

**CITATION:** Staples v. Huntsville (Town), 2017 ONSC 6295  
**COURT FILE NO.:** CV-17-66  
**DATE:** 20171020

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

<b>BETWEEN:</b>	)	
	)	
BRIAN STAPLES	)	
	)	David Morin, for the Applicant
Applicant	)	
	)	
– and –	)	
	)	
CHIEF BUILDING OFFICIAL OF THE	)	Sarah Hahn, for the Town and Chief
TOWN OF HUNTSVILLE, THE	)	Building Official
CORPORATION OF THE TOWN OF	)	
HUNTSVILLE	)	
	)	
- and -	)	
	)	
SEAN NAKAMOTO	)	
	)	Kim Mullin and Bruce Engell, for Sean
Respondents	)	Nakamoto
	)	
	)	
	)	<b>HEARD:</b> September 19 and 29, 2017

2017 ONSC 6295 (CanLII)

**DECISION ON MOTION**

**WILCOX, J.**

**INTRODUCTION**

[1] In this case, the Applicant calls into question a building permit issue by the Chief Building Official (CBO) of the Town of Huntsville, (the Town) (together the Huntsville Respondents) allegedly for the building of dock and boathouse by Sean Nakamoto at 24 Scott’s Point Road, in Huntsville, Ontario. He seeks to prevent the building of those structures in the intended location. The applicant claims that the boathouse will significantly impact the enjoyment of his property by impinging on the view from it.

**PROCEDURE**

[2] This case was commenced by a Notice of Application seeking:

- (a) A reversal of the decision of the Chief Building Official to issue a permit for the construction of a dock and boathouse at 24 Scott's Point Road, Huntsville, in a location other than that depicted on a Site Plan approved by the Committee for Adjustment on November 7, 2012;
- (b) An order that the construction of the dock and boathouse cannot proceed without a variance of the Committee of Adjustment's decision on November 7, 2012 with respect to the site plan and proposed location, such that all interested stakeholders have had an opportunity to be consulted on the new location approved by the Town;
- (c) an *ex parte* interim injunction suspending the building permit issued by the Town of Huntsville in respect of 24 Scott's Point Road on or about September 11, 2017, permitting the Applicant time to appeal the building permit to the Superior Court of Justice pursuant to the *Building Code Act*, S.O. 1990, c. 23;
- (b) in the alternative, a stay of the building permit issued by the Town of Huntsville in respect of 24 Scott's Point Road on or about September 11, 2017, pursuant to section 25(7) of the *Building Code Act* 1992, S.O. 92, c. 23, permitting the Applicant time to appeal the building permit to the of Justice pursuant to the *Building Code Act*, S.O. 1990, c. 23;

[3] In addition, an *ex parte* Notice of Motion was brought for:

- (a) an *ex parte* interim injunction suspending the building permit issued by the Town of Huntsville in respect of 24 Scott's Point Road on or about September 11, 2017 which will permit the Applicant time to appeal the building permit to the Superior Court of Justice pursuant to the *Building Code Act*, S.O. 1990, c.23;
- (b) in the alternative, an *ex parte* interim injunction suspending the building permit issued by the Town of Huntsville in respect of 24 Scott's Point Road on or about September 11, 2017, until such time as all interested stakeholders have had an opportunity to agree to the location of the boathouse;
- (c) in the further alternative, a stay of the building permit as issued in respect of 24 Scott's Point Road pursuant to section 25(7) of the *Building Code Act*;

[4] Neither was initially served on Sean Nakamoto, the owner of the property in question. The Applicant took the position that his case was not against Nakamoto but was against the Town and CBO for failing to follow policy and proper procedure.

[5] The matter was dealt with initially *ex parte* in chambers by RSJ Gordon who made an order as follows:

1. THIS COURT ORDERS that the building permit issued by the Respondents in respect of 24 Scott's Point Road be suspended until Tuesday, September 19, 2017 at 2 pm, when this matter shall be returnable before this Court in Parry Sound.
2. THIS COURT ORDERS that the Respondents shall be served with this Order forthwith, as shall the owners of 24 Scott's Point Road.

[6] The matter then came before me on September 19, 2017. Counsel for Nakamoto, as well as those for the Applicant and for the Huntsville Respondents, was present. Nakamoto's motion to be added as a party respondent was granted. The Applicant consented to that order and the Huntsville Respondents took no position. The matter continued on September 29, 2017.

[7] Counsel for the Applicant indicated that he was seeking an interlocutory injunction suspending the building permit for 45 days to provide time for the interested stakeholders to negotiate an agreement, or for the applicant to appeal the building permit under s. 25 of the *Building Code Act*. On the second day of the hearing, it was clarified that the Notice of Application was, in fact, the appeal.

[8] The timelines provided in the *Rules of Civil Procedure* for service and filings in this matter have not been respected. However, all counsel wished to proceed.

## FACTS

- [9] This case involves two adjacent waterfront properties, numbers 20 (herein after number 20) and 24 (herein after number 24), on Scott's Point Road in the Town of Huntsville, in the District of Muskoka, Ontario. Scott's Point juts into Fairy Lake. Both properties had been owned by the Shirliffs, number 20 in the names of Daniel John and Joanne Shirliff and number 24 in the name of Joanne Shirliff. Brian Staples and Annette Casullo purchased number 20 on September 27, 2016. It had a house on it at the time. Sean Nakamoto purchased number 24 on September 30, 2016. It was vacant. Number 20 is described as pie shaped, narrowing towards the lake, with eighty feet of frontage. Number 24 has about 182 feet of frontage. Notably, number 24 extends into the lake. Where it does so is referred to in one document as "flooded land". According to the site plan, of the total square footage of number 24 of 30,359, 13,504 is land, leaving well over half, 16,885, under water.
- [10] The sole applicant in the title of proceedings is Brian Staples. In his affidavits of September 13, 14 and 18, 2017, he deposes that he is the owner of number 20. The affidavits are all in the first person singular. The Applicant's counsel shown on the application and motion record is Annette A. Casullo, of Will Davidson LLP. Ms. Casullo's name qua an owner of number 20 appears in a September 7, 2017 letter to the

Town which is Exhibit D to Staples' affidavit of September 13, 2017, and on a petition opposing the building permit. The e-mail of September 11, 2017 from the CBO which is Exhibit G to Staples' September 13, 2017 affidavit is to "Annette and Brian". Not until Staples' affidavit of September 18, 2017 is Ms. Casullo explicitly identified as his wife, however. Exhibit C to the affidavit of the Respondent Nakamoto dated September 19, 2017, a parcel register, shows Staples and Casullo as joint tenants.

- [11] In 2012, the Shirliffs applied to the Committee of Adjustments for a minor variance to allow for the construction of a single family home, boathouse and dock on number 24. A notice of hearing for November 7, 2012 was circulated. Part of the notice read as follows:

Through the provisions of the Planning Act, the Committee of Adjustment has been authorized to deal with applications for Minor Variances from Zoning By-law 2008-66P as amended, and the enclosed notice must be sent to all assessed owners adjacent to the land concerned, or such areas as the Committee may direct.

Any Interested party, for or against, may appear at the meeting or remit a written submission to the Secretary-Treasurer prior to the fixed date of hearing which submissions will be considered by the Committee.

If an interested party does not attend the meeting or remit a written submission, then the Committee can proceed to hear the application and the party is not entitled to further notifications.

Plans and an explanation of this application can be obtained at the Planning Department at the below noted address.

Attached to the notice was a site plan showing the location of the proposed house, boathouse and dock. The boathouse and dock, essentially one structure, were located near the centre of the waterfrontage of number 24.

- [12] The minor variance was granted on November 7, 2012. The minor variance approval document does not, however, refer to the site plan. Also, this approval was despite the recommendation of staff against one element of the minor variance, being the increase in lot coverage allowed to accommodate the large size of the proposed boathouse and dock. Staff saw no need for the boathouse and dock to be as large as proposed and pointed to a number of policies in the Town of Huntsville's official plan that arguably would not be met.
- [13] The notice of the decision provided for a 20 day appeal period. Realistically, since the owner of lot 24 was the same as that of lot 20 of that time, no appeal from the owner of lot 20 was forthcoming. There was no indication that there had been any appeal at all.

- [14] A Site Plan Agreement (the SPA) dated February 21, 2013 was entered into between Joanne Shirtliff and the Corporation of the Town of Huntsville with respect to number 24. The SPA had attached to it schedules A through E, which explicitly formed part of the agreement. Schedule B was described as “approved plans”. Schedule B itself was entitled “approved plans and drawings”. Under the subheading for “Site Plans”, the only thing listed was Jarratt and Jarratt Designs’ site plan dated October 15, 2012. Such a site plan was attached, but no date was discernible. The applicant went to some lengths to show that the site plan in its documents was the one referred to in the SPA. The Respondent Nakamoto acknowledged in his affidavit that it was. It was hereafter referred to as the 2012 Site Plan.
- [15] The SPA of February 21, 2013, was registered on title to number 24 on February 4, 2016. It was the only site plan agreement registered on that title as of the date of hearing.
- [16] The SPA included the following statements:

3. Approved Plans for Development

The Town has given its approval for the development to be carried out on and with respect to the Lands as shown and illustrated on the Approved Plans listed in Schedule “B” which are Incorporated by reference hereto and form an integral part of this Agreement.

4. Construction in Accordance with Approved Plans

The Owner covenants and agrees to construct all building, structures, Works, Services and related facilities required under this Agreement strictly in accordance with the Approved Plans for the construction of a Single Family Dwelling and Boathouse.

Discrepancies discovered between the Approved Plans and the as-constructed buildings, structures, Works, Services and facilities, whether intentional or not, shall be resolved and/or corrected by the Owner, at the sole cost and expense of the Owner, to the satisfaction of the Town.

5. Conformity with Agreement

The Owner covenants and agrees that no work shall be undertaken or performed on the Lands except in accordance with the terms of this Agreement (including the scheduled attached herewith), the Site Plan Approval granted by the Town and all other plans and specifications submitted to and accepted by the Town as part of its Site Plan Approval and by such other agencies or approval authorities as may be applicable, it being understood that this restriction shall not extend to those features shown on Approved Plans that are for illustration purposes only and are not subject to municipal approval and control under Section 41 of the *Planning Act*.

- [17] The minor variance approval of November 7, 2012 does not explicitly say that the boathouse was to be located as on the 2012 Site Plan. Staples deposes that the Town's Manager of Planning Services, Kirstin Maxwell, and Chief Building Officer, Christopher Nagy, informed him on September 11, 2017, that this allows the owner of number 24 to place the boathouse in any location. Indeed, Mr. Nagy's affidavit of August (query September) 19, 2017, states:
- (a) As part of the variance process, a site plan was presented to the Committee of Adjustment. This site plan was not included as a schedule to the approval, nor was approval conditional on conformance on the site plan.
- [18] The location of the dock and boathouse as shown on the 2012 Site Plan was later found not to be viable as it was located on an easement in favor of the District of Muskoka. This easement is said to house pipes.
- [19] For this and other reasons relating to the Town's requirements, a new Application for Site Plan Approval dated February 1, 2017, was submitted on behalf of the respondent Nakamoto. A revised Site Plan Agreement between Nakamoto and the Town was entered into in early April 2017, but has not been registered on title to number 24.
- [20] The CBO's affidavit reveals that the respondent Nakamoto submitted an application dated August 21, 2017 for a permit to construct a dock at a location on lot 24's waterfrontage different from that shown in the 2012 Site Plan, and received a building permit dated September 11, 2017. The CBO deposed that the application was approved because it conformed with all applicable laws and, further, that a permit for a boathouse has not been applied for nor been issued, and would only be issued if it met the legal requirements.
- [21] Staples initially understood that the application and building permit were for a house, boathouse and dock, with the boathouse and dock being at a different location from that in the 2012 Site Plan. He learned on September 7, 2017 of the imminent issuance of a building permit and therefore contacted the Town to oppose that. Staples opined that the Town should have never had issued the building permit that was not in compliance with the 2012 Site Plan, particularly with respect with the location to the dock and the boathouse.
- [22] Staples learned from a September 11, 2017 email from the CBO that the building permit for the boathouse had not been applied for nor approved and that the building permit for a dock only had been applied for and approved in conformance with the applicable law.
- [23] The Applicant indicates in his affidavit of September 18, 2017 that he came to understand that a building permit could be issued for the dock but not for the boathouse because of s. 3.1.4 of the Town's Zoning By-law, which reads:

No accessory building or structure shall be erected on any lot until the principle building has been erected, with the exception of:

- A dock
- A boathouse, on water access lots only; or,
- An approved sewage system.

The CBO, Christopher Nagy, says in his affidavit of August 19, 2017 that a building permit for a boathouse has not been issued and will not be unless the requirements of the applicable law and building code are met.

- [24] The definition of “applicable law” includes zoning by-laws (*Building Code Act* s. 8(2)(a) and Regulation 332/12 s. 1.4.1.3(1)(f)).
- [25] Construction activity on the dock commenced on number 24 on September 11, 2017.
- [26] It should be noted that despite the CBO’s contention that the application and building permit were only for a dock, there is no doubt that the respondent Nakamoto intends to build the boathouse on top of it. The application uses the words dock and boathouse interchangeably in describing the proposed work. Nakamoto admits that a boathouse is planned, and is concerned that delaying the project will push its completion off to the fall of 2018, confirming that his plans are quite immediate.
- [27] The dock is to start 3 metres offshore and project a further 10 metres/33 feet 7 inches into the lake. It is to be over 14 metres/47 feet wide, with boat slips within it. It will be as close as 3 metres to the lot line between numbers 20 and 24. The boathouse is to sit on top of part of the dock, over the boat slips, on the side of the dock closest to the number 20/24 lot line. It would be 20 feet 4 inches long and 12 feet 6 ½ inches high. (The mix of imperial and metric measurements stated is the result of different systems being used in different documents on file.)
- [28] The Applicant deposes that he bought the property after being shown the documents relating to the 2012 minor variance, including the 2012 Site Plan, and being satisfied that the boathouse location would only have a minor impact on the use and enjoyment of his property. The boathouse in the new location closer to his property, will, he contends, block the view from his property and adversely affect the environment, specifically fish habitat.
- [29] There was other opposition to the building of the dock and boathouse. The Fairy Lake Association had written Chris Marshall, the Town’s Director of Planning and Sustainability, on October 30, 2012 opposing the Shirtliff application for the minor variance for an increase in the size and lot coverage of the boathouse and dock which

deviated substantially, it said, the association that, the Town zoning by-law and from local development philosophy.

- [30] More recently, a petition, apparently signed by residents in the immediate vicinity, contended that the new boathouse location is contrary to the Town's official plans and opposed the issuance of the building permit for it.

#### MUNICIPAL PLANNING LAW

- [31] Mr. Engell, one of the counsel for Nakamoto, provided the following useful overview of municipal planning law to show the relationships among and purposes of official plans, zoning by-laws, minor variances, site plan and building permits. No issue was taken with these submissions.
- [32] Official plans are provided for in the *Planning Act* (R.S.O. 1990 c. P. 13 Part III). They are not laws, but policy documents. (*Bele Himmel Investments Ltd. v. Mississauga (City)* [1982] O.J. No. 1200 par. 22). They are implemented by zoning by-laws and other means.
- [33] Zoning by-laws are made pursuant to s. 34 of the *Planning Act* and must conform to official plans (s. 24). They contain restrictions on the use of and building upon lands. They have the force of law and may be enforced by way of charges and injunctions.
- [34] The creation of official plans and zoning by-laws are public processes. There can be input from members of the public. Appeals may be made to the OMB.
- [35] Applications for minor variances may be made to the Committee of Adjustments. This is a public process with notices to neighbours of the affected property, and there are appeal rights to the OMB. S. 45 of the *Planning Act* sets out the Committee of Adjustments' powers. The effect is to incorporate minor variances into the zoning for a property. Minor variances vary the zoning by-laws and become law that the municipal chief building official has to review in deciding whether to issue a building permit.
- [36] Site plan control is provided for s. 41 of the *Planning Act*. In areas of site plan control like the Town of Huntsville development such as the erection of buildings or structures on land is subject to the approval by the municipal council of plans showing the location of buildings and drawings showing their design. Approval may be subject to conditions, including the entering into of agreements with the municipality. Such site plan agreements may be registered against the subject land making them enforceable against not only the owner but subsequent owners of the land.



- [37] Site plan agreements provide for matters at a level of detail not articulated in the zoning by-laws. They do not provide for changes from the requirements of the zoning by-laws. (*Kally's Restaurant Inc.*, Re, 1991 Carswell Ont 4366 (OMB), upheld on this point on appeal to Ontario Court of Justice (General Division) [Divisional Court] 1993 Carswell Ont 514).
- [38] The site plan agreement process is distinct from the other planning processes above in that it is private, between the municipality and the applicant. There is no notice to the public nor public meetings, and no appeal rights other than of the applicant. Public concerns are addressed previsouly through the other planning processes reviewed above. Site plan agreements have to conform with, not get around, the zoning and minor variances that result from the public processes.
- [39] Under the *Building Code Act*, s. 8, no person may construct a building without a building permit. The chief building official must issue a building permit unless the proposed construction would contravene the building code or any other applicable law (or if there are other circumstances as listed which are not relevant here). "Applicable law" is defined in s. 1.4.1.3(1) of the *Building Code*, regulation 332/12. It includes zoning by-laws and s. 41 of the *Planning Act* which provides for site plan approval, but not official plans. ‘
- [40] Appeals with respect to building permits are provided for in s. 25 of the *Building Code Act*. A person who considers themselves aggrieved by an order or decision of the chief building official may appeal to the Superior Court of Justice within 20 days after it, which appeal period is subject to an extension. An appeal does not stay the order or decision appealed from, but a judge may, on such terms as are just, order a stay until the disposition of the appeal. The same test is applied to application for interlocutory injunctions as well as for stays (*RGR -MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, par. 46 and 82).

## INJUNCTIONS

- [41] Counsel for all parties agreed that the test to be applied in considering whether to grant an injunction is that set out in *RGR -MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311 at par. 48 (see also par. 82-85):
- (a) First, a preliminary assessment must be made of the merits of the case to ensure that there is a serious question to be tried.
  - (b) Secondly, it must be determined whether the applicant would suffer irreparable harm if the application were refused.

- (c) Finally, an assessment must be made as to which of the parties would suffer greater harm from the granting or refusal of the remedy pending a decision on the merits.

The third branch is referred to as the balance of convenience, or of inconvenience.

- [42] On the first branch of the test, it will suffice if the applicant can show that the claim is “not frivolous or vexatious”. This is in contrast with the previous, stricter standards which require the applicant to demonstrate a “strong *prima facie* case”. (*RGR -MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 31, par. 49).
- [43] The Applicant takes the position that there is a serious issue to be dealt with, that the Applicant will suffer irreparable harm if the injunction is refused and that the balance of convenience favors granting the injunction. Therefore, he submits, the injunction should be granted. The other parties take the opposite view.

#### MERITS

- [44] Dealing with the first branch of the test, the Applicant opposes the Town’s granting of a building permit for the dock and, eventually, the boathouse, based on the new site plan agreement which places those structures in a location different from that allegedly contemplated in the minor variance application and the 2012 Site Plan. The triable issue, then, is whether the minor variance was approved on the basis that the dock and boathouse would be in the location shown on the 2012 Site Plan, and that the relocation of the dock and boathouse to the current proposed location should have been subject to a further application for minor variance with public input into the decision, rather than the private site plan approval process involving only the Town and Nakamoto as owner of number 24, so that a building permit should not have been issued.
- [45] The position of the Town and the CBO was that there was no triable issue. The Committee of Adjustments did not attach the 2012 Site Plan diagram to the minor variance approval of December 7, 2012 nor make the minor variance approval conditional on the dock and boathouse being located as on that plan. No additional permission was required to move the dock to a location different from that plan’s location. Nakamoto met the legal requirements for a building permit, and the chief building officer was obligated by law to issue one for the current construction.
- [46] Nakamoto took essentially the same position as the town and chief building officer.
- [47] The Applicant, having raised the issue, spent considerable time and effort arguing it in his favour. Indeed, counsel for the Town and the CBO commented on the outset of her submissions that the court had heard nearly the whole application, whereas the issue at

present is whether an injunction should issue against the building permit for the dock. The Respondents then invested considerable time and effort into demonstrating that the issuance of the building permit was proper such that there was no serious issue to be tried. Pursuing the Applicant's issue any further and trying to resolve the opposing arguments about it risk determining that issue on less than a full evidentiary record. The focus here must remain on whether there should be an injunction against the building permit.

- [48] That building permit is for a dock. Despite the plan to erect a boathouse on the dock, there is no building permit for that at present. The dock itself is not what the Applicant objects to as it is the boathouse that will affect the view. Therefore, the simple answer might be that the proceedings brought by the Applicant are premature, such that there are no serious questions to be tried.
- [49] Taking a broader view, however, the Applicant takes issue with facets of the process which led to the dock structure being allowed to go where it is being built. From this perspective, I am satisfied that there is a question to be tried that is not frivolous or vexatious. Despite the amount of effort put into arguing it, this is not the time to decide it.

#### IRREPARABLE HARM

- [50] Irreparable harm is defined as "harm which either cannot be quantified in monetary terms or which cannot be cured". (*RGR -MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 31, par. 64), or harm that is such that damages will not suffice (*Grieg v. Kritikopolou*, 2017 ONSC 4594, par. 15).
- [51] The applicant contends that money cannot replace the loss of the use and enjoyment of his property if the boathouse is ultimately built in the proposed location. As well as the loss of view, he notes that a subsequent owner of lot 24 could put a patio on the flat roof of the boathouse, something Nakamoto indicates he will not do himself, impinging on the applicant's privacy. In addition, he speculates that there will be harm to the environment, specifically fish habitat.
- [52] Dealing first with the environmental argument, the fish habitat is a subject of a series of reports in evidence from RiverStone Environmental Solution Inc., dated 2010, 2012 and 2017. The earlier two were used in the application for a minor variance. The 2017 one opines "that the new location for the boathouse will not cause any further impact to fish habitat in comparison to the previously approved location. In fact, the new location is a slight improvement..." This is the only evidence from the environmental perspective and does not support the Applicant's contention.
- [53] The Respondents submit that there is no right to a view. The authority for that is the case of *St. Pierre v. Ontario (Minister of Transportation and Communications)*, [1987] 1

S.C.R., in which the Supreme Court of Canada noted on page 916 that “there can be no recovery for the loss of prospect”. I am not convinced that that helps their position. The unavailability of compensation for loss of view together with a definition of irreparable harm might be used to argue for a preventative measure as there is no cure.

- [54] More importantly, we are dealing at present with a dock, which would not itself interfere with the view if construction of it continued to completion. If a building permit for the boathouse were to be granted, that might warrant a fresh look. Even then, counsel for the Respondents submit, the situation would not be irreparable because the Municipality could require removal of the structure. Consequently, I am not persuaded that the harm, if any, occasioned by the building of the dock is irreparable. Beyond that, we would be dealing with hypotheticals.

#### BALANCE OF CONVENIENCE

- [55] The Applicant contends that the balance of convenience favours granting the injunction because the structure currently in issue is a dock which will not be used over the winter. An injunction, it is submitted, will visit no real prejudice on the Nakamoto, just delay the completion of it.
- [56] The Town and CBO contend that the balance of the convenience favour Nakamoto, noting without contradiction that Nakamoto followed the law and the town was legally obliged to issue a building permit.
- [57] Nakamoto submits that he would be harmed by an injunction in that he would lose his workers for the balance of the season, in which event construction would not resume until 2018, delaying completion by a year. In addition, while the building of the dock will not affect the Applicant’s view, Nakamoto is running the risk, having spent money to build it, of having to spend more money to change or remove it if that is the result of the case.
- [58] Again, it is important to note that we are dealing with only the dock at this juncture, not the boathouse in addition. A building permit for the boathouse cannot be expected for some time due to zoning by-law s. 3.1.4’s requirement that the principle building be erected first. With that in mind, I find that the balance of convenience favors Nakamoto. The dock by itself is not said to impact on the Applicant’s view or privacy. On the other hand, it is Nakamoto who would be affected by delay in its construction and who runs the risk of having to change or remove it if its construction goes ahead.
- [59] In the result, I find that the applicant has not met the test for an injunction in this matter. The motion is dismissed.
- [60] Costs of the motion are left to the Application judge.

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J. A. S. Wilcox

**Released:** October 20, 2017

**CITATION:** Staples v. Huntsville (Town), 2017 ONSC 6295  
**COURT FILE NO.:** CV-17-66  
**DATE:** 20171020

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

BRIAN STAPLES

Applicant

– and –

CHIEF BUILDING OFFICIAL OF THE TOWN OF  
HUNTSVILLE, THE CORPORATION OF THE  
TOWN OF HUNTSVILLE

- and -

SEAN NAKAMOTO

Respondents

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**DECISION ON MOTION**

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WILCOX, J.

**Released:** October 20, 2017