



File No. T-301-18

FEDERAL COURT

MATRIARCH JACQUELINE SARAZIN, GRANDMOTHER PAULINE WILCOX,
GRANDMOTHER JANE CHARTRAND on their own behalf and on behalf of the KOKMISAG
TIJI PIKWAKANAGAN (GRANDMOTHERS OF PIKWAKANAGAN) AND
TRADITIONAL ANISHINABE ALGONQUIN GRANDMOTHERS THROUGHOUT THE
TRADITIONAL ALGONQUIN TERRITORY AND ALBERT DUMONT, SOUTH WIND,
spiritual advisor to the traditional Anishinabe Algonquin peoples throughout the Traditional
Algonquin Territory

APPLICANTS

- and -

ATTORNEY GENERAL OF CANADA and WINDMILL DREAM ZIBI MASTER LP

RESPONDENTS

NOTICE OF APPLICATION

Pursuant to Section 18.1 of the *Federal Court Act*

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the applicants. The relief claimed by the applicants appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicants. The applicants request that this application be heard in Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or be served with any documents in the application, your or a solicitor citing for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Court Rules* and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicants, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Court Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGEMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

February 13, 2018

Issued by: _____ (Registry Officer)

Address of local office:

Federal Court Trial Division
90 Spark Street
Ottawa, Ontario, K1A 0H9

JEAN-FRANCOIS DUFOUR
REGISTRY OFFICER
AGENT DU GREFFE

TO: Attorney General of Canada
Office of the Deputy Attorney General of Canada
284 Wellington Street
Ottawa, Ontario, K1A 0H8

TO: Windmill Dream Zibi Master LP
1306 Wellington Street, 201
Ottawa, Ontario, K1Y 3B2

APPLICATION

Judicial Review pursuant to Section 18.1

This is an application for judicial review in respect of Privy Council Office Order-in-Council PC#2017-1684 issued on December 5, 2017 and attached hereto as Appendix "A".

THE APPLICANTS MAKE APPLICATION FOR:

1. An order quashing the decision expressed in PC# 2017-1684 as being contrary to Section 25 and Section 35 of the Constitution Act 1982, as it affects the Algonquin Anishinabe Nation, as represented by the Applicants;
2. An order in the nature of mandamus, mandating that the Federal Government consult and accommodate the Applicants herein, as they have asserted indigenous title to this land as expressed in their Statement of Claim in Superior Court of Ontario, identified as Court File No. 17-71837;
3. A declaration that PC# 2017-1684 issued by the Privy Council Office on December 5, 2017, infringes on the Section 25 and Section 35 of the Constitutional Act rights of the Applicants;
4. A declaration that PC# 2017-1684 contravenes Order-in-Council dated August 23, 1854 which reserves Chaudiere Islands and Albert Islands for public purposes and not a private development;
5. A declaration that PC# 2017-1684 offends AN Act respecting Certain Works on the Ottawa River, 1870, c.24, stating that works, "shall be for the general advantage of Canada and...subject to the exclusive legislative authority of Parliament of Canada;
6. An interim declaration that the development Chaudiere and Albert Island should cease until the Algonquin Anishinabe Nation indigenous title is settled;
7. An Order for extension of time within which to file this Judicial Review;
8. Costs of this application.

THE GROUNDS FOR THE APPLICATION ARE:

1. The Applicants have asserted Algonquin indigenous title to the territory in question (Chaudiere Falls, Albert and Chaudiere Islands) in Superior Court of Ontario File No. 17-71837. The Federal Government will not properly consult and accommodate the Applicants on their assertion of indigenous title.

2. The Federal Government should not take steps to alienate the Algonquin indigenous title in the face of the Applicants assertion of indigenous title in Superior Court File No. 17-71837.
3. The Federal Government's involvement in Windmill's project, as expressed in PC# 2017-1684, is premature as the Applicants assertion of indigenous title has not been resolved by the courts.
4. The federal government's involvement in Windmill's project as expressed in PC# 2017-1684 contravenes the Section 25 and Section 35 rights of the Applicants and these breaches can only be cured by the involvement of the Federal Court.
5. This Judicial Review Application is a constitutional challenge, based on Section 25 and Section 35 of the Constitution Act, 1982, and is also based on the legal principles expressed in the Supreme Court of Canada decision in *Tsilhqot'in v B.C.*
6. The Applicants herein are representatives of the Traditional Anishinabe Algonquin Peoples, based on the laws, traditions and customs of the Anishinabe Algonquin People in traditional Algonquin territory and assert that the Chaudiere Falls, Albert and Chaudiere Islands are a sacred place to the Anishinabe Algonquin People and need to be protected by the traditional people. This participation by the Federal Government in Windmill's project is a desecration of the sacred space, infringement of the indigenous title and not in keeping with a federal government expression of reconciliation. It is an expression of disdain for the laws, traditions and customs of the traditional Anishinabe Algonquin Peoples, indeed all indigenous peoples in the territory known as Canada.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

1. Affidavits;
2. Factum and Book of Authorities;
3. Constitution Act 1982;
4. Federal Courts Act;

The Applicants request the Privy Council Office send a certified copy of the following material that is not in the possession of the applicants but is in the possession of the Privy Council Office to the applicants and to the Registry:

1. Departmental briefing notes;
2. Treasury Board Submission;

3. Notes regarding PC# 2017-1684;

4. Ministry briefing notes.

Dated February 13, 2018



Elders Without Borders
Per: Michael Swinwood
LSUC# 14578R
237 Argyle Ave.
Ottawa, Ontario
K2P 1B8

T: 613-563-7474

F: 613-563-9179

I HEREBY CERTIFY that the above document is a true copy of the original filed in the Court./

JE CERTIFIE que le document ci-dessus est une copie conforme à l'original déposé au dossier de la Cour fédérale.

Filing date February 13, 2018
Date de dépôt

February 13, 2018
Dated
Fait le



JEAN-FRANCOIS DUBOIS
REGISTRAR
AGENT IMMOBILIERE

Appendix 1

Privy Council Office

Privy Council Office > PCO Secretariats

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PC Number: 2017-1684

Date: 2017-12-15

Her Excellency the Governor General in Council, on the recommendation of the Minister of Canadian Heritage, approves the following:

(a) pursuant to paragraph 15(1)(a) of the *National Capital Act*, the following acquisitions by the National Capital Commission

(i) approximately 18,467 square metres of real property, in Ottawa, Ontario, from Public Works and Government Services Canada, as shown in Schedule "A",

(ii) approximately 22,100 square metres of real property, in Ottawa, Ontario, from Public Works and Government Services Canada, as shown in Schedule "B",

(iii) approximately 4,831 square metres of real property from the Ontario Ministry of Natural Resources and Forestry on the west side of Chaudière Island, in Ottawa, Ontario, as shown in Schedule "C",

(iv) approximately 1,546 square metres of real property from Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc. on the east and west sides of Chaudière Island, in Ottawa, Ontario, as shown in Schedule "D",

(v) approximately 2,300 square metres of real property, in Gatineau, Quebec, from Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc., as shown in Schedule "E",

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(vi) approximately 880 square metres of real property, in Gatineau, Quebec, from Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc., as shown in Schedule "F";

(b) pursuant to subsection 15(2) of the *National Capital Act* and to subsection 99(2) of the *Financial Administration Act*, the following disposals by the National Capital Commission:

(i) approximately 18,798 square metres of real property, in Ottawa, Ontario, to Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc., as shown in Schedule "G",

(ii) up to 3,400 square metres of real property, in Gatineau, Quebec, to Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc., as shown in Schedule "H";

(c) pursuant to paragraph 15(1)(b) of the *National Capital Act*, the granting by the National Capital Commission of the following easements and servitude, each for 99 years in favour of Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc.:

(i) an easement approximately 3,451 square metres in area for a sanitary sewer system, in Ottawa, Ontario, as shown in Schedule "I",

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(ii) an easement approximately 3,235 square metres in area for a watermain, in Ottawa, Ontario, as shown in Schedule "J",

(iii) a servitude of passage approximately 28 square metres in area, in Gatineau, Quebec, as shown in Schedule "K",

(iv) a water drainage servitude approximately 760 square metres in area, in Gatineau, Quebec, as shown in Schedule "L";

(d) pursuant to paragraph 15(1)(a) of the *National Capital Act*, the following easement acquisitions and servitude by the National Capital Commission:

(i) a 99-year access easement approximately 1,000 square metres in area on the west side of Chaudière Island, in Ottawa, Ontario, from Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc., as shown in Schedule "M",

(ii) a 99-year access easement approximately 800 square metres in area on the east side of Chaudière Island, in Ottawa, Ontario, from Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc., as also shown in Schedule "M",

(iii) a 99-year universal access servitude approximately 780 square metres in area, in Gatineau, Quebec, from Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc., as shown in Schedule "N",

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(iv) a 99-year servitude of passage of approximately 400 square metres, in Gatineau, Quebec, from Windmill Dream Zibi Master LP, by its general partner, Windmill Dream Limited Partnership, by its general partner, EB Eddy Sustainable Revitalization Inc., as shown in Schedule "O".

MATRIARCH JACQUELINE SARAZIN *et al.*
Applicants

- and -

ATTORNEY GENERAL OF CANADA *et al.*
Respondents

FEDERAL COURT

NOTICE OF APPLICATION

ELDERS WITHOUT BORDERS

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