

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:	)	
	)	
Mako Group Inc.	)	Kevin Mako, Agent for the Applicant
	)	
– and –	)	
	)	
Patricia Riethmueller, John Doe, being the	)	Patricia Riethmueller, acting on her own
adult male occupant in possession of the	)	behalf and on behalf of John Doe
upper residential portion of the property	)	
municipally known as 449 Ferguson Ave,	)	
Temiskaming Shores, Ontario	)	
Respondents	)	
	)	HEARD: August 5, 2026

DECISION ON APPLICATION

S.K. STOTHART J.

Overview

[1] This application relates to property municipally known as 449 Ferguson Avenue, Haileybury, Ontario. The applicant purchased this property by way of a tax sale on January 8, 2026 however it has not been able to obtain possession of the property as the respondents refuse to vacate the premises.

[2] In this application, the applicant seeks:

- a. a declaration that is the registered owner of the property;
- b. a declaration that the respondents have no lease, tenancy, license, or other continuing right of possession as against the applicant;
- c. an order requiring the respondents to deliver up vacant possession of the property;
- d. leave to issue a writ of possession; and
- e. costs of this application.

[3] The respondents, Patricia Riethmueller, and her husband currently occupy this property. The property was formerly owned by Patricia Riethmueller's mother, Gerda Riethmueller. The respondents oppose the orders sought in this application. They submit that the property has been

their home for many years and they dispute the validity of the tax sale. They submit that they are vulnerable seniors and should not be ordered to leave their home.

[4] For the reasons that follow, I am satisfied that the declarations sought are appropriate, that an order should be made for vacant possession of the property, and leave is granted to issue a writ of possession.

History

[5] In order to understand this application, one must review an earlier proceeding brought by Patricia Riethmueller by way of application under file CV-25-0055 seeking to stop the tax sale of 449 Ferguson Avenue by the municipality City of Temiskaming Shores.

[6] The property located at 449 Ferguson Avenue had been owned by Patricia Riethmueller's mother, Gerda Riethmeuller. When municipal property taxes were not paid, the City proceeded with sale of the property for arrears of taxes pursuant to the provisions in the *Municipal Act*, 2001 S.O. 2001, c.25.

[7] On September 16, 2025, Patricia Riethmueller brought an urgent motion seeking an injunction to stop the tax sale of 449 Ferguson Avenue on the basis of hardship. The proposed sale of the property had been scheduled for the next day.

[8] On September 16, 2025, Bellows J. granted a temporary injunction stopping the sale, however noted that the proceedings had been brought by Patricia Riethmueller, and not Gerda Riethmueller. Justice Bellows adjourned the matter to allow time for the notice of motion to be amended to reflect the parties who should have named in the matter.

[9] On September 24, 2025, for oral reasons, Bellows J. lifted the temporary injunction.

[10] The property was sold on January 8, 2026 to the applicant. I have received a copy of the transfer deed and the title registration showing that the property was registered to the applicant, Mako Group Inc. on that date.

[11] On April 13, 2026, Patricia Riethmueller filed a further notice of motion under CV-25-0055. The motion sought leave to continue the proceedings, an interim order staying the proceedings pending final determination of a notice of constitutional question and request for directions, an order for disclosure against the City, an order setting aside the order dated January 14, 2026, which had been taken out following Bellows J. decision, or an order for an appointment before the presiding judge to settle the terms of the order. This motion was made returnable May 20, 2026.

[12] On April 23, 2026, the applicant filed this application under file CV-26-003. This was also returnable on May 20, 2026.

[13] On May 20, 2026, Kurke J. released two endorsements related to the motion and the application. With respect to the motion under CV-25-0055, Kurke J. held that he did not have

jurisdiction over the motion, noting that the tax sale had already taken place. Kurke J. granted Patricia Riethmueller leave to bring an action against the City for damages suffered from the forced tax sale.

[14] With respect to CV-26-0032, Kurke J. granted the adjournment sought by Patricia Riethmueller so that she could file responding materials. The matter was adjourned to June 30, 2026. On June 30, 2026, Lehoux J. adjourned the matter to August 5, 2026 for the applicant to provide further materials with respect to the request that it be represented by a non-lawyer.

[15] On August 5, 2026, Patricia Riethmueller sought another adjournment. For oral reasons, I dismissed this request. For further oral reasons provided, I granted leave to Kevin Mako to represent the applicant. I then received submissions on the application and reserved my decision.

Relief sought

Declaration of ownership

[16] The applicant seeks a declaration that it is the registered owner of 449 Ferguson Avenue, legally described as: PIN 61397-0200 (LT); PCL 1397 SEC SST; PT LT 21 BLK M PL M13NB BUCKE AS IN LT26535; TEMISKAMING SHORES; DISTRICT OF TIMISKAMING.

[17] Pursuant to s. 379(7) of the *Municipal Act*, on a sale of premises for arrears of taxes, a tax deed vests in the purchaser an estate in fee simple in the land, together with all rights, privileges and appurtenances and free from all estates and interests.

[18] The only exceptions, which do not apply to the circumstances of this case, are any easements and restrictive covenants that run with the land, any estates and interests of the Crown in right of Canada or in right of Ontario, and any interest or title acquired by adverse possession by abutting landowners before the registration of the tax deed.

[19] On the materials provided, I am satisfied that title to the property was transferred to the applicant by tax deed registered as Instrument DT98988 on January 8, 2026. As such, the applicant possesses an estate in fee simple in the land and has the right of possession of the land from all estates and interests. The applicant is the legal owner of the property.

[20] Section 383 of the *Municipal Act* provides that subject to proof of fraud, every tax deed and notice of vesting when registered, is final, binding and conclusive and not subject to challenge for any reason including: (a) the invalidity of any assessment upon which the tax arrears were based; and (b) the breach of any requirements, including notice requirements, imposed by the *Act* or any other Act or otherwise by law.

[21] The former owner of the property, Gerda Riethmueller, has not challenged the tax sale. A review of CV-25-0055 demonstrates that the tax sale proceeded on notice to the owner, Gerda Riethmueller, and to Patricia Riethmueller as her representative. Both received multiple demands for payment of taxes and notices that if taxes were not paid the City was going to proceed with a tax sale. Patricia Riethmueller, ostensibly on behalf of her mother, engaged in repeated

communication with the municipality challenging their constitutional authority to impose taxes on the property and raising other pseudo legal commercial arguments. It is clear that all steps taken by the municipality with respect to the non-payment of taxes and the tax sale were on notice to the owner and the respondents.

[22] In the end, the taxes were not paid, and the City sold the property to the applicant.

[23] The respondents raised in submissions that they plan to file an appeal and have been preparing the paperwork. In my view, assuming the respondents have standing to challenge the tax sale of a property they have never owned, their intention to appeal should not further delay the orders sought in this application. It has been over ten months since Bellows J. released her decision lifting the temporary injunction. It has been over eight months since the applicant took ownership of the property.

[24] I am satisfied that the applicant is entitled to a declaration of ownership.

Declaration that the respondents have no lease, tenancy, license, or other continuing right of possession as against the applicant

[25] It is not disputed by the parties that the respondents do not have a lease, tenancy, license, or other continuing right of possession to the property as against the applicant.

[26] The property was taken in fee simple, and any leases, tenancies, licenses, or continuing right of possession are extinguished. Section 379(7) of the *Municipal Act* extinguishes any leasehold interest the respondents may have had with the prior owner: *Lewis v. Mani* (1995) 25 O.R. (3d) 310 (Ont.Gen.Div.); *Kenora (City) v. Eikre Holdings Ltd.*, 2018 ONSC 7635 at para. 61.

[27] I am satisfied that the applicant is entitled to a declaration that the respondents have no lease, tenancy, license, or other continuing right of possession as against the applicant.

Order for vacant possession

[28] On February 10, 2026, the applicant served the respondents with a demand to vacate. This was done by way of personal service and registered mail. The demand set out:

To Whom it May Concern:

1. **Registered ownership.** I am the registered owner of the Property. Title has been transferred and registered in my name pursuant to the municipal tax sale process. If you require proof of ownership for your records, I can provide the relevant registration particulars upon request.
2. **No consent to occupy.** You and any other persons occupying the Property are doing so **without my permission or consent**. No lease or tenancy is acknowledged by this notice, and no rent has been requested or accepted by me.

3. **Demand.** You are hereby required to **vacate and deliver vacant possession** of the Property, including removal of all persons and personal belongings, **no later than 2pm EST on Feb. 18, 2026.**

4. **Keys and access.** Upon vacating, you must return all keys, fobs, and access devices for the Property and confirm in writing that the Property has been fully vacated.

5. **Failure to comply.** If you do not deliver vacant possession by the deadline above, I will **immediately commence court proceedings** to obtain an order for possession and enforcement (including a writ of possession and sheriff enforcement), and **will seek costs and any other relief the court considers appropriate, including compensation for unauthorized occupation.**

6. **Communications.** All future communications should be in writing to **email kevin@makoproperties.com** or phone at 416-238-1988.

[29] On February 12, 2026, Patricia Riethmeuller responded to the demand by e-mail. In her e-mail she stated that she was not aware that ownership of the property had been registered in the applicant's name and that there were ongoing court proceedings. She asked to discuss a reasonable rental agreement, even if only for a short term, explaining that she and her husband were in poor health and would not be able to secure new accommodations in the time frame set out in the demand.

[30] On February 12, 2026, Kevin Mako wrote back attaching a copy of the transfer document, and the final deed registration for the applicant. He declined to enter into a rental or tenancy agreement but offered a one-time accommodation that would allow Ms. Riethmeuller and her husband license to remain at the property free for another two months. This would provide them with time to find a new place and would take the move outside of the winter months. The key terms of this agreement were that the respondents would move out by 2 p.m. on April 15, 2026 and that they permit reasonable access for inspection/insurance with notice. If they could not reach an agreement on this issue, the applicant advised that it would proceed to court for possession and costs. In the end, an agreement was not reached.

[31] On March 30, 2026, Patricia Riethmeuller wrote to the Director of Land Titles regarding a "Notice of Procedural Fatality" for the property requesting that the Director of Titles review the file as a result of alleged errors because the City registered the tax deed on January 8, 2026. She noted that the City had only taken out an order from Bellows J.'s September 24, 2025 decision, on January 14, 2026, after the sale.

[32] On March 31, 2026, Kathleen Doering, Senior Legal and Technical Officer/Office of the Director of Titles, wrote back advising that a review had been conducted and it was determined that the tax deed met all the Land Titles certification requirements for title to be conveyed.

[33] On April 23, 2026, the applicant filed this application and served the respondents.

[34] On May 7, 2026, Patricia Riethmueller sent an urgent “Notice to cease trespass and harassment” to Kevin Mako advising that she had provided notice that the applicant’s title to the property was contested based on administrative fraud and by way of a void registration in CV-25-00550 and demanding that he not send individuals to the residence again.

[35] I am satisfied that title to the property was properly transferred on January 8, 2026. Rule 59.01 of the *Rules of Civil Procedure* provides that an order is effective from the date on which it is made unless it provides otherwise. Notwithstanding the procedural requirements that every order be issued, entered, and filed, an order is nevertheless effective from the time it is made: *Karkar v. Karkar*, 2011 ONSC 2550 at para. 10.

[36] In this case, Bellows J.’s order lifting the temporary injunction was made on September 24, 2025 and was effective as of that date. The City was free to proceed with the tax sale once the injunction was lifted. On January 8, 2026, title to the property was properly conveyed to the applicant by way of tax sale.

[37] With respect to the issue of vacant possession, I am satisfied that the respondents have received reasonable notice of the applicant’s ownership of the property and its demand for vacant possession. The respondents received a demand for vacant possession on February 10, 2026. It is now five months later. The respondents remain in possession of the property and refuse to leave. The respondents have provided no legal basis on which they can remain in possession of the property, which they do not own.

[38] In these circumstances, I am satisfied that an order for vacant possession should be granted.

Leave to issue a writ of possession

[39] The applicant seeks leave to issue a writ of possession for the property.

[40] Rule 60.03 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, provides that an order for the recovery or delivery of the possession of land may be enforced by a writ of possession.

[41] Rule 60.10 of the Rules provides in part that a writ of possession may be issued only with leave of the court, obtained on motion, without notice or at the time an order entitling a party possession is made.

[42] I am satisfied that the applicant is entitled to possession of the property. They legally own it. Notice of these proceedings has been provided to the respondents as occupants and they have had ample time to apply for relief.

[43] While I am sympathetic to the circumstances of the respondents, in that it will be difficult for them to find alternative accommodations and move, there is no discretion to refuse leave to issue a writ of possession on the basis of hardship: *Canada Trustco Mortgage Co. v. McLean*, [1983] O.J. No. 269 (Ont.H.C.) at para. 13; *Kakoutis v. Bank of Nova Scotia*, 2025 ONSC 2966 at para. 22.

[44] The applicant reasonably waited until the winter months had passed before taking steps to seek orders for possession and a writ of possession. I see no reason to delay granting leave to obtain a writ of possession.

Conclusion

[45] For these reasons, the application is granted and I make the following orders:

- (a) This Court declares that Mako Group Inc., is the registered owner of the lands and premises municipally known as 449 Ferguson Avenue, Temiskaming Shores, Ontario, legal described as: PIN 61397-0200 (LT); PCL 1397 SEC SST; PT LT 21 BLK M PL M13NB BUCKE AS IN LT26535; TEMISKAMING SHORES; DISTRICT OF TIMISKAMING.
- (b) This Court declares that the respondents, Patricia Riethmueller and her spouse, have no lease, tenancy, license or other continuing right of possession as against the applicant;
- (c) I order that the respondents, Patricia Riethmueller and her spouse, and any other persons occupying this properly, deliver up vacant possession of the said lands and premises to the applicant within fourteen (14) days of this order;
- (d) I order that the applicant shall be at liberty to issue a Writ of Possession directed to the Sherriff of the Territorial District of Timiskaming against the lands and premises municipally known as 449 Ferguson Avenue, Temiskaming Shores, Ontario, legal described as: PIN 61397-0200 (LT); PCL 1397 SEC SST; PT LT 21 BLK M PL M13NB BUCKE AS IN LT26535; TEMISKAMING SHORES; DISTRICT OF TIMISKAMING.

Costs

[46] If the parties are not able to agree on the issue of costs of this application, the applicant shall serve and file written submissions of no more than 2 pages in length, setting out what costs it seeks as a result of this application. These written submissions shall be provided within 15 days of the release of this decision.

[47] The respondents shall serve and file any responding written submissions, only on the issue of costs, of no more than 2 pages of length, 15 days after receiving the applicant's cost submissions. If the court does not receive submissions by September 11, 2026, it shall deem the issue of costs to have be determined.

The Honourable Madam Justice S.K. Stothart

CITATION: Mako Group Inc. v. Riethmueller, 2026 ONSC 4616
COURT FILE NO.: CV-26-0032
DATE: 2026-08-10

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Mako Group Inc.

Applicant

– and –

Patricia Riethmueller, John Doe, being the adult male
occupant in possession of the upper residential portion of
the property municipally known as 449 Ferguson Ave,
Temiskaming Shores, Ontario

Respondents

DECISION ON APPLICATION

S.K. Stothart J.

Released: August 10, 2026