

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CORSICA DEVELOPMENT INC.

Applicant

- and -

THE CORPORATION OF THE TOWN OF RICHMOND HILL,
PETER B. TRUMPOUR and THE ESTATE OF PETER B. TRUMPOUR

Respondents

APPLICATION UNDER Rules 14.05(3)(d), (e), (f) and (h) of the Rules of Civil Procedure, and Section 100 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43

NOTICE OF APPLICATION

TO THE RESPONDENT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on _____, _____, 2016, at 9:30 a.m., at 50 Eagle Street West, Newmarket ON L3Y 6B1.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date _____ Issued by _____
Local Registrar
Address of 50 Eagle Street West
court office: Newmarket ON L3Y 6B1

TO: **THE CORPORATION OF THE TOWN OF RICHMOND HILL**
225 East Beaver Creek Road
Richmond Hill ON
L4B 3P4

AND TO: **PETER B. TRUMPOUR**

AND TO: **THE ESTATE OF PETER B. TRUMPOUR**

APPLICATION

1. The applicant makes application for:
 - (a) An order dispensing with the requirement for service on the respondents, Peter B. Trumpour and The Estate of Peter B. Trumpour;
 - (b) A declaration that title of the one-foot reserve described in Schedule "A" (the "Reserve"), is the property of the Corporation of the Town of Richmond Hill;
 - (c) An order that all right, title and interest in the Reserve be vested in the Corporation of the Town of Richmond Hill, in fee simple;
 - (d) If applicable, the costs of this application to such party and in such amount as to this Honourable Court seems just; and
 - (e) Such other relief as this Honourable Court may deem just.

2. The grounds for the application are:

Dispensing with Service

- (a) The Reserve was created in 1921 by a plan of subdivision registered as Plan 2260, Town of Richmond Hill (then the Town of Markham), in the Regional Municipality of York;
- (b) The pre-1921 Registration owner of the lands (including what later became the Reserve) was Peter B. Trumpour;
- (c) The applicant submits that the Reserve was dedicated to the Municipality in 1921 and, thus, Mr. Trumpour or his Estate have no interest in the property. The

Municipality has spent public monies maintaining the Reserve. Mr. Trumpour and his Estate have not maintained the lands nor paid any municipal taxes in respect of the Reserve;

- (d) Mr. Trumpour and his Estate have been included as respondents as a precaution;
- (e) Mr. Trumpour and his Estate cannot be found;
- (f) The Trumpour respondents have been notified of these proceedings by publication in a national newspaper;
- (g) As the Trumpour respondents have no interest in the lands in question, they will suffer no prejudice if the order sought is granted;

The Vesting Order

- (h) The Reserve was created by a plan of subdivision in 1921, Plan 2260 (the "1921 Subdivision");
- (i) The 1921 Subdivision at its southern point, established a municipal road named Hillsview Drive. The Reserve was created between the southern-most point of Hillsview Drive and the northern-most point of the property to the immediate south of the 1921 Subdivision. The property to the immediate south of the reserve is now owned by the applicant (the "Corsica Lands");
- (j) Reserves of this nature are commonly dedicated to the local municipality to control access, limit further development of adjacent lands and to ensure lands are developed in accordance with proper municipal planning purposes;
- (k) By operation of law, the Reserve was dedicated to the municipality in 1921;

- (l) The applicant intends to obtain registration of a plan of subdivision for a 533 homes development to the immediate south of the Reserve (the "Corsica Subdivision");
- (m) The draft approved plan of subdivision includes a widening of Hillsvie Drive. The widened Hillsvie Drive will include the reserve and adjacent lands to the immediate south of the Reserve, that are being dedicated by Corsica to the Corporation of the Town of Richmond Hill;
- (n) The Reserve is registered in the Registry System but the parcel register does not indicate a registered owner;
- (o) A road cannot be built around a one-foot reserve of uncertain ownership;
- (p) Hence, the need for the herein sought Vesting Order, vesting ownership in fee simple to the Corporation of the Town of Richmond Hill;
- (q) The Corsica Registration must be registered in order to facilitate the sale and construction of the 533 homes as set out in draft plan approval;
- (r) Thus, the Order sought and the Corsica Registration are pre-conditions to the sale and construction of 533 homes ;
- (s) The absence of registration is holding up a 533 home development and roughly 200 jobs;
- (t) Hence, there is urgency to the herein application;
- (u) The Corporation of the Town of Richmond Hill consents to the application; and
- (v) Such further and other grounds as the lawyers may advise.

3. The following documentary evidence will be used at the hearing of the application:
- (a) The Affidavit of Herbert Wisebrod;
 - (b) The Consent of the Corporation of the Town of Richmond Hill; and
 - (c) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

(Date of issue)

STEVENSON WHELTON MacDONALD & SWAN LLP

Barristers

7501 Keele Street

Suite 200

Vaughan ON L4K 1Y2

Richard Macklin

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Lawyers for the applicant

SCHEDULE "A"

Property Description:

Part of the One Foot Reserve, Registered Plan 2260, Part 4 Plan 65R-10984, Town of Richmond Hill, Regional Municipality of York being all of PIN 03144-0695 (R).

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Applicant

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PROCEEDING COMMENCED AT NEWMARKET

NOTICE OF APPLICATION

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