

Federal Court of Appeal



Cour d'appel fédérale

Date: 20200923

Docket: A-146-19

Citation: 2020 FCA 147

**CORAM: STRATAS J.A.
LASKIN J.A.
MACTAVISH J.A.**

BETWEEN:

MINISTER OF NATIONAL REVENUE

Appellant

and

**BRADWICK PROPERTY MANAGEMENT
SERVICES INC.**

Respondent

and

**INFORMATION COMMISSIONER OF
CANADA**

Intervener

Heard at Toronto, Ontario, on September 23, 2020.
Judgment delivered from the Bench at Toronto, Ontario, on September 23, 2020.

REASONS FOR JUDGMENT OF THE COURT BY:

MACTAVISH J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on September 23, 2020).

MACTAVISH J.A.

[1] The Minister of National Revenue appeals from a decision of the Federal Court (reported as 2019 FC 289) relating to an application for judicial review brought by Bradwick Property Management Services Inc. (Bradwick). Bradwick’s application challenged the refusal of the Canada Revenue Agency (CRA) to release taxpayer information relating to third parties that the company had requested under the *Access to Information Act*, R.S.C. 1985, c. A-1.

[2] While Bradwick had sought numerous third-party records from the CRA, only three documents were at issue before the Federal Court, all of which were letters between a third party and the CRA.

[3] The CRA had provided Bradwick with redacted copies of all three letters in response to its access to information request. Bradwick had, however, been able to obtain unredacted copies of the first two letters, as they had been included in the court records of a proceeding between the Minister and one of the third parties.

[4] The Federal Court concluded that the redactions in the first two letters were improper, as both documents were available in publicly accessible court records. The Court went on, however, to observe that this aspect of its decision was of no practical consequence as Bradwick had

already obtained unredacted copies of these letters. Thus, the Court declined to order that unredacted copies of the letters be provided to Bradwick by the Minister. The Court was nevertheless satisfied that the redactions from the third letter were proper, and Bradwick's application was dismissed to the extent that it related to this document.

[5] The Minister's appeal only relates to the first two letters. Bradwick did not appeal the Federal Court's finding with respect to the third letter, and it has not participated in this appeal. The Information Commissioner was granted leave to intervene in the appeal.

[6] Counsel for the Minister did not seriously dispute that there is no longer a live controversy between the Minister and Bradwick with respect to the two letters, given that Bradwick already had unredacted copies of both documents in its possession. The appeal is therefore moot.

[7] The intervener submitted that the legal issue raised by this appeal is a live and important one. That submission is relevant to the Court's discretion as to whether to determine this appeal, and not whether there is a live controversy. The Minister and the intervener have also not persuaded us that there are circumstances in this case that would justify the exercise of our discretion to determine this appeal, notwithstanding that it is now moot: *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342, 57 D.L.R. (4th) 231. In particular, the issues in this appeal are far from evasive of review; they will be before us again, as the Minister admitted, but with the benefit of the requestor's participation.

[8] Finally, in disposing of this appeal on the basis of mootness, we should not be taken to be agreeing or disagreeing with the decision of the Federal Court. The reasons of the Federal Court raise points of jurisprudential interest, particularly concerning the definition of “taxpayer information”, a point of practical significance in a number of contexts. This warrants full argument in a future case against the backdrop of a live controversy, particularly in a case with an affected respondent.

[9] Consequently, the appeal will be dismissed, without costs.

"Anne L. Mactavish"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-146-19

STYLE OF CAUSE: MINISTER OF NATIONAL
REVENUE v. BRADWICK
PROPERTY MANAGEMENT
SERVICES INC. AND
INFORMATION COMMISSIONER
OF CANADA

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: SEPTEMBER 23, 2020

REASONS FOR JUDGMENT OF THE COURT BY: STRATAS J.A.
LASKIN J.A.
MACTAVISH J.A.

DELIVERED FROM THE BENCH BY: MACTAVISH J.A.

APPEARANCES:

Patrick Vézina and Sadian Campbell FOR THE APPELLANT

Aditya Ramachandran FOR THE INTERVENER

No Appearance FOR THE RESPONDENT

SOLICITORS OF RECORD:

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