



## SUDBURY COMMUNITY GROUP FILES LEGAL ACTION AGAINST CITY

Sudbury, Ontario (MLRG): On Friday, August 13, 2021, Sudbury's Minnow Lake Restoration Group (MLRG) filed an Application against the City of Greater Sudbury (CGS) in Ontario's Divisional Court regarding the resolution passed on July 14, 2021. MLRG is an incorporated not for profit registered charity. Its mandate is to foster understanding and lead initiatives for environmental protection, habitat conservation, adaptive reuse and recycling, and community recreation facilities.

In the Application for Judicial Review, MLRG made a declaration that the resolution of Council July 14, 2021, pertaining to the Greater Sudbury Events Centre is of no force and effect, and that the Mayor, Council and Senior Staff made numerous errors of law related to: procedural fairness, limiting discussions and questions; disclosure of relevant and material information; misleading statements; proceeding hastily; proceeding unreasonably, or reaching a fair conclusion; proceeding with a lack of candor, frankness and impartiality, including arbitrary and unfair conduct; proceeding without the proper degree of fairness, openness and impartiality.

This Application is the direct result of the failure of Sudbury City Council to consider all relevant matters and issues related to the KED (Kingsway Entertainment District) and Downtown Arena location and the Mayor and his Senior Aides assurances that this would take place. These included a number of questions in the updated PWC report including: economic impact analysis, a compliance review with CEEP (Climate Energy and Emissions Plan), a request to assess ProjectNOW (renovation of the existing Sudbury Community Arena), insight into federal and provincial funding programs for retrofitting existing buildings, and to provide the most up-to-date information related to the hotel and casino partners and their capacity to fulfill their financial, construction and operating obligations.

A specific example, Councillor Geoff McCausland asked during discussion of a resolution if an amendment was required to acknowledge the questions. Mayor Brian Bigger assured Councillor McCausland that an amendment was not required. To quote Mayor Brian Bigger, in direction to Executive Director Ian Wood: "You have the livestream (online meeting), but would you respond to Councillor McCausland's question?" Executive Director Ian Wood replied: "Um, sorry I don't understand..." Mayor Brian Bigger responds: "You can review the tape, ha, ha, ha..." CGS CAO Ed Archer echoed the intention of a fulsome review to corroborate Council questions and the PWC report due in June 2021. Subsequent reporting in the Sudbury Star and other news outlets, confirmed Mr. Wood's statements about including the Councillors and CAO's requests in the report.

According to Ian Wood's LinkedIn profile, he served as Chair of the Audit Committee of Laurentian University as a Member of the Board of Directors for 11 years until June 2020. The University entered bankruptcy protection 9 months later. Wood has been tasked by the City's CAO and Council resolution to guide \$200,000,000 for Sudbury's large projects. There is concern going forward as to the involvement of Ian Wood in the oversight and spending of hundreds of millions of dollars of taxpayer money.

The updated Event Center report was presented to council by PWC's Ron Bidulka. Wood acknowledged that the report did not contain any of the various Councillor's specific requests despite the earlier assurances of the Mayor, Wood and the City's CAO. Councillors expressed their displeasure especially given the \$125,000 cost which was to include information that likely would have affected the result. That being the direction to service a \$100,000,000 debt to build an arena on a location: without any infrastructure, unserved by transit, 8 km from the City's transit hub, within 600 m of an active and expanding landfill, on a sensitive watershed site that feeds the City's drinking water. Curiously, the owner of the KED property (who coincidentally owns the OHL hockey team) gifted the arena property to the City for \$10.

Eric Gillespie, the lawyer and the spokesperson for MLRG commented "From the transcripts of council meetings, video and the press coverage we've reviewed, there are easily identifiable issues which would have affected the PWC report and result. It is rare to see this play out in a public forum in particular when key questions were disregarded despite assurances by those directing the process and the ramifications for the City."

For those wishing to support this endeavour please contact [minnowlakerestorationgroup@gmail.com](mailto:minnowlakerestorationgroup@gmail.com) for banking information and how funds can be directed through conventional or online methods. All donors to MLRG are confidential. Donors receive a charitable tax receipt.

### FOR ALL MEDIA INQUIRIES, PLEASE DIRECTLY CONTACT:

Eric Gillespie, Managing Partner  
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[egillespie@gillespielaw.ca](mailto:egillespie@gillespielaw.ca)  
416-436-7473

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Divisional Court File No.:

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

B E T W E E N:

**MINNOW LAKE RESTORATION GROUP INC.**

Applicant

- and -

**CITY OF GREATER SUDBURY**

Respondent

**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 by videoconference.

**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:

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Local Registrar  
Address of Court Office:  
130 Queen Street West  
Toronto, ON M5H 2N5

**TO:           The City of Greater Sudbury**  
200 Brady Street  
Sudbury, ON P3A 5P3

## APPLICATION

1. The applicant make application for:
  - (a) A declaration that the resolution of Council of the Respondent of July 14, 2021, pertaining to the Greater Sudbury Events Centre is of no force and effect;
  - (b) The applicant's costs on a substantial indemnity basis; and
  - (c) Such further and other relief as counsel may advise and this Honourable Court may permit.

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

- (a) The applicant, Minnow Lake Restoration Group Inc. (the "Applicant"), is a community-based organization that has expressed concerns at numerous stages of development of a proposed community event centre known as the Greater Sudbury Event Centre (the "Event Centre") as part of the Kingsway Entertainment District ("KED").
- (b) The respondent, the City of Greater Sudbury (the "Respondent"), is the municipal authority responsible for the proposed Event Centre and KED development.
- (c) On July 14, 2021, the Council of the Respondent ("Council") passed the following resolution (the "Resolution"):

That staff proceed to advance the work required to develop the Event Centre without further delay in accordance with the existing approved cost-sharing agreement, a Project schedule that produces a facility which is ready to use in 2024 and regular process reporting to City Council, and that the Executive Director of Communications, Strategic Initiatives and Citizen Service be delegated authority to negotiate, execute and subsequently amend or extend any agreements to produce the work required in the delivering of the Event Centre Project in 2024, subject to Council's approval of the following three decision points. (a) confirmation of the site preparation contract including the commencement date established with the site development partners, (b) confirmation of the venue operator, (c) confirmation of final budget based on the

result of the design build request for proposals.

(d) In passing the Resolution, the Mayor, Council and Senior Staff made numerous errors of law, including:

(i) failing to comply with the rules of procedural fairness, including limiting discussion and questions during the Council proceedings;

(ii) failing to disclose relevant and material information, that had it been known, would likely have affected the result;

(iii) making misleading statements, that had the correct information been known, would likely have affected the result;

(iv) proceeding hastily, without proper consideration of the matters in issue;

(v) proceeding unreasonably, including reaching an unreasonable conclusion;

(vi) proceeding with a lack of candor, frankness and impartiality, including arbitrary and unfair conduct, and proceeding without the proper degree of fairness, openness and impartiality, i.e. proceeding in bad faith as that term is known in law;

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

(f) Rule 68 of the *Rules of Civil Procedure*; and

(g) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

(a) The record of proceedings in which the decision was made;

(b) The affidavit of John Lindsay, President (Chair) Minnow Lake Restoration Group; and

(c) Such further and other material as counsel may advise and this Honourable Court

may permit.

DATE: August 13, 2021

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Lawyers for the Applicant

**MINNOW LAKE  
RESTORATION GROUP INC.**

- and -

**THE CITY OF GREATER SUDBURY**

Divisional Court File No.

Applicant

Respondent

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

Proceeding Commenced at Toronto

**NOTICE OF APPLICATION**

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