

Court File No. DC-23-200-JR

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)**

BETWEEN:

**PLEASANT VIEW PROTECTION CORP.**

Applicant



- and -

**NIAGARA ESCARPMENT COMMISSION**

Respondent

APPLICATION UNDER the *Judicial Review Procedure Act*,  
R.S.O. 1990, J.1. and Rule 68 of the Rules of Civil Procedure

**NOTICE OF APPLICATION FOR JUDICIAL REVIEW**

TO THE RESPONDENT

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

THIS APPLICATION for judicial review will come on for a hearing before the Divisional Court on a date to be fixed by the registrar at the place of hearing requested by the applicant. The applicant requests that this application be heard at the City of Toronto in the Province of Ontario.

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 the office of the Divisional

Court, 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 office of the Divisional Court within thirty days after service on you of the applicant's application record, or not later than 2 p.m. on the day before the hearing, whichever is earlier.

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 DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: May 30, 2023

Issued by

Mohamed  
Mutasim  
Mohamed

Digitally signed by  
Mohamed Mutasim  
Mohamed  
Date: 2023.05.30 09:45:58  
-04'00'

Local Registrar

45 Main Street East  
John Sopinka Courthouse  
Hamilton, Ontario L8N 2B7

TO: **NIAGARA ESCARPMENT COMMISSION**  
232 Guelph Street  
Georgetown, Ontario  
L7G 4B1  
Email: necgeorgetown@ontario.ca

AND TO: **ATTORNEY GENERAL OF ONTARIO**  
Crown Law Office – Civil  
720 Bay Street 8th Floor  
Toronto, Ontario M7A 2S9  
Email: attorneygeneral@ontario.ca

## **APPLICATION**

**THE APPLICANT MAKES APPLICATION FOR** judicial review of the Niagara Escarpment Commission (the “NEC”) decision dated April 27, 2023, identified as agenda item A4 (the “Decision”). The Applicant seeks:

- (a) An order setting aside the Decision;
- (b) The applicant’s costs; and
- (c) Such further and other relief as counsel may advise and this Court may permit.

### **THE GROUNDS FOR THE APPLICATION ARE:**

- (d) The NEC erred in law:
  - (i) by failing to properly consider and apply ss. 6.1(2.2) of the Niagara Escarpment Planning Development Act, R.S.O. 1990, c. N.2;
  - (ii) by failing to conduct the meeting on April 27, 2023 in accordance with the rules of natural justice and procedural fairness;
  - (iii) by approving the motion related to agenda item A4 without regard to the available information;
- (e) Rules 63.02 and 68 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and
- (f) Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE  
HEARING OF THE APPLICATION:**

- (g) The affidavit of Nancy McKeil;
- (h) The record of proceedings herein; and
- (i) Such further and other material as counsel may advise and this Court may permit.

May 29, 2023

**ERIC K. GILLESPIE**  
**PROFESSIONAL CORPORATION**  
Barristers & Solicitors  
300-160 John Street  
Toronto, Ontario M5V 2E5

**Eric K. Gillespie** (LSUC # 37815P)  
Tel.: (416) 703-6362  
Fax: (416) 907-9147  
Email: egillespie@gillespielaw.ca

Lawyers for the Applicant

Court File No.  
DC-23-200-JR

**PLEASANT VIEW PROTECTION CORP.**

**NIAGARA ESCARPMENT COMMISSION**

Applicant

Respondent

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(DIVISIONAL COURT)**

Proceeding Commenced at Hamilton

**NOTICE OF APPLICATION FOR  
JUDICIAL REVIEW**

**ERIC K. GILLESPIE**  
**PROFESSIONAL CORPORATION**  
Barristers & Solicitors  
160 John Street, Suite 300  
Toronto, Ontario M5V 2E5

**Eric K. Gillespie (37815P)**  
Tel.: (416) 703-6362  
Fax: (416) 907-9147  
E mail: [egillespie@gillespielaw.ca](mailto:egillespie@gillespielaw.ca)

Lawyers for the Applicant