

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

NORTHCREST NEIGHBOURS FOR FAIR PROCESS LTD.

Applicant/ Respondent to Motion

- and -

THE CORPORATION OF THE CITY OF PETERBOROUGH

Respondent/ Moving Party

NOTICE OF MOTION FOR SECURITY FOR COSTS

The Corporation of the City of Peterborough will make a motion on date to be fixed by the court but in any event before the hearing of the Application currently scheduled for June 10, 2025, at 9:30am, or soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard

- ☐ In writing under subrule 37.12.1 (1);
- ☐ In writing as an opposed motion under subrule 37.12.1 (4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference.

at the following location: 470 Water Street, Peterborough, ON K9H 3M3

THE MOTION IS FOR:

- A) An Order that the Applicant provide security for costs in the amount of \$10,000.00 or such amount as this Honourable Court may deem just;
- B) An Order that until the security required by this order has been given, the applicant may not take any step in this proceeding, except an appeal from this Order;
- C) In the alternative, an order piercing the corporate veil such that Sarah McNeilly is personally responsible for any costs owing by the Applicant; and
- D) The costs of this motion.

THE GROUNDS FOR THE MOTION ARE:

- A) The Applicant is a shell corporation without operations and it does not have any assets in Ontario or elsewhere to pay the costs of the Respondent;
- B) The Applicant was incorporated for the purpose of insulating Sarah McNeilly from being exposed to a cost award in her personal capacity and thus there is good reason to believe that the Applicant will try to avoid paying any order for costs;
- C) The Application Record has not provided any evidence whatsoever that the Respondent's passage of City of Peterborough By-Laws 25-051 and 25-052 (the "By-Laws") were *ultra vires*.

- D) The Application Record baldly asserts that By-Laws do not implicate a prescribed provincial priority, such priorities being (1) the building of new residential units and (2) the construction and maintenance of supporting infrastructure, all of which is set out in O.Reg 580/22;
- E) The Application Record concedes that the By-Laws were “Ostensibly” enacted to facilitate the construction of a 52-unit, six storey transitional housing development;
- F) The Application Record provides no evidence that the By-Laws were passed for some other purpose than for which they were “Ostensibly” passed;
- G) While the Respondent submits that the appropriate test is set out in section 284.14 of Municipal Act 2001, SO 2001, c25 and not as characterized by the Applicant, even accepting the Applicant’s test being whether the provincial priority is implicated, the Application Record provides no evidence or explanation as to why a 52-unit six storey transitional housing development would not be a building of “new residential units” within the meaning of O. Reg 580/22.
- H) The Application was brought for an ulterior motive, namely Sarah McNeilly’s personal opposition to section 284.11.1 of the *Municipal Act 2001*, SO 2001, c25, which she views as undemocratic.
- I) Rule 56 of the *Rules of Civil Procedure* and in particular Rules 56.01(d) and 56.01(e).

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- a) Application Record of the Applicant;
- b) Responding Application Record;
- c) The Form 51A Request to Admit of the Respondent dated May 16 2025;
- d) The Form 51B Response to Request to Admit of the Applicant or the deemed admissions of the Applicant if none is provided
- e) Such further and other evidence as counsel may advise, such as transcripts from the cross-examination of Sarah McNeilly on her Affidavit dated April 9th, 2025, if necessary, and this Honourable Court may permit.

May 27 2025

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 Peterborough
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NORTHCREST NEIGHBOURS FOR FAIR PROCESS LTD.

vs.

Court File No. CV-25-00000113-0000
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PROCEEDING COMMENCED AT PETERBOROUGH

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