CITATION: York Region Vacant Land Condominium Corporation No. 1010 v. Marcello, 2026 ONSC 6310
COURT FILE NO.: CV-20-00636171-00CL
DATE: 20261109

2026 ONSC 6310 (CanLII)

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: York Region Vacant Land Condominium Corporation No. 1010, Plaintiff

AND:

Rocco A. Marcello, Mike Rogers, Treasure Hill Developments Inc., Windsor Private Capital Inc., Windsor Private Capital L.P., Manziana Builders (BT) Corp., Podere Construction Ltd., Nicholas Fidei and Michael Marcello, Defendants

AND RE: 1010 Rocco A. Marcello, Mike Rogers, Treasure Hill Developments Inc., Windsor Private Capital Inc., Windsor Private Capital L.P., Manziana Builders (BT) Corp., Podere Construction Ltd., Nicholas Fidei and Michael Marcello, Plaintiffs by Counterclaim

AND:

York Region Vacant Land Condominium Corporation No. 1010, Alan Benlolo, Rick Mangat and Nino Campoli, Defendants by Counterclaim

BEFORE: Cavanagh J.

COUNSEL: *Robert W. Staley, Jason M. Berall, Andrew N. Sahai and Dylan H. Yegendorf*, Counsel for the Plaintiff, Defendants by Counterclaim

S. Wayne Morris, Counsel for the Defendants, Plaintiffs by Counterclaim, Rocco A. Marcello, Windsor Private Capital Inc., Windsor Private Capital L.P. and Michael Marcello.

Alexander B. Paul, Counsel for the Defendant Mike Rogers

Stephen Brunswick and Elizabeth Ayo, Counsel for the Defendants, Plaintiffs by Counterclaim, Treasure Hill Developments Inc. and Manziana Builders (BT) Corp.

HEARD: In Writing

SUPPLEMENTARY COSTS ENDORSEMENT

[1] Following the release of my costs endorsement, I received a letter from Chernos, Flaherty Svonkin LLP ("CFS LLP") advising that the calculation of the amount of costs awarded to Mr. Rogers does not include costs in respect of the amount paid to CFS LLP. CFS LLP was retained prior to the commencement of trial when the Plaintiff moved to amend its pleading to seek disgorgement of profits from Mr. Rogers. The amount paid to CFS LLP was $120,137.03.

[2] The author of the letter copied other trial counsel so they can advise if any calculation in the letter is incorrect or if they wish to speak to the matter. I did not receive any further submissions.

[3] A separate Bill of Costs was filed by Mr. Rogers for costs incurred for the services of CFS LLP. The amount claimed for fees on a full indemnity basis is $106,307.50.

[4] Mr. Rogers asks that my endorsement as to costs be varied to correct the error in not including an amount for fees in relation to legal services provided by CFS LLP.

[5] The services provided by CFS LLP are detailed in Mr. Rogers' separate Bill of Costs for these services. CFS LLP began to provide legal services on October 10, 2024 and they ended on May 30, 2025. The fee items are described in the Bill of Costs as follows:

> Initial case assessment, discussions, and file review; legal research; reviewing and revising draft Amended Statement of Defence prepared by trial counsel; witness preparation for client's testimony at trial; reviewing Plaintiff's closing submissions; reviewing and revising closing submissions prepared by trial counsel; preparing for closing argument; attending at trial (DC) on October 17, 23, 25 and 31, 2024, and January 23 and 24, 2025; and all correspondence and telephone calls with opposing counsel, trial counsel, and client regarding same.

[6] Time was spent by lead counsel (1993 call) (81.3 hours), second counsel (2008 call) (29.3 hours) and an articling student (6.9 hours).

[7] I have considered the factors in rule 57.01 of the *Rules*. I am satisfied that costs for legal services provided by CFS LLP to Mr. Rogers should be awarded and the amount claimed for costs is fair and reasonable and falls within a range of costs that 1010 could reasonably expect to pay if it were to be unsuccessful in the action as against Mr. Paul, subject to reduction for an award of substantial indemnity costs.

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[8] I vary paragraph 88 of my costs endorsement to substitute for this paragraph in my endorsement the following paragraph:

> I fix costs to be paid by 1010 to Mr. Rogers in the amount of $686,431.77 comprised of fees, including HST, of $553,560.25 (90% of $615,066.94) and disbursements including HST of $132,871.52.

_____

Cavanagh J.

Date: November 9, 2026

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