

CITATION: NSCC No. 72 v. 1573454 Ontario Ltd., 2024 ONSC 3825
COBOURG COURT FILE NO.: CV-17-42
DATE: 20240716

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: NORTHUMBERLAND STANDARD CONDOMINIUM CORPORATION NO. 72, Plaintiff

AND:

1573454 ONTARIO LTD., PHOENIX GENESIS FINANCIAL INC., J.E. DOUBT ASSOCIATES INC., S.G. MACDONALD CONSULTING ENGINEER INC., THE TOWN OF COBOURG, Defendants

BEFORE: The Honourable Madam Justice S.E. Fraser

COUNSEL: Melinda Andrews, Counsel for the Plaintiff

James J. McGrath, Counsel for the Defendants, J.E. Doubt Associates Inc. and S.G. Macdonald Consulting Engineer Inc.

Jennifer Savini, Counsel for the Defendant, The Town of Cobourg

John Lee and Laurel Clarry, Self-Represented for the Defendants, 1573454 Ontario Ltd. and Phoenix Genesis Financial Inc., with leave having been granted for them to represent these corporate defendants

HEARD: July 4, 2024

CASE CONFERENCE ENDORSEMENT

- [1] On June 28, 2022, the Court imposed a timetable for this action. The timetable, among other things, ordered that the matter be set down for trial by May 31, 2024. At the time the timetable was imposed, the Statements of Defence had not been served. That aspect of the timetable has been complied with and the parties have now exchanged Affidavits of Documents although the Plaintiff's is not yet sworn, such that technically it does not constitute an Affidavit of Documents.
- [2] A case conference was scheduled at the request of the Plaintiff to set a new timetable.
- [3] The Defendants J.E. Doubt & Associates and S.G. Macdonald Consulting Engineer Inc. have serious concerns about the delay in this matter as to Mr. Lee and Ms. Clarry for 1573454 Ontario Ltd. and Phoenix Genesis Financial Inc. Mr. Doubt has passed away and his Estate Trustee, his wife, is now carrying on the action. Mr. Macdonald is in failing health as are Mr. Lee (who has heart problems) and Ms. Clarry (who has trigeminal neuralgia).
- [4] The proposed timetable now has examinations for discovery to be completed by January 31, 2025. While I expressed concern about the time to complete discoveries, I am

persuaded that given counsels' schedules and the number of parties that it will be difficult to complete those discoveries prior to that date.

[5] Mr. McGrath is contemplating a motion for summary judgment. He will consult with the parties about the scheduling of that motion. The parties shall work towards a timetable on that motion and if the motion is brought, shall attend at Triage Court to schedule it.

[6] The timetable in this matter shall be:

- Supplementary Affidavits of Documents by July 31, 2024
- Examinations for Discoveries completed by January 31, 2025
- Undertakings to be satisfied by March 31, 2025
- Matter set down for trial by June 30, 2025

[7] If the parties have difficulty agreeing to a timetable for the summary judgment motion, a further case conference may be held.



Justice S.E. Fraser

Date: July 16, 2024