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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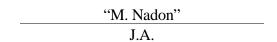
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REASONS FOR ORDER

NADON J.A.

- [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.



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 FOR THE APPLICANT

Ms Afshan Ali

Ms. Elizabeth Barker FOR THE RESPONDENT

CANADIAN TRANSPORTATION

AGENCY

Mr. David Baker FOR THE RESPONDENT WEST

TORONTO DIAMOND COMMUNITY GROUP

Mr. Graham Rempe FOR THE RESPONDENT CITY OF

Mr. David Gourlay TORONTO

Mr. Cory Lynch

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Toronto ON TORONTO DIAMOND

COMMUNITY GROUP

City of Toronto, Legal Services Toronto ON FOR THE RESPONDENT CITY OF TORONTO