

Date: 20100203

Docket: 10-A-1

Citation: 2010 FCA 38

Present: NADON J.A.

BETWEEN:

METROLINX, operating as GO TRANSIT

Applicant

and

**THE CANADIAN TRANSPORTATION AGENCY,
THE WEST TORONTO DIAMOND COMMUNITY GROUP, and
THE CITY OF TORONTO**

Respondents

Heard at Toronto, Ontario, on January 28, 2010.

Order delivered at Montreal, Quebec, on February 3, 2010.

REASONS FOR ORDER BY:

NADON J.A.

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REASONS FOR ORDER

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[1] The applicant, Metrolinx, operating as Go Transit, seeks an Order staying Canadian Transportation Agency decision no. 507-R-2009, dated December 7, 2009.

[2] Metrolinx says that it meets the test for a stay set out by the Supreme Court of Canada in *RJR - MacDonald Inc. v. Canada (Attorney General)*, [1994]1 S.C.R. 311: that its leave application raises a serious issue, that without a stay it will suffer irreparable harm and that the balance of convenience lies in its favour.

[3] I have carefully reviewed the parties' submissions in the light of the material submitted and I have concluded that the balance of convenience favours the residents of the West Toronto Diamond Community. Hence, I need not address the other requirements of the *RJR - MacDonald* test.

[4] As a result, Metrolinx's motion for a stay of decision 507-R-2009 will be dismissed. Costs will be awarded only to the West Toronto Diamond Community Group, as the City of Toronto has indicated that it is not seeking costs.

"M. Nadon"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: 10-A-1

STYLE OF CAUSE: METROLINX v. CANADIAN
TRANSPORTATION AGENCY
et al.

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 28, 2010

REASONS FOR JUDGMENT BY: Nadon J.A.

DATED: February 3, 2010

APPEARANCES:

Mr. John B. Laskin
Ms Afshan Ali

FOR THE APPLICANT

Ms. Elizabeth Barker

FOR THE RESPONDENT
CANADIAN TRANSPORTATION
AGENCY

Mr. David Baker

FOR THE RESPONDENT WEST
TORONTO DIAMOND
COMMUNITY GROUP

Mr. Graham Rempe
Mr. David Gourlay
Mr. Cory Lynch

FOR THE RESPONDENT CITY OF
TORONTO

SOLICITORS OF RECORD:

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FOR THE APPLICANT

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AGENCY

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FOR THE RESPONDENT WEST
TORONTO DIAMOND
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City of Toronto, Legal Services
Toronto ON

FOR THE RESPONDENT CITY OF
TORONTO