

CITATION: 2417563 Ontario Inc. v. The Corporation of the
City of Brampton, 2026 ONSC 3529
DIVISIONAL COURT FILE NO.: DC-24-102
DATE: 2026/07/16

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT
SHORE, OBRIEN AND SMITH, JJ.

BETWEEN:

2417563 ONTARIO INC. AND
1063155 ONTARIO INC.

Applicants

– and –

THE CORPORATION OF THE CITY
OF BRAMPTON AND 2581558
ONTARIO INC.

Respondents

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)
) Gregory Sidlofsky and Yana Fox, Counsel
) for the Applicants
)

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)
) James Renihan and Shanika Gordon,
) Counsel for the Respondent, The
) Corporation of the City of Brampton
)

)
) Danny Nunes, Counsel for the Respondent,
) 2581558 Ontario Inc.
)
)

) **HEARD:** March 3, 2026
)

SMITH J.:

REASONS FOR DECISION

Introduction

[1] The applicants own two properties on Eastern Avenue in Brampton. The respondent 2581558 Ontario Inc. (“258”), owns a property on Orenda Road in Brampton. Until November of 2024, the municipal respondent (the “City”) owned a narrow strip of land (the “strip”) that runs northwest from Orenda Road, adjacent to 258’s property, to Eastern Avenue, between the applicants’ two properties. On November 29, 2024, the City sold the strip to 258, pursuant to an agreement of purchase and sale dated September 5, 2024, which sale was pre-approved at fair market value by the City’s council in a by-law passed on May 1, 2024 (the “by-law”).

[2] On this application for judicial review, the applicants seek to quash the by-law and set aside the sale to 258.

[3] Pursuant to s. 21(5) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the “CJA”), the applicants also move to review a decision of Chang J., who, on an interim motion in this matter, decided against granting leave to the applicants to obtain a certificate of pending litigation (“CPL”) in connection with the strip. They ask the court to grant them leave now irrespective of the result of the application.

[4] For the reasons that follow, I would exercise the court’s discretion not to consider the merits of the application for judicial review and dismiss the application, and I would dismiss the motion to review the decision of Chang J.

Background

[5] The strip was the subject of a 1956 agreement between the Canadian National Rail Company (“CN”) and the City (the “CN agreement”) whereby it was used for a railway siding. By the time of the relevant events in the present case, CN had long since stopped using the siding that once ran along the strip and, in June of 2021, City council authorized City staff to terminate the CN agreement and thereafter to begin the process of declaring the strip surplus land (*i.e.*, land that the City no longer needed for its own purposes) so that it could be sold. Ultimately, the termination of the CN agreement took two years to finalize with CN.

[6] In the meantime, in December of 2021, a representative of 258 contacted the City by email to express interest in purchasing the strip. That email was forwarded to the City’s Commissioner of Community Services (the “Commissioner”). In May of 2022, the principal of the applicants called the Commissioner to express interest in purchasing the strip. Also in May, 2022, both 258 and the applicants were advised that the process of terminating the CN agreement was ongoing and both were given information about how to give formal notice that they had no objection to the termination of the agreement and of their interest in purchasing the strip once the agreement was terminated.

[7] In August of 2022, the applicants again inquired of the Commissioner about the status of the strip. They were told that the negotiation of the termination of the CN agreement continued and that an update would be provided when the City was in a position to sell the strip.

[8] In February 2023, the applicants inquired again, and the Commissioner advised that the City was close to terminating the CN agreement.

[9] On May 23, 2023, 258 wrote to the Commissioner and that email was forwarded to Sajeev Kumar of the City's Realty Services department, who was asked to follow up with 258. On May 25, 2023, the applicants wrote to the Commissioner and asked for an update. He advised that same day that the termination of the CN agreement was "very close" and asked them to "please reach out [again] in two weeks." The Commissioner also deposed that on other occasions he told the applicants to monitor the City's website for information about the availability of the strip for sale. In any case, the applicants' next communication to the City was not in two weeks time; it was 16 months and one day later, on September 26, 2024, *after* the City had already entered into an agreement of purchase and sale with 258.

[10] In October of 2023, Mr. Kumar had discussions with 258 about its proposal to purchase and redevelop the strip. Thereafter, on April 18, 2024, the City issued a public notice that a City council committee would, at a meeting set for April 24, 2024, be considering a by-law to declare the strip surplus so that it could be sold to 258. The notice invited members of the public to attend the committee meeting and noted that those interested in addressing the committee could give notice of their intention to do so through the City Clerk's office. The notice also advised that information respecting the issue could be found on the City's website by the following day, April 19, 2024, and that such information would include City's staff's report on the matter.

[11] At the meeting on April 24, 2024, the committee considered a staff report which recommended declaring the strip surplus and directing City staff to negotiate a sale of the strip at fair market value to 258. No representative of the applicants attended the meeting. The report's recommendations were accepted by the committee and, on May 1, 2024, City council passed a by-law accepting the committee's recommendation. The key provisions of the by-law are as follows:

... City owned Subject Land [the strip] is hereby declared surplus to the requirements of the City of Brampton and the disposal of same for a fee simple transfer at fair market value on an as-is-where-is basis to adjacent property owners [258] ... is hereby approved ...

[12] An appraiser was retained to give an opinion on the fair market value of the property and that opinion was provided on July 4, 2024. It indicated that if sold as a single lot to a single purchaser, the strip had a value of \$1,186,877. The value would be higher if the strip were divided into multiple lots and sold to more than one buyer. On July 10, 2024, council approved the sale of the strip at fair market value and authorized staff to execute documents effecting such a sale.

[13] City staff then negotiated with 258 and the agreement of purchase and sale was executed on September 5, 2024, at a price of \$1,058,500. The transaction closed on November 29, 2024.

Positions of the parties

[14] On these facts, the applicants say that the City treated the applicants unfairly and ignored their interest in purchasing the strip, failed to give adequate public notice, failed to follow its own established procedures, failed to pursue the best price for the strip and that the by-law was passed in bad faith and is illegal. The applicants summarize their position as follows: “the approach taken by the City to selling the strip was arbitrary at best, or deliberately biased or corrupt at worst. Regardless, it was opaque, and preferential, resulting in 258 being given the sole opportunity to negotiate for and then purchase the strip while the applicants were excluded.”

[15] The City says that the process for selling the strip was transparent and publicly announced and approved. There is no evidence of bias or corruption. The only reason that the City negotiated only with 258 is that the applicants failed to follow up as they had been advised by the City to do.

[16] In any case, the City argues that the decision to sell land is not a decision subject to judicial review. This was a transaction that was private in nature and on which no duty of fairness was owed to the applicants – although the publicly announced sale process was fair. Further, according to the City, the application is moot because the sale of the strip to 258 cannot be undone now.

[17] 258 adopts the positions taken by the City and adds that there is no evidence that 258 engaged in any conduct which could be criticized. On the contrary, 258 was nothing more than an innocent *bona fide* third-party purchaser for value. In any case, the doctrine of indefeasibility of title prevents the unwinding of the sale now.

Discussion

Clarifying the nature of the application

[18] As noted at the outset of these reasons, the applicants seek to quash the by-law. The notice of application in this matter is styled as a “notice of application for judicial review”, but that notice refers to and relies on, *inter alia*, both the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1 (the “JRPA”) and s. 273 of the *Municipal Act, 2001*, S.O. 2001, c. 250 (the “Municipal Act”). Under s. 6 of the former, “an application for judicial review shall be made to the Divisional Court.” Under ss. 272 and 273 of the latter, a “by-law passed in good faith ... shall not be quashed or open to review by any court because of the unreasonableness” of the by-law (s. 272), but, on an application, “the Superior Court of Justice may quash a by-law ... for illegality” (s. 273).

[19] In other words, a panel of judges of this court has jurisdiction to hear an application for judicial review of a by-law, while the jurisdiction to review and quash for illegality is reserved to a single judge of the Superior Court, yet both heads of relief are sought by the applicants in this court.

[20] Recognizing this problem with the application, the City sought an order bifurcating the proceeding in a case management conference held before Trimble J. In an endorsement dated May 19, 2025, Trimble J. denied the request to bifurcate, writing as follows:

First, notwithstanding that the Application to Quash the By-law and the Application for Judicial Review of the City’s decision are separate proceedings decided in separate fora, it is not mandatory that each must be pursued separately. In *Minnow Lake Restoration Group Inc. v. Sudbury (City)*, 2022 ONSC 4084, at paragraphs 51-54, the Divisional Court left the decision as to the two forms of relief being claimed in the same proceeding to be determined on a case-by-case basis, and not something limited to “exceptional circumstances”.

Second, litigation is not to be conducted in instalments (see: *Yatar v. TD Insurance Meloche Monnex*, 2022 ONCA 446, at para. 55 citing *Shearer v. Oz*, 2021 ONSC 7844, at para. 5). Judicial economy demands that the Application proceed to a full panel, notwithstanding that the separate parts would normally be heard in different fora.

[21] Accordingly, before us, the applicants have pursued their claims under s. 273 and have submitted that “there is no bar to ... seeking both judicial review and an order quashing the by-law in question in the same proceeding. It is open to the court to consider both requests in a single proceeding.”

[22] The parties agree that we are not bound by the conclusions of Trimble J. To the extent that the quoted excerpt of his endorsement suggests that this court may consider an application made under s. 273 of the *Municipal Act*, I disagree.

[23] Strictly speaking, there is but a single application before us, although it refers to differing heads of relief based on differing statutory foundations. As a statutory court, the Divisional Court must find its jurisdiction in a statute. In this case, our jurisdiction is limited to that conferred on the court by the *JRPA*, which is further limited by s. 272 of the *Municipal Act*. This court has no jurisdiction to grant relief under s. 273 of the *Municipal Act*.

[24] It is true that in *Minnow Lake*, writing for this court, Lederer J. dealt with a similar situation (see paras. 30 – 31), but he did not conclude that this court could hear and consider an application brought under s. 273 of the *Municipal Act* at the same time as an application for judicial review. Instead, he concluded that it could hear and determine the application for judicial review brought in that case notwithstanding the availability of an alternative remedy (*i.e.*, an application to the Superior Court under s. 273): see paras. 51 – 53. In part, the court came to that conclusion because the sole argument in favour of the judicial review of the by-law (alleged procedural unfairness), was the same argument that was the foundation for the claim that the impugned by-law was illegal: see para. 54.

[25] I note also that while the Court of Appeal in *Yatar* (reversed on other grounds: 2024 SCC 8) does make the point that litigation should not be conducted in instalments, in that case both the appeal and the judicial review in question were properly brought in the same court, not in different courts as is the case here.¹

[26] I therefore proceed to consider only the application for judicial review.

The discretion not to hear the judicial review

[27] The respondents urge us not to consider the merits of the application for judicial review. The discretion to do so was described by Rowe J. in *Yatar* (S.C.C.) at para. 54 (citations omitted):

When an applicant brings an application for judicial review, a judge must consider the application: that is, at a minimum, the judge must determine whether judicial review is appropriate. If, in considering the application, the judge determines that one of the discretionary bases for refusing a remedy is present, they may decline to consider the merits of the judicial review application. The judge also has the discretion to refuse to grant a remedy, even if they find that the decision under review is unreasonable.

[28] It is argued that we should decline to consider the merits of this application both because the decision at issue in this case (a decision to sell land to a private third party) is a decision that is insufficiently public in nature to be subjected to judicial review, and because the application is moot.

[29] In *Strickland v. Canada*, 2015 SCC 37, the Supreme Court emphasized that judicial review is discretionary in nature and, as in *Yatar*, that part of the discretion afforded to the courts is the discretion not to consider an application on its merits where there is an available alternative remedy. That determination is not made based only on an assessment of the adequacy of the alternative remedy, but on an assessment of all the relevant circumstances. Cromwell J. put the point as follows (at paras. 42 – 43, 45; citations omitted; emphasis added):

The cases identify a number of considerations relevant to deciding whether an alternative remedy or forum is adequate so as to justify a discretionary refusal to hear a judicial review application. These considerations include the convenience

¹ As Lederer J. observed in *Minnow Lake* (at para. 42), for this reason, *Yatar* (Ont. C.A.) “does not apply directly to the situation in this case. There is no right of appeal that accompanies this application for judicial review.”

of the alternative remedy; the nature of the error alleged; the nature of the other forum which could deal with the issue, including its remedial capacity; the existence of adequate and effective recourse in the forum in which litigation is already taking place; expeditiousness; the relative expertise of the alternative decision-maker; economical use of judicial resources; and cost.

The categories of relevant factors are not closed, as it is for courts to identify and balance the relevant factors in the context of a particular case ... Assessing whether there is an adequate alternative remedy, therefore, is not a matter of following a checklist focused on the similarities and differences between the potentially available remedies. The inquiry is broader than that. The court should consider not only the available alternative, but also the suitability and appropriateness of judicial review in the circumstances. In short, the question is not simply whether some other remedy is adequate, but also whether judicial review is appropriate. Ultimately, this calls for a type of balance of convenience analysis... As Dickson C.J. put it on behalf of the Court: “Inquiring into the adequacy of the alternative remedy is at one and the same time an inquiry into whether discretion to grant the judicial review remedy should be exercised. It is for the courts to isolate and balance the factors which are relevant ...” (*Canada (Auditor General)*, [[1989] 2 S.C.R. 49] at p. 96).

[...]

The factors to be considered in exercising this discretion cannot be reduced to a checklist or a statement of general rules. All relevant factors, considered in the context of the particular case, should be taken into account.

[30] In the context of this case, I agree with the respondents that the relevant factors weigh in favour of declining to consider this judicial review on its merits. Even if the alternative remedy made available to the applicants in s. 273 of the *Municipal Act* is narrower in scope (limited as it is to cases of “illegality”) than an application for judicial review, which I do not need to decide, that fact is outweighed by other considerations. These other factors include the nature of the transaction and the property in question, the applicants’ own delay in this case, the apparent mootness of the application, and the consequences for 258 should the applicants be successful.

The nature of the transaction and the property

[31] The City urges us to conclude that the sale of the strip to 258 was in essence a private transaction that is beyond the scope of judicial review. In making this submission, the City relies

on the case of *Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall*, 2018 SCC 26, where Rowe J. wrote as follows for the court (at paras. 14 and 20):

Not all decisions are amenable to judicial review under a superior court's supervisory jurisdiction. Judicial review is only available where there is an exercise of state authority and where that exercise is of a sufficiently public character. Even public bodies make some decisions that are private in nature — such as renting premises and hiring staff — and such decisions are not subject to judicial review: *Air Canada v. Toronto Port Authority*, 2011 FCA 347, at para. 52. In making these contractual decisions, the public body is not exercising “a power central to the administrative mandate given to it by Parliament”, but is rather exercising a private power (*ibid.*). Such decisions do not involve concerns about the rule of law insofar as this refers to the exercise of delegated authority.

[...]

[...] In my view, a decision will be considered to be public where it involves questions about the rule of law and the limits of an administrative decision maker's exercise of power. Simply because a decision impacts a broad segment of the public does not mean that it is public in the administrative law sense of the term. Again, judicial review is about the legality of state decision making.

[32] The City argues that just because it is a public body that derives its power to act from statute does not mean that all its actions raise issues about the rule of law or the legality of state decision making. It equates the sale of land in this case with “renting premises and hiring staff” – an action of insufficiently “public character” to warrant the attention of the court on judicial review.

[33] Several considerations weigh against the City's argument. These include the role of the City in the structure or network of government, the statutory foundation for the City's authority, the fact that the City's constituting statute requires it to pass by-laws to authorize the sale of land, and the public nature of the process of selling land owned by the City: *Air Canada*, at paras. 50 – 60.

[34] On the other hand, the sale of land in this case was not a matter of broad public interest. The City's public notice of the sale of the strip appears to have generated no response at all. That may be because the transaction in this case involved the sale of a disused strip of land that was of no use to the City (apart from its sale value) and was of use to an extremely small universe of

potential buyers all of whom knew that the strip would be coming available. It was sold to one of those buyers – 258 – an innocent arm’s length third party that diligently pursued its interest in the strip, negotiated in good faith with the City, and purchased the property for value. Contrary to the submission of the applicants, there is no evidence that 258 was engaged in any improper conduct in this case. It cannot be criticized.

[35] By contrast, the applicants were not diligent. They were advised to check back in two weeks and did not check in for 16 months. Although they deny it, there is evidence that they were advised to watch the City’s website for information. Even if they were not so advised, being on the lookout for public notices respecting the sale of the strip (including on the City’s website) was the prudent course for an interested and diligent buyer. If the applicants had taken that course, they would have seen the relevant notice, which identified the strip precisely by using its unique PIN (Property Identification Number), assigned by the Land Registry. I add that there is no dispute that the applicants were told on May 25, 2023, by the Commissioner that the termination of the CN agreement was “very close.” They also knew that such termination would eliminate any impediment to the sale of the strip. Considering these facts, it is very difficult to understand why the applicants would take no step whatsoever to pursue their interest in the strip for 16 months.

[36] In any case, the applicants now attempt to vindicate their perceived private law rights using the public law tool of judicial review. This was never the central purpose of judicial review: *Strickland*, at para. 48. While I do not suggest that any sale of land by a municipality will be beyond the reach of judicial review, I am satisfied that the transaction in this case was of limited public character and does not justify the court exercising its discretion on judicial review in the circumstances of this case. As the respondents argue, this sale was a routine matter of contract that raised no issues respecting the rule of law or the limits of municipal power or the execution of the City’s central governmental mandate: *Air Canada*, at para. 52.

[37] Some sales of properties by municipalities, of course, have attracted the attention of the courts on judicial review. The cases of *North End Community Health Association v. Halifax Regional Municipality*, 2012 NSSC 330 and *Know Your City Inc. v. The Corporation of the City of Brantford*, 2021 ONSC 154, provide good examples.

[38] At issue in the former was the sale of a decommissioned school where a variety of proposals for the use of the subject property were made by several public interest groups and by a property developer, each of which would have been of interest to many of the residents of Halifax. Even there (at para. 45), the court recognized the essentially private nature of sales of land by municipalities but engaged in judicial review given that municipal policy respecting such sales required that non-profit community groups be given priority in the making of submissions respecting the use to be made of the school (see paras. 2 and 48).

[39] In *Know Your City*, the land at issue was a portion of a municipal golf course. The municipality had determined to sell the property so that it could use the proceeds of the sale to finance public housing, which was in short supply. Various residents opposed the sale and one of the issues on the application was whether the municipality had failed to give adequate notice of the proposed sale to the local First Nation.

[40] Both cases involved significant pieces of public property and raised matters of significant public concern. The public nature of the transactions and of the process of considering and negotiating their sale was undeniable. By contrast, in the present case, there was almost no interest in a small rump of land that was of no use to anyone except the applicants and 258. The applicants failed to act diligently, while 258 was alert and pursued its own interests assiduously.

Mootness

[41] The applicants' laches in this case is also relevant because by the time they became aware that the strip had become available for purchase it was already the subject of an agreement of purchase and sale and, by the time that this application was launched (on December 19, 2024), that transaction had already closed (on November 29, 2024). The respondents argue that this makes the application moot as the court has no jurisdiction to undo this transaction. The applicants reply that if they are successful in quashing the by-law, the transaction must be undone because the City may only sell real estate where the sale has been approved by by-law. The applicants point to *Know Your City* as a case where the court considered whether a resolution of council authorizing the sale of land should be quashed, and argue that, although the court dismissed the application, there was no question of the court's jurisdiction to grant that relief in the right case.

[42] That submission is correct as far as it goes, but the difficulty with the applicants' submission on that point is that the transaction in *Know Your City* had not closed at the time the application was launched or at the time of the court's consideration of it. The parties undertook to delay closing pending the court's decision in that case: see para. 2. I note that in *North End* also, where the application was allowed and the by-law quashed, there was a stay in place which prevented the sale of the property in question pending the resolution of the litigation: see para. 1. In other words, while those cases support the proposition that the court may quash a by-law authorizing the sale of real property, they say nothing about the issue of mootness where the sale has closed and been registered. The applicants point to no authority that would permit this court to unwind the sale of the strip to 258 now.

[43] Absent proof of fraud, which has not been established in this case, it is unlikely that the transaction can be undone now. The respondent 258 was a *bona fide* purchaser of the strip for value and the transfer to 258 has been registered. In such circumstances, the court lacks the jurisdiction to amend the land register. In the course of her discussion of the land registry rectification provisions of the *Land Titles Act*, R.S.O. 1990, c. L.5, and the doctrine of indefeasibility of title, Epstein J. (as she then was) wrote as follows in *Durrani v. Augier* (2000), 50 O.R. (3d) 353 (S.C.J.), at paras. 49, 51 and 54:

[...] Where a bona fide purchaser for value succeeds in becoming a registered owner, the fact of registration is conclusive. Indefeasibility of title is a consequence or incident of that registration. Accordingly, the court does not have jurisdiction to rectify the register if to do so would interfere with the registered interest of a bona fide purchaser for value in the interest as registered.

[...]

As far as the court is concerned, when it comes to dealing with competing interests of innocent parties affected by registration, the interests shown in the register prevail and there is no jurisdiction to rectify the title even when, as in the matter before me, the result may appear to be inequitable.

[...]

The significance of all of this is that while principles of equity remain relevant to the determination of issues under the [Land Titles] Act, the opening words

of ss. 159 and 160² cannot be overlooked. In keeping with the overall objectives of the legislation, the court's ability to invoke or apply equitable doctrines is limited by the rights innocent people acquire under the [Land Titles] Act.

[44] Here, as I have said, 258 is an innocent and *bona fide* purchaser of value. The applicants have established no basis – nor pointed to any authority – upon which the court could act to unwind the sale of the strip to 258. The application would therefore appear to be moot, although it is unnecessary to draw that conclusion definitively given the conclusions I have drawn under the next heading.

The consequences for 258

[45] Assuming that the transaction can be undone, and assuming that the applicants were able to establish some failure by the City in the process of selling the strip, given the time that has passed and the disproportionate consequences of such a result on 258, a private and innocent party in this dispute, I would not be inclined to order any remedy in this case. Doing so is discretionary and relevant factors that will drive the decision about whether to order a remedy include delay, mootness and the consequences of the decision on the parties and others: *London v. RSJ Holdings Inc.*, 2007 SCC 29, at para. 39; *Mining Watch Canada v. Canada*, 2010 SCC 2, at para. 52.

[46] Here, as I have already said, 258 pursued the purchase of the strip diligently, negotiated in good faith, arrived at an arm's length price for the transaction, entered into a contract, and laid out the funds to pay for the strip. It relied on the City to execute its processes properly. It engaged in no illegality or other misconduct in executing this straightforward and ordinary purchase of real estate. To undo that transaction now – assuming that it could be undone – would be unfair and disproportionate, especially after so much time has passed: *Reynolds v. A.G.C.O.*, 2019 ONSC 5571 (Div. Ct.), at paras. 83 – 86.

Conclusion respecting the application

[47] For the foregoing reasons, I would exercise the court's discretion to decline to consider the merits of the application for judicial review and dismiss that application.

² Both sections begin with these words: "Subject to any estates or rights acquired by registration under this Act..."

The motion for leave to obtain a CPL

[48] As noted above, the applicants moved for leave to obtain a CPL. In reasons found at 2025 ONSC 1020, Chang J. dismissed that motion, finding (at paras. 11 – 17) that the applicants had not established that there was a triable issue respecting their claimed interest in the strip, a point that Chang J. says the applicants conceded in argument (see paras. 9, 12). The applicants say that they made no such concession.

[49] The test on a review of the decision of a single judge of the Divisional Court was described as follows in *Guillaume v. Barney Rivers Investment Inc.*, 2022 ONSC 1123 (Div. Ct.), at para. 4:

[...] The test on such a review is well established in this court: a motion to review is not a hearing de novo. This court will only interfere if it is established that the motion judge made an error of law or a palpable and overriding error of fact [...]. Where a motion judge is exercising discretion, this court will not interfere unless a moving party shows that the impugned decision is “so clearly wrong that it amounts to an injustice” or the motion judge “gives no or insufficient weight to relevant considerations”: *Franchetti v. Huggins*, 2022 ONCA 111, at para. 5.

[50] Irrespective of whether the point was conceded, I am satisfied that Chang J. made no error and that there is no basis upon which to interfere with his disposition of the motion.

[51] The decision to grant leave to register a CPL is a discretionary one, and leave will be granted where there is a triable interest in land in issue and where the equities favour the granting of leave: *1152939 Ontario Ltd. v. 2055835 Ontario Inc.*, [2007] O.J. No. 488, at para. 9; *Can-China Real Capital Inc. v. Askar*, 2021 ONSC 5043, at para. 36.

[52] As to the first of these preconditions, contrary to the submission of the applicants, I agree with the central conclusion of Chang J. that the application before us does not claim an interest in land. Rather, it seeks to quash the by-law and to undo the sale of the strip to 258. Even if the by-law were quashed and the transaction undone, the applicants would still not have a claim to an interest in land. They would have nothing more than the opportunity to bargain for an interest in land. In my view, Chang J. was correct in finding that the applicants are unable to establish a claim to such an interest and that was fatal to their request for leave to obtain a CPL.

[53] I would dismiss the motion to review the decision of Chang J.

Conclusion and costs

[54] For the foregoing reasons, I would dismiss both the application and the review of the decision of Chang J.

[55] Pursuant to the agreement between the applicants and the City, the applicants will pay the City's costs of \$70,000 all inclusive. The applicants will pay partial indemnity costs of \$35,000 to 258.



I.R. Smith J.

I agree:

Shore J.

I agree:

O'Brien J.

Released: July 16, 2026

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2026 ONSC 3529 (CanLII)

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