

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Gatehouse Developments (Acquisition)*
Inc. v. 1104815 B.C. Ltd.,
2026 BCSC 1634

Date: 20260828
Docket: S248958
Registry: Vancouver

Between:

Gatehouse Developments (Acquisition) Inc.

Plaintiff/
Plaintiff by way of Counterclaim

And

1104815 B.C. Ltd.

Defendant

And

Gatehouse Developments (Acquisition) Inc.

Defendant by way of Counterclaim

Before: The Honourable Justice Hamilton

On appeal from: An order of the Supreme Court of British Columbia, dated January
26, 2026 (*Gatehouse Developments (Acquisition) Inc. v. 1104815 B.C. Ltd.*,
VA S248958).

Reasons for Judgment

Counsel for Gatehouse Developments
(Acquisition) Inc.:

B. Vickers
N. Regier

Counsel for 1104815 B.C. Ltd.:

N. Preshaw

Place and Date of Hearing:

Vancouver, B.C.
August 7, 2026

Place and Date of Judgment:

Vancouver, B.C.
August 28, 2026

Table of Contents

OVERVIEW.....	3
THE UNDERLYING ACTION	3
THE CONTEXT AND LEAD UP TO 110’S DOCUMENT APPLICATION AND THE ORDER.....	4
THE ORDER UNDER APPEAL.....	6
GROUND FOR APPEAL.....	7
Standard of Review	8
IS THE ASSOCIATE JUDGE’S DECISION CLEARLY WRONG?	9

Overview

[1] The plaintiff Gatehouse Developments (Acquisitions) Inc. (“Gatehouse”) appeals an order made by an Associate Judge of this Court on January 26, 2026 (the “Order”), requiring further document production pursuant to Rule 7-1(11) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 [SCCR]. Gatehouse seeks that the order be set aside.

[2] The defendant 1104815 BC Ltd. (“110”) seeks to dismiss the appeal.

[3] The issue before me is whether Gatehouse has demonstrated that the Associate Judge’s decision was clearly wrong. For the reasons that follow, I find that Gatehouse has discharged its onus, and I set aside the Order.

The Underlying Action

[4] The action concerns a contract dispute in relation to a contract for purchase and sale of real property (the “Contract”). Gatehouse is a property developer. In 2022, pursuant to the Contract, Gatehouse agreed to purchase land in Langley from 110, where it planned to build 97 townhomes. Gatehouse paid a deposit of \$6.6 million (the “Deposit”), with the balance of the purchase price of \$41.23 million due on completion. A clause of the agreement required 110 to ensure that the land was accessible by the completion date (the “Accessibility Clause”). The parties disagree regarding the proper interpretation of the Accessibility Clause.

[5] In its Notice of Civil Claim, Gatehouse claims that 110 fundamentally breached the Contract by not ensuring that the land was accessible by the time of completion. Gatehouse claims that it was ready, willing, and able to complete the deal, but that due to 110’s breach, it could not obtain financing to complete the purchase. Gatehouse seeks return of the Deposit.

[6] In its Response to Civil Claim, 110 maintains that:

- a) it did not breach the Contract, as the land was accessible by the completion date;

- b) Gatehouse was not ready, willing, and able to complete on the completion date, and breached the Contract by failing to complete; and
- c) 110 is entitled to retain the Deposit.

[7] 110 also filed a Counterclaim seeking damages against Gatehouse for breach of contract.

The Context and Lead Up to 110's Document Application and the Order

[8] 110 has an outstanding application seeking that Gatehouse post security for costs.

[9] On October 10, 2025, 110 sent Gatehouse a formal demand pursuant to Rules 7-1(10) and (11) of the *SCCR*, seeking that Gatehouse produce nine classes of documents that 110 stated were relevant to the following two issues:

- a) whether Gatehouse was ready, willing, and able to complete; and
- b) 110's application for security for costs.

[10] The documents sought included documents in the possession and control of approximately 22 other companies who are not parties to the action. 110's former counsel (who was not counsel on this appeal) found the names of the other companies by doing a corporate search for companies that contained the word "gatehouse" in their name and had the same principal as the plaintiff Gatehouse (the "Other Gatehouse Companies").

[11] There is no mention of any of the Other Gatehouse Companies in the pleadings. 110 also did not provide evidence of a financial connection between the plaintiff Gatehouse and the Other Gatehouse Companies in the demand for documents or in the materials that were before the Associate Judge.

[12] Gatehouse's initial formal response to the demand on November 5, 2025, did not comply with Rule 7-1(12) of the *SCCR*, in that it did not:

- a) specifically address each of the nine classes of documents;
- b) indicate which of the demanded documents would be produced; or
- c) indicate why certain documents would not be produced.

[13] However, the parties' counsel corresponded with each other at some length regarding document production both before and after 110's formal demand of October 10, 2025, and Gatehouse's formal response of November 5, 2025.

[14] In Gatehouse's counsel's correspondence between September and December 2025, Gatehouse indicated that it:

- a) agreed to produce any existing documents in its possession or control relating to whether or not it was "ready, willing and able" to complete;
- b) opposed producing documents in the possession or control of third parties; and
- c) Opposed producing documents relating solely to 110's application for security for costs as opposed to relating to a substantive issue in the action (at least unless 110 had case law in support of its position).

[15] 110 then filed its application for production of documents on December 22, 2025, seeking both documents in the possession or control of Gatehouse as well as documents in the possession and control of the Other Gatehouse Companies. The application stated that all documents were being sought on the basis that they were relevant to the issue of security for costs.

[16] At the time of the hearing before the Associate Judge, the proceedings were at an early stage. The parties had exchanged lists of documents but had not conducted discoveries or set a trial date. A summary trial is now set for five days in September 2026 regarding the interpretation of the Accessibility Clause.

The Order Under Appeal

[17] The Associate Judge ordered that Gatehouse amend its list of documents to include the following documents in the possession, power, or control of Gatehouse:

- a) Gatehouse's three most recent year end financial statements;
- b) documents showing the ownership and control across the 23 companies – being Gatehouse and the Other Gatehouse Companies (i.e. organizational charts or corporate structure summaries);
- c) any inter-company agreements, fund transfers, or shared financing arrangements among Gatehouse and the Other Gatehouse Companies;
- d) all communications or records showing which of the 23 companies Gatehouse Companies arranged or committed to financing in connection with the deposit of any pre-closing funding or commitments for the Contract;
- e) all documents relating to the ownership and share structure of all 23 companies, including but not limited to shareholder registers, resolutions, intercompany or management agreements, and Canada Revenue Agency filings;
- f) the year end financial statements for all 23 companies showing that any intermingling of assets or income or payments of debts including but not limited to any shared bank accounts, transfers, payroll or payment across the 23 companies;
- g) all projects and asset history for all 23 companies, showing whether the same people or same companies have transferred money or assets between any of the 23 companies on other real estate development projects;

- h) all communications including but not limited to emails between employees of the 23 companies showing any cross-entity coordination; and
- i) all documents showing any common branding (i.e. “Gatehouse Group” type material) amongst the 23 companies,

from February 5, 2022, to the date of the Order, within 30 days and provide a copy of the documents to counsel within 30 days of the pronouncement of the Order.

[18] The parties consented to a stay of the Order pending this appeal.

Grounds for Appeal

[19] Gatehouse appeals the Order, alleging that the Associate Judge erred on several grounds including:

- a) expanding the scope of relevance to include 110’s outstanding application for security for costs as opposed to a substantive issue in the pleadings;
- b) procedural unfairness, including permitting 110 to make arguments that the documents were relevant to “ready willing and able”, which was not the stated basis for relevance in 110’s notice of application;
- c) ruling that the documents requested by 110 were relevant to the action;
- d) not considering whether the requested orders were vague, overbroad, exceeded proportionality, or if there was evidence that they existed; and
- e) in determining the Rule 7-1(12) response was inadequate and, in any event, even if it was inadequate, that that was a relevant factor in making an order for disclosure under rule 7-1(13) and 7-1(14).

[20] In its oral argument, Gatehouse raised an additional ground, alleging that the Associate Judge’s reasons were inadequate. 110 objects to Gatehouse arguing a new ground for appeal not set out in the notice of appeal. Because I am persuaded

to set aside the Order on other grounds, it is unnecessary for me to address Gatehouse's reliance on a new ground of appeal.

Standard of Review

[21] The standard of review on the appeal from an order of an Associate Judge was set out by Justice Fenlon, then of this Court, in *Ralph's Auto Supply (B.C.) Ltd. v. Ken Ransford Holding Ltd.*, 2011 BCSC 999, aff'd 2011 BCCA 390 [*Ralph's Auto*], as follows:

[7] [Associate Judges] began sitting in this Court in late 1989. The standard of review to be applied on an appeal to a judge of this Court from [an Associate Judge's] decision has been settled since early 1990:

- 1) Review of a purely interlocutory decision of [an Associate Judge] is a true appeal and the [Associate Judge's] decision is not to be interfered with unless it is clearly wrong.
- 2) A question of law, a final order or a ruling that raises questions vital to the final issue in the case are reviewed by way of a rehearing on the merits based on the record before the [Associate Judge]; even where an exercise of discretion is involved, the judge appealed to may quite properly substitute his or her own view for that of the [Associate Judge].

[22] Here, the application concerns document production, which is purely interlocutory in nature.

[23] An appeal from an Associate Judge's order in a purely interlocutory matter should not be granted unless the order is clearly wrong: *Abermin Corp. v. Granges Exploration Ltd.*, 1990 CanLII 1352 (BCSC), [1990] B.C.W.L.D. 1242, 45 B.C.L.R. (2d) 188; *Ralph's Auto* at paras. 7–8.

[24] Thus, to be successful on this appeal, Gatehouse must demonstrate that the Associate Judge's decision was clearly wrong.

[25] In *Genesis Fertility Centre Inc. v. Yuzpe*, 2017 BCSC 1037, Justice Gropper addressed what an appellant must demonstrate to show the Associate Judge was clearly wrong, stating as follows:

[16] I adopt the plaintiffs' summary of the decisions that discuss what may constitute a "clearly wrong" decision: *Stancroft Trust Ltd. v. Can Asia Capital*

Co., [1991] B.C.J. No. 931 at page 5; *Lau v. Canada (Attorney General)*, 2014 BCSC 2384 at para. 138.

[17] A “clearly wrong” decision is made where:

- a. the [Associate Judge] abuses her discretion by acting arbitrarily or capriciously;
- b. the [Associate Judge] exercises her discretion under a mistake of law;
- c. the [Associate Judge] erred in law or principle;
- d. the [Associate Judge] misdirected herself;
- e. the [Associate Judge] disregards a principle;
- f. the [Associate Judge] misapprehends facts or takes into account irrelevant factors; or
- g. the order of the [Associate Judge] would result in an injustice.

Is the Associate Judge’s Decision Clearly Wrong?

[26] I will state at the outset that it is clear from the hearing transcript that the Associate Judge had limited time to hear the application. It was heard in regular chambers, with the Associate Judge giving abbreviated oral reasons the same day.

[27] Chambers court is invariably busy and there is limited time to consider each matter on the list. This puts the adjudicator in the difficult position of deciding matters based on submissions that are often rushed, with parties cutting corners in terms of taking the adjudicator to the evidence or explaining the law. I also acknowledge that when parties attempt to get heard in chambers, they are often tempted to underestimate the time required for a matter to improve their chances of being heard. I make this decision with these unfortunate realities in mind.

[28] At the outset of his reasons, the Associate Judge correctly noted that Rule 7-1(1) of the *SCCR* provides that each party of record must prepare and serve a list of documents, listing all documents that are or have been in the party's possession or control that:

- a) could be used by any party to prove or disprove a material fact; or
- b) the party intends to refer to at trial.

[29] Under Rule 7-1(10) of the *SCCR*, a party who has received a list of documents, but believes the list omits documents that exist and should have been disclosed, may, by written demand, require the other party who prepared the list to disclose such additional documents. A demand under Rule 7-1(10) is restricted to documents that should have been disclosed under Rule 7-1(1).

[30] Rule 7-1(11) of the *SCCR* is available when a party has received a list of documents but believes there are additional documents within the listing party's possession, power, or control, that relate to matters in question in the action. If a party seeks documents pursuant to Rule 7-1(11) of the *SCCR*, they must provide a written demand to the party from whom documents are sought, which identifies the additional documents or classes of documents with reasonable specificity and indicates why the additional document should be disclosed. The respondent must provide a detailed response which complies with Rule 7-1(12).

[31] The purpose of Rule 7-1 demands and responses is to get the parties talking so they can sensibly resolve or narrow the issues relating to document requests: see *Barrie v. British Columbia (Forests, Lands and Natural Resource Operations)*, 2021 BCCA 322 at para. 100, citing *XY, LLC v. Canadian Topsires Selection Inc.*, 2013 BCSC 584 at paras. 22–23, which quoted *Lit v. Hare*, 2012 BCSC 1918 at para. 57.

[32] After a party makes a demand, Rule 7-1(13) of the *SCCR* provides that if they are unsatisfied with the other parties' response, they may apply to the Court, which is what 110 did in this case.

[33] 110 applied for production of documents under Rule 7-1(11) by its application dated December 22, 2025. The test for disclosure of documents under Rule 7-1(11) is wider than the test under Rule 7-1(1). It is whether the document or class of documents can reasonably be expected to contain information which may enable the party seeking the document to either advance their own case, damage their opponent's case, or which may fairly lead the requesting party to a train of inquiry in relation to either of those consequences: *Global Pacific Concepts Inc v. Owners of Strata Plan NW141*, 2011 BCSC 1752 at paras. 8–9 [*Global Pacific*].

[34] The Associate Judge correctly stated that a party who receives a demand pursuant to Rule 7-1(10) or (11) must either produce all requested documents or provide a response that explains why any requested documents will not be disclosed. The Associate Judge went on to state that if a party who receives a demand pursuant to Rule 7-1(10) or (11) does not comply with the mandatory requirements of Rule 7-1(12), the demanding party may apply pursuant to Rule 7-1(13) for an order that would require the listing party to comply with the demand.

[35] 110 sent a formal demand to Gatehouse on October 10, 2025. In its demand, 110 included documents in the possession or control of the Other Gatehouse Companies because they showed up on a search for companies that contained the word “gatehouse” and had the same principal as the plaintiff Gatehouse.

[36] In its formal demand, 110 claimed that the documents demanded were relevant to:

- a) whether Gatehouse was ready, willing, and able to complete on the completion date; and
- b) 110’s outstanding application that Gatehouse post security for costs.

[37] As noted by the Associate Judge, Gatehouse’s November 5, 2025, response to 110’s demand did not address the particular documents or categories of documents demanded by 110.

[38] Instead, Gatehouse’s November 5, 2025 response stated that:

- a) the Other Gatehouse Companies were separate, non-party entities, and that 110 was not entitled to demand that Gatehouse produce documents in the possession or control of separate, non-party entities;
- b) 110 was not entitled at this stage of the litigation to demand documents that relate solely to Gateway’s ability to pay costs; to be produceable, the documents had to be relevant to a substantive issue in the pleadings; and

- c) Gatehouse's counsel would contact his client to confirm whether there were any other documents that existed that were relevant to whether it was ready, willing, and able to complete as of the completion date but had not already been produced.

[39] Gatehouse's counsel and 110's counsel corresponded with each other extensively about document disclosure between September and November 2025, both before and after 110's October 10, 2025 formal demand and Gatehouse's November 5, 2025 formal response.

[40] Unfortunately, in the limited time for the hearing, Gatehouse's counsel did not take the Associate Judge to the full correspondence. The Associate Judge therefore focused solely on 110's October 10, 2025, formal demand and Gatehouse's November 5, 2025, formal response, and was focused on the fact that Gatehouse's formal response did not comply with Rule 7-1(12) of the *SCCR*.

[41] Unlike the Associate Judge, I had the benefit of reviewing more of the correspondence between counsel from September 2025 through November 2025. The full correspondence provides context in which to assess 110's demand for documents, Gatehouse's response to 110's demand, 110's notice of application, and Gatehouse's application response. The correspondence shows that Gatehouse acted consistently with the purpose or spirit of Rule 7-1 to try to resolve – or at least narrow – the disclosure issues between counsel.

[42] Without the benefit of reviewing counsel's full correspondence, the Associate Judge quickly formed the impression that Gatehouse was "trying to hit a home run" in avoiding further disclosure. However, to the contrary, the correspondence makes it clear that Gatehouse understood it was required to produce any existing documents in its possession or control relating to substantive issues in the proceedings, such as whether or not it was ready, willing, and able to complete the Contract.

[43] It is clear from Gatehouse's counsel's correspondence that the documents Gatehouse opposed producing were:

- a) third-party documents out of Gatehouse's possession and control; and
- b) documents that were solely related to 110's application for security for costs, as opposed to a substantive issue in the underlying action.

[44] It is also clear from Gatehouse's counsel's correspondence that even with respect to the documents it opposed producing, Gatehouse attempted to seek further information to better understand 110's demand and further narrow the issues, consistent with the purpose of Rule 7-1.

[45] In its correspondence, Gatehouse's counsel tried to explain its legal position to 110 – that the Other Gatehouse Companies were separate entities which, to his knowledge, were not involved in the Contract or the proceeding. Notably, there is nothing in the pleadings mentioning any of the Other Gatehouse Companies.

[46] Apparently unsatisfied with Gatehouse's position, 110 filed its document application on December 22, 2025. 110's notice of application, like its October 10, 2025, demand, continued to seek documents in the possession or control of the Other Gatehouse Companies who are not parties to the action and are not mentioned in the pleadings.

[47] Significantly, 110's notice of application states that all of the documents sought are relevant to the issue of security for costs. Unlike its demand made on October 10, 2025, 110's notice of application of December 22, 2025, specifically did not state that the documents sought were relevant to whether Gatehouse was ready, willing, and able to complete. Presumably, this was because Gatehouse had been clear in its correspondence that it agreed to produce documents that related to whether Gatehouse was ready, willing, and able to complete. Thus, there was no need for 110 to bring an application for those documents. As a result, 110's application was focused solely on documents relevant to its application for security for costs.

[48] In the context of 110's more narrowly framed notice of application, Gatehouse's application response stated it opposed:

- a) orders compelling Gatehouse to produce documents in the possession or control of the Other Gatehouse Companies who were non-parties and separate entities; and
- b) production of documents solely relevant to security for costs (as opposed to a substantive issue in the pleadings).

[49] Given the narrow focus of 110's notice of application, Gatehouse's counsel chose to rely on the law, file only limited affidavit material, and not file evidence regarding the proportionality of 110's document application.

[50] However, in oral submissions before the Associate Judge, 110's counsel strayed from the basis for production stated in its notice of application, arguing that some of the documents sought were relevant to whether Gatehouse was ready, willing, and able to complete, despite the notice of application only referring to them being relevant to security for costs; Gatehouse had already agreed in correspondence to produce all its documents relating to whether it was ready, willing, and able to complete.

[51] Gatehouse's counsel was taken by surprise but, for whatever reason, did not request an adjournment to better prepare or provide evidence, including to address proportionality.

[52] Unfortunately, in my view, the situation that unfolded in chambers led to several significant errors that result in an injustice, such that the Order is clearly wrong and ought to be set aside.

[53] First, having not had the benefit of counsel taking him to the full correspondence between counsel, the Associate Judge took immediate and significant issue with:

- a) Gatehouse's lack of a particularized response to the demand in its November 5, 2025, response; and
- b) Gatehouse's apparent position that it would not produce any of the requested documents.

[54] In other words, the Associate Judge formed the false impression that Gatehouse had generally not acted reasonably regarding document disclosure by trying to resolve or narrow what was in issue.

[55] Second, the Associate Judge appears to have been unaware that Gatehouse had already agreed to produce all documents in its possession or control that may relate to whether it was ready, willing, and able to complete. Neither counsel made this clear to the Associate Judge, whether because the hearing was rushed or otherwise.

[56] Third, the Associate Judge appears to have been unaware that 110's notice of application related solely to documents as they related to the issue of security for costs. Thus, the Associate Judge failed to address Gatehouse's argument in its application response – that 110's application for security for costs cannot expand the notion of what may be relevant in a proceeding.

[57] In *Araya v. Nevsun Resources Ltd.*, 2020 BCSC 511, Madam Justice Ross confirmed that in the context of applications for production of documents pursuant to Rule 7-1 of the *SCCR*, relevance is based on the pleadings and not on issues raised in a notice of application: at paras. 79–80; see also *Global Pacific* at para. 2 and *Eastern Platinum Limited v. Cameron*, 2019 BCSC 1515 at para. 34 [*Eastern Platinum*].

[58] In other words, 110's application for security for costs is a collateral issue. It cannot expand the notion of relevance for the purposes of document disclosure. Relevance is tethered to the substantive issues in the pleadings. Thus, to the extent that the Associate Judge found the documents relevant to the issue of security for costs, that is an error. The Associate Judge may have been distracted from the

correct analysis of relevance by 110's submissions with respect to Gatehouse's claim that it was ready, willing, and able to complete. However, as set out above, that basis for additional document disclosure was not part of 110's application because it was not necessary in light of Gatehouse's agreement to provide such documents that were in its possession or control.

[59] Fourth, even if relevance is established, the Court must consider whether production of the documents would be disproportionate in view of the potential bearing on the litigation: *Economical Mutual Company and in French, Economical Compagnie Mutuelle D'Assurance v. Teck Metals Ltd.*, 2021 BCSC 1582 at paras. 15–22; *Red Avacado Sales Inc. v. Yao*, 2019 BCSC 996 at paras. 15–20.

[60] Here, the Associate Judge did not address proportionality and was critical of Gatehouse's counsel for not providing evidence regarding proportionality. However, Gatehouse's counsel chose not to file such evidence because 110's notice of application was narrowly framed. Had Gatehouse's counsel known that 110 intended to seek production of documents relevant to a substantive issue in the proceeding, I accept that he would have filed evidence regarding proportionality.

[61] The Associate Judge accepted Gatehouse's counsel's argument that 110 was not entitled to seek documents that are within the sole possession or control of third parties. Indeed, the Associate Judge described 110's application for documents in the sole possession or control of the Other Gatehouse Companies (i.e. non-parties) as "miscast" and restricted the Order to listing documents in Gatehouse's own possession or control.

[62] However, the Associate Judge did not specifically address the lack of any evidence regarding any financial or other relevant link between:

- a) the Other Gatehouse Companies and the plaintiff Gatehouse; and
- b) the Other Gatehouse Companies and the issues raised in the pleadings.

[63] In my view, the fact that the Other Gatehouse Companies contained the word “gatehouse” in their names and had the same principal is not sufficient to satisfy the test for further disclosure under Rule 7-1(11) of the SCCR.

[64] An application for production of documents under Rule 7-1(11) requires some evidence of the existence and potential relevance of the documents sought: *Eastern Platinum* at paras. 24–27. The onus is on the applicant seeking further document disclosure to provide evidence that such documents actually exist. The Associate Judge’s decision omitted analysis of this consideration.

[65] Overall, based on the unfortunate way in which the hearing unfolded in chambers, the Associate Judge made a series of errors resulting in a decision that was clearly wrong, in that he did not address the applicable legal test.

[66] It was procedurally unfair to Gatehouse to permit 110 to argue that the documents were relevant to the issue of whether Gatehouse was ready, willing, and able to complete. The parties had already narrowed the issues, and Gatehouse had already agreed to produce all documents relating to this issue. The only issue before the Court was whether documents relevant to security for costs were produceable.

[67] In the context of: (1) the limited time available for the hearing; (2) the Associate Judge already having to spend time correcting 110’s “miscast” notice of application seeking that Gatehouse produce documents in the possession and control of other entities; and (3) 110’s counsel straying from the wording and basis of his notice of application in oral submissions, the Associate Judge failed to:

- a) address the issue of whether the documents were produceable by law as relevant to security for costs;
- b) address the lack of evidence of any real connection between the Other Gatehouse Companies and Gatehouse or the proceedings;
- c) address the lack of evidence of the existence of the documents; and

- d) address the issue of proportionality or adjourn the matter to allow Gatehouse to provide evidence on proportionality.

[68] As a result, it would create an injustice to let the Order stand. I find that the decision is clearly wrong and I am setting aside the Order.

[69] I am granting Gatehouse costs in the cause.

“Hamilton J.”