeal ...

(a) must be filed and served and must be returnable within the period specified in any enactment

[4] The relevant provisions of the *Municipal Government Act*, RSA 2000, c M-26 are:

688(1) An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to

(a) a decision of the subdivision and development appeal board

(2) An application for permission to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for permission to appeal must be given to

(a) ... the subdivision and development appeal board

(3) ... the judge may grant permission to appeal if the judge is of the opinion that the appeal involves a question of law of sufficient importance to merit a further appeal and has a reasonable chance of success.

....

- (5) If an appeal is from a decision of a subdivision and development appeal board, the municipality must be given notice of the application for permission to appeal and the board and the municipality
- (a) are respondents in the application and, if permission to appeal is granted, in the appeal, and
 - (b) are entitled to be represented by counsel at the application and, if permission to appeal is granted, at the appeal.

[5] The test for the grant of permission to appeal from a decision of the Board has been reflected in many decisions. Leave may be granted on a question of law or jurisdiction, if it is of sufficient importance to merit further appeal, and if the proposed appeal has a reasonable chance of success. These three criteria are cumulative or conjunctive and are to be applied to each proposed ground of appeal: *Seabolt Watershed Association v Yellowhead County (Subdivision and Development Appeal Board)*, 2001 ABCA 24, para 5, 277 AR 61; *Augustana Neighborhood Association v Camrose (Subdivision and Development Appeal Board)*, 2021 ABCA 427, paras 17, 18; *Biernacki v Alberta (Land and Property Rights Tribunal)*, 2022 ABCA 56, para 10; *Liquor Stores Limited Partnership v Edmonton (City)*, 2017 ABCA 130, paras 22, 23; *PurpleRung Foundation v Peace River (Town of) Subdivision and Development Appeal Board*, 2020 ABCA 341, para 7; *Icewerx Consulting Inc v Edmonton (City)*, 2021 ABCA 44, paras 6-7.

[6] Leave will not be granted to dispute findings of fact, mixed fact and law, or exercises of discretion: *Investors Group Trust Co Ltd v Calgary (City of)*, 2005 ABCA 34, para 14, 361 AR 323; *Heggelund v Grande Prairie (County No. 1) Intermunicipal Subdivision and Development Appeal Board*, 2019 ABCA 284, para 26; *GSKSC Group Inc v Edmonton (City)*, 2023 ABCA 44, para 14.

[7] Applicants should be prepared to show the Board's decision has implications beyond the dispute between the parties; the more deeply and wider those implications are felt, the more likely it is the proposed appeal is of "sufficient importance": *Carleo Investments Ltd v Strathcona (County)*, 2014 ABCA 302, para 10, 28 MPLR (5th) 173.

[8] The Board's interpretation of the *Act*, land use bylaws, and statutory plans are reviewable for correctness: *CFPM Management Services Ltd v Edmonton (City)*, 2020 ABCA 62, para 4; *Edmonton (City of) v Edmonton (City of) Subdivision and Development Appeal Board*, 2020 ABCA 7, para 12; *GSKSC Group*, para 15.

III. Preliminary Issue

[9] A preliminary issue on this application is whether the applicants have strictly complied with the requirements of r 14.44(1)(a) and s 688(2) and (5), in filing and serving the Board and City with their application for permission to appeal.

[10] The hearing before the Board occurred on February 6, 2026 and it issued reasons for decision on February 20, 2026: 2026 ABESDAB 10025. A copy of the Board decision was sent by email to all parties, including the applicants, on that day, to the email addresses provided by the parties.

[11] Any application for permission to appeal was to be filed and served on the Board and City by no later than March 22, 2026. The application for permission to appeal was filed in time on March 20, 2026. The issue is whether it was appropriately served in time.

[12] The evidence of the Board is that on March 25, 2026, it received an email from Ms Didow asking whether one of the applicants could be withdrawn from the proceedings. That was a surprise to the Board as it had not received notice that this matter was to be appealed, nor of the application for permission to appeal.

[13] The Board contacted its legal counsel on that date to obtain access to the court file in the Court of Appeal Management System and were provided with copies of various documents on the court file, including the application for permission to appeal, on March 31, 2026.

[14] On April 9, 2026, the Board received an envelope by registered mail, including unfiled copies of the application for permission to appeal, memorandum of argument, and the Board decision. There is no evidence the Board ever received filed copies of those documents.

[15] The City of Edmonton indicates that on April 8, 2026, it received an email containing a copy of the unfiled application for permission to appeal and on May 8, 2026 received a filed copy of that application.

IV. Law on Statutory Filing and Service Periods

[16] The 30-day deadline set out in the *Act* for filing and service of an application for permission to appeal is strictly applied, and this Court has no power to extend that deadline. Deadlines are clearly laid out in the statute, and are mandatory: *Northern Sunrise (County) v De Meyer*, 2009 ABCA 205, para 7, 6 Alta LR (5th) 63; *Alberta Human Rights Commission (Director) v Vegreville Autobody (1993) Ltd*, 2018 ABCA 246, paras 6-8, 73 Alta LR (6th) 280; *Tymchak v Edmonton (Subdivision and Development Appeal Board)*, 2012 ABCA 22, paras 44, 45, 61 Alta LR (5th) 396; *Legacy Inc v Red Deer (City)*, 2018 ABCA 393, para 61, fn 39; *The Green Company Ltd v Calgary (Subdivision and Development Appeal Board)*, 2019 ABCA 11, paras 12-14; *Grande Prairie (City) v Grande Prairie (County No 1)*, 2022 ABCA 191, paras 17-20, 29 MPLR 6th 177; *Sedgwick v Edmonton Real Estate Board Co-Operative Listing Bureau Limited (Realtors Association of Edmonton)*, 2022 ABCA 264, paras 47-55, 47 Alta LR (7th) 29; *Lorimer v Calgary Subdivision and Development Appeal Board*, 2024 ABCA 313, paras 15-18; *Digiuseppe Interior Design Ltd v St Albert (City)*, 2025 ABCA 170, paras 19-24.

[17] This jurisdictional block applies where there has been a failure to serve the City under s 688(5) equally as where there has been a failure to serve the Board under s 688(2)(a): *Northern Sunrise*, para 14; *Green*, para 14; *Lorimer*, para 12.

[18] A court is unable to grant an extension for filing and service of the application to maintain strict adherence to the applicable statutory rules. This applies even if the result is harsh: *Digiuseppe*, para 21; *R v Vallières*, 2022 SCC 10, paras 32, 34, [2022] 1 SCR 144; *La Souveraine, Compagnie d'assurance générale v Autorité des marchés financiers*, 2013 SCC 63, para 93, [2013] 3 SCR 756.

[19] The application for permission to appeal cannot succeed. This Court has no jurisdiction to hear this application or any requested appeal, given the failure to meet the statutory service provisions of s 688(2)(a) and (5).

V. Conclusion

[20] We note that Danielle Fostey had requested she be removed from the appeal. Her name has been removed from the style of cause, by agreement.

[21] The application is dismissed. There will be no costs of this application.

[22] Rule 9.4(2) is invoked, and the Court will prepare the resulting order.

Application heard on May 28, 2026

Reasons filed at Edmonton, Alberta
this 22nd day of June, 2026

Feehan J.A.

Appearances:

Applicant Jill Didow

Applicant Kim Tenhove

Applicant Greg Christenson

Applicant Andrew Ross (no appearance)

Applicant Georgie Columbus (no appearance)

K. Haldane
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for the Respondent, Edmonton Tribunals Subdivision and Development Appeal Board

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