

Divisional Court File No.:

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

B E T W E E N:

SAVE HERITAGE SANDBANKS HOMES INC.

Applicant

- and -

**MINISTRY OF ENVIRONMENT, CONSERVATION AND PARKS
AND MINISTRY OF HERITAGE, SPORT, TOURISM AND CULTURE INDUSTRIES**
Respondents

NOTICE OF APPLICATION FOR JUDICIAL REVIEW

TO THE RESPONDENTS

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 Osgoode Hall, 130 Queen Street West, Toronto.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in this 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 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 Court Office:
130 Queen Street West
Toronto, ON M5H 2N5

**TO: MINISTRY OF THE ENVIRONMENT, CONSERVATION AND
PARKS**

900 Bay Street
Toronto, ON M7A 2E3

**AND TO: MINISTRY OF HERITAGE, SPORT, TOURISM
AND CULTURE INDUSTRIES**

438 University Avenue, 6th Floor
Toronto, ON M5G 2K8

AND TO: ATTORNEY GENERAL OF ONTARIO

Crown Law Office – Civil
720 Bay Street, 8th Floor
Toronto, Ontario M7A 2S9

APPLICATION

1. The applicant makes application for:
 - (a) A declaration that the decision of the Ministry of the Environment, Conservation and Parks dated August 31, 2021, to move forward with the demolition of the MacDonald and Hyatt Houses at Sandbanks Provincial Park, is of no force and effect;
 - (b) A stay of the decision of the Ministry of the Environment, Conservation and Parks dated August 31, 2021 to demolish the MacDonald and Hyatt Houses at Sandbanks Provincial Park for 3 months, during which time the respondents are directed to:
 - (i) seek proposals for adaptive re-use of the houses as an alternative to demolition, as required under the Standards and Guidelines for Conservation of Provincial Heritage Properties, with oversight from the Ministry of Heritage, Sport, Tourism and Culture Industries in consultation with Municipal officials and the community; and
 - (ii) conduct a compliance review, as required under the Standards and Guidelines for the Conservation of Provincial Heritage Properties, including consulting with relevant stakeholders such as the applicant, the Prince Edward County Heritage Advisory Committee, the Architectural Conservancy of Ontario and other interested members of the public;
 - (c) The applicant's costs of this application on a substantial indemnity basis; and
 - (d) Such further and other relief as counsel may advise and this Honourable Court may permit.

2. **THE GROUNDS FOR THE APPLICATION ARE:**

- (a) The Standards and Guidelines for Conservation of Provincial Heritage Properties (the “Provincial Standards and Guidelines”) require all Ministries and public bodies that have been prescribed by Regulation to identify, protect and care for provincial heritage properties they own and manage;
- (b) The Ministry of Heritage, Sport, Tourism and Culture Industries (the “MHSTCI”) is responsible for administering the Provincial Standards and Guidelines. The Provincial Standards and Guidelines are prescribed by Regulation to apply to the MHSTCI, and to the Ministry of the Environment, Conservation and Parks (the “MECP”). The MECP owns the MacDonald and Hyatt Houses at Sandbanks Provincial Park. Therefore, the Provincial Standards and Guidelines apply to MHSTCI, MECP and the MacDonald and Hyatt Houses;
- (c) The responsibilities of MHSTCI include interpreting and communicating the Provincial Standards and Guidelines to the MECP, as well as monitoring and reviewing compliance by the MECP with the Provincial Standards and Guidelines;
- (d) The MHSTCI’s monitoring and reviewing for compliance in this case has been limited. By February 6, 2020, MHSTCI absolved itself of these responsibilities, notwithstanding the fact that numerous submissions and activities have occurred since then. Further, specific requests to MHSTCI to fulfill these responsibilities have not been responded to;
- (e) Amongst these responsibilities, the Provincial Standards and Guidelines require best efforts to be made to preserve, reuse or readapt buildings;
- (f) On May 28, 2021, Ontario Parks (where the MacDonald and Hyatt Houses are located) announced a new policy to seek innovative ideas and proposals from the private and not-for-profit sectors for new recreation experiences at provincial parks, such as could be facilitated

and achieved by the preservation, reuse or re-adaptation of buildings such as the MacDonald and Hyatt Houses (recreation being defined by the Province's Ontario Trillium Fund as "Physical activities engaged in for the purpose of health, well-being or enjoyment with the primary focus on human activity.");

(g) MECP has had more than three (3) months to consider how the new May 28, 2021 program offers an alternative to demolition, as required by the Provincial Standards and Guidelines. However, there is no evidence that MECP has considered this alternative;

(h) demolition of the MacDonald and Hyatt Houses appears to be imminent;

(i) there are serious issues to be tried;

(j) the harm of demolition will be irreparable and the balance of convenience clearly favours granting a stay;

(k) Sections 4 and 6(2) of the *Judicial Review Procedure Act*, R.S.O. 1990, J.1; and

(l) Rules 40 and 68 of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194.

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

(a) The affidavit of Liz Driver; and

(b) Such further and other material as counsel may advise and this Honourable Court may permit.

DATE: September 7, 2021

**ERIC K. GILLESPIE PROFESSIONAL
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**SAVE HERITAGE SANDBANKS - and -
HOMES INC.**

**MINISTRY OF ENVIRONMENT,
CONSERVATION AND PARKS AND
MINISTRY OF HERITAGE, SPORT,
TOURISM AND CULTURE
INDUSTRIES**

Divisional Court File No.

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Respondents

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

Proceeding Commenced at Toronto

NOTICE OF APPLICATION

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