

**CITATION:** VALUE ASSETS INC. v. DOWNTOWN BRAMPTON DEVELOPMENT CORPORATION et al, 2025 ONSC 4804  
**COURT FILE NO.:** DC-25-00000079-0000

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

7755 Hurontario Street, Brampton ON L6W 4T6

**RE:** VALUE ASSETS INC., **applicant**

**AND:**

1. DOWNTOWN BRAMPTON DEVELOPMENT CORPORATION
2. CITY OF BRAMPTON, **respondents**

**BEFORE:** Justice McGee

**COUNSEL:** SINGH, Manjinder, for the **applicant**  
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**HEARD:** August 12, 2025, by video conference

**ENDORSEMENT**

**Overview and Decision**

[1] The applicant corporation (“Value Assets”) is the owner of 25 and 27 Main Street North, Brampton. Value Assets leases parts of 25 and 27 Main Street to Class C Refreshment Vehicles which are operated by third parties. Class C Refreshment Vehicles are stationary food trucks operating in a permanent location.

[2] The respondent, Downtown Brampton Development Corporation, is incorrectly named within this application. It is correctly identified as the Downtown Brampton Business Improvement Area (“BIA”) which is the successor to the Brampton Downtown Development Corporation Area. The BIA is a municipal corporation

purposed to propose and promote improvements and economic developments to the downtown area of the City of Brampton. It is comprised of volunteer members and directors, and a paid Executive Director.

- [3] The respondent, The Corporation of the City of Brampton (the “City”), is a municipality in the Province of Ontario, Canada. It is governed by the provisions of provincial statutes such as the *Municipal Act, 2001*, S.O. 2001, c. 25, the *Municipal Affairs Act*, R.S.O. 1990, c. M.46, and related legislation.
- [4] On March 26, 2014, the City enacted the *Mobile Licensing By-law* No. 67-2014 which provided for a system of licensing for mobile businesses, including Refreshment Vehicles, Limousines, Taxis and Driving Schools.
- [5] By-law 187-2014 amended the *Mobile Licensing By-law* on June 18, 2014. Relevant to this decision, Appendix 1 section 31(b) provides that Class C Refreshment Vehicles can not “sell refreshments on any property located within the area identified as the Brampton Downtown Development Corporation Area, as indicated on Appendix G, unless a written consent from the Brampton Downtown Development Corporation or its successor is provided to the Licence Issuer.”
- [6] The Brampton Downtown Development Corporation Area (“the downtown area”) is a mapped area of the downtown core well known for its restaurants, shops and services, entertainment and community gathering venues.
- [7] By-law No. 67-2014 as amended was repealed by the City of Brampton on May 28, 2025 and replaced with by-law No. 101-2025, *Mobile Licensing By-law* (“the revised by-law.”)
- [8] The revised by-law comprehensively amends the bases upon which the City’s License Issuer can refuse a license application, removes tow-trucks from the scope of businesses governed by the by-law, adds mobile peddlers of goods, and amends certain administrative penalties.

[9] Relevant to this decision, the revised by-law removes the prohibition on Class C Refreshment Vehicles operating in the downtown area absent consent of the successor BIA. At the same time, it leaves undisturbed Appendix 1 section 6(d) of by-law 187-2014 which provides that no driver of a Refreshment Vehicle shall:

(d) stop any Refreshment Vehicle within 50 metres of a Fixed Food Premise, as defined in the Business Licensing By-law 332-2013 or its successor.<sup>1</sup>

[10] As a result, Refreshment Vehicles can now operate anywhere within the downtown area provided that they are more than 50 metres away from a Fixed Food Premise.

[11] Value Assets' properties, 25 and 27 Main Street North, Brampton, are within 50 metres of fixed food establishments. Because of the exemption in the old by-law, they were previously able to rent to Class C Refreshment Vehicles if the BIA provided its written consent.

[12] On July 4, 2025, Value Assets issued this Notice of Application for:

- a. judicial review to quash the revised by-law,
- b. a restraining order against the BIA preventing them from withdrawing their consent or involvement in the licensing of mobile businesses, and
- c. damages and costs of \$10,000,000.

And they brought a Motion:

Seeking leave and for maintaining the status quo of the licensing procedure being followed and to stop the enforcement/ applicability of the amended By Law No. 101-2025 to Applicant and the enforcement communications issued by the City of Brampton.

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<sup>1</sup> Schedule 3, para 8(f) of the revised by-law reads that a driver of a Refreshment Vehicle shall "not stop, park or operate any Refreshment Vehicle within 50 metres of a Fixed Food Premise."

- [13] Value Assets states that it has made substantial investments in lots 25 and 27 Main Street North to develop a Food Truck area based on the exemption within By-law No. 67-2014 (referenced above within by-law 187-2014.) Value Assets asserts that it has done so to the detriment of other investments and that its economic future is now at risk.
- [14] This application, and a second related application that also requests judicial review of the revised by-law, came before Justice Trimble on July 30, 2025, for a Case Management Conference. On that date it was agreed that:
- a. both applications would be case managed and heard together,
  - b. the applications are subject to a peremptory timetable that takes them to a determination after December 22, 2025, and
  - c. the applicant's motion for injunctive relief would proceed on August 12, 2025, on the regular motions list, subject to an adjournment by the motions court judge if it appeared that the matter could not be fully heard in one hour.
- [15] The City agreed on August 1, 2025 to stay the enforcement of the revised by-law pending the release of this decision.
- [16] For the reasons set out below, I decline to issue an injunction that would stop the enforcement or applicability of By-law No. 101-2025.

## **Background**

- [17] The respondents acknowledge that in February of 2023, the BIA supported the creation of a Food District comprised of Value Assets' two properties. The district was to feature Refreshment Vehicles and was described as a pilot project. The City advised that it would require quarterly reports to assess the project with the BIA and local businesses.
- [18] The Food District pilot project commenced in April 2023. Value Assets rented space on its property to multiple food vendors, some of whom operated out of

- Refreshment Vehicles and some of whom operated within the building on the property. Only the Refreshment Vehicles required the consent of the BIA – the other vendors were not subject to the Mobile Licensing By-law.
- [19] On April 30, 2024, the BIA withdrew its support for the exempted Refreshment Vehicles located in the Food District. The withdrawal of that support meant that the Vehicles were no longer compliant with the Mobile Licensing By-law.
- [20] Value Assets and several of the Refreshment Vehicle owners sought judicial review of the BIA’s decision. Although the City was named as a respondent in that proceeding, it did not participate. The City did not file any material in the application, attend the hearing or take any position.
- [21] In *Value Assets Inc. v. Downtown Brampton Development Corporation*, 2024 ONSC 6065, the Divisional Court concluded that the BIA had failed to afford procedural fairness to the applicants and quashed the BIA’s decision to withdraw its support on April 30, 2024. The court noted that if the BIA wished to change or revoke its approval, it had to do so “in a procedurally fair process in accordance with these reasons for decision”: see paras. 30-31.
- [22] As a result, Value Assets was able to continue to lease 25 and 27 Main Street North, Brampton to Class C Refreshment Vehicles.
- [23] In January 2025, the City embarked on a review of its Mobile Licensing By-law. Staff studied the existing By-law No. 67-2014 as amended and drafted a report for Brampton City Council that summarized the situation. Staff then prepared a report recommending various changes to the existing by-law.
- [24] The Committee of Council moved to implement staff’s recommendations, with certain amendments, and to provide licensees with a 45-day notice period of the changes.
- [25] The staff’s report was reviewed by the Committee of Council on April 23, 2025.

- [26] A week later, on April 30, 2025, City Council passed a motion approving staff's recommendation on areas within which Class C Refreshment Vehicles could operate. They directed staff to report back with draft amending by-laws.
- [27] The recommendations included removing the BIA's authority to determine whether Refreshment Vehicles could operate downtown. The BIA supported that recommendation as they no longer wished to be involved in the licensing of Refreshment Vehicles.
- [28] On May 1, 2025, the City provided public notice of a Committee of Council meeting scheduled for May 7, 2025, during which the Committee would consider repealing the existing by-law and adopting the new one. Several Refreshment Vehicle owners attended the meeting and opined that there had been inadequate consideration of the financial impact of the proposed changes.
- [29] The Committee instructed staff to consider the matter further and consult with all stakeholders. City staff proceeded to engage with stakeholders and to conduct public consultations between May 7 and 21, 2025.
- [30] The Committee of Council met again on May 21, 2025, following staff's consultations. At that meeting, the Committee approved staff's recommendations concerning changes to the by-law. Subsequently, on May 28, 2025, City Council voted to repeal By-law No. 67-2014 and to adopt By-law No. 101-2025.
- [31] The new by-law introduced a wide range of changes, many of which do not apply to the mobile licensing system, and some of which apply to specific types of mobile licenses. For example, changes to Schedule 3, which apply specifically to Refreshment Vehicles, include adding new terms for fire safety, adding new requirements applicable to owners of properties upon which Refreshment Vehicles operate, prohibiting Refreshment Vehicles from selling cannabis, and requiring that Refreshment Vehicles operate at least 5 metres apart from one another.

## **Positions of the Parties**

- [32] Value Assets asks me to issue an interim injunction to stay the applicability of the revised by-law until their application for judicial review is decided. They argue that there are serious issues to be determined, that irreparable harm will occur if an injunction is not ordered, and that the balance of convenience favours the issuing of an injunction. They further argue that no loss or prejudice will be caused to the respondents if the interim injunction is granted.
- [33] The BIA is unclear as to why they have been named in this application and what, if any, relief the applicant can seek against them. The BIA asks to be removed from this application. The revised by-law wholly removes their prior role in providing consent to the operation of Refreshment Vehicles within the downtown area because Vehicles are no longer prohibited from operating therein, (provided they are 50 metres away from a fixed food premise.)
- [34] The City asks me to dismiss this motion for injunctive relief. It argues that the new by-law was the product of a comprehensive review of the City's mobile licensing system, within which only some of the changes were specific to Refreshment Vehicles. They set out how the enactment of the new by-law was a policy decision made by City Council, after the City considered and accounted for all competing interests. They point to the broad scope of the new by-law, including other affected businesses and the public interest.

## **Analysis**

### *A By-Law May Only Be Challenged If it is Illegal*

- [35] In its application, Value Assets asks the court to quash the entirety of the new by-law because it is unreasonable. In the interim, it seeks injunctive relief staying the application of the new by-law.
- [36] Courts are hesitant to interfere with the enforcement of validly passed municipal by-laws which reflect the judgment of elected officials who in coming to their decision have balanced a wide spectrum of competing public interests.

- [37] While by-laws passed by municipalities may be subject to judicial review, the scope for such review is narrow. In Ontario, whether or not a by-law is reasonable is not a justiciable issue. A by-law may only be challenged if it is illegal. As the Court of Appeal has held, “[a]bsent illegality, municipal by-laws are well insulated from judicial review”: *Friends of Lansdowne Inc. v. Ottawa (City)*, 2012 ONCA 273, 110 O.R. (3d) 1, at para. 13.
- [38] Both the Court of Appeal and the Divisional Court have held that municipal by-laws may not be challenged on the basis that they are “unreasonable”: *Oro-Medonte Property Owners’ Association v. Oro-Medonte (Township)*, 2024 ONCA 49, 46 M.P.L.R. (6th) 1, at para. 7; *Guzar v. The Corporation of the Township of Puslinch*, 2019 ONSC 3511, 87 M.P.L.R. (5th) 220 (Div. Ct.), at paras. 43-44.

#### *The Test for Injunctive Relief*

- [39] Although not cited by Value Assets, it is well established that the three-part test for injunctive relief can be found in *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 334.
- [40] First, a party must demonstrate that there is a serious question to be tried. Second, the moving party must show that the failure to grant the injunction would cause irreparable harm. Third, the court must balance whether granting the injunction would cause more harm to the responding party than to the applicant.
- [41] For the reasons set out below, I find that Value Assets has failed to establish on a balance of probabilities that there a serious issue to be tried or that it will suffer irreparable harm. I also find that the balance of convenience does not favour granting injunctive relief to Value Assets because the law presumes a public interest in the enforcement of duly enacted By-Laws.

#### *No Serious Issue to be Tried*

- [42] While the first part of the test is not onerous, a claim must nevertheless have a real prospect of success in order to raise a serious issue.
- [43] Value Assets' claim is based on two arguments: (a) the BIA failed to afford it procedural fairness; and (b) the City's passing of the new by-law was conducted in bad faith and is unreasonable because it causes financial loss to the applicant. I find that neither basis raises a serious issue to be tried.
- [44] Because there is no longer an exemption to the defined downtown area , there is no longer any role for the BIA to play within the licensing of Refreshment Vehicles in the City of Brampton. In other words, there is no longer any procedure in which to assess fairness. I agree with the City's submission that in this regard, Value Assets appears to be conflating its current application with the prior application.
- [45] The present application is a judicial review of the revised by-law and a claim for damages. There is no relief available against the BIA because as of May 28, 2025, they no longer have any role in the licensing of Refreshment Vehicles.
- [46] With respect to the claim against the City, the applicant's argument that the new by-law was passed unreasonably does not raise a serious issue to be tried because it is legally untenable.
- [47] The new by-law was validly passed by Brampton City Council based upon the judgment and discretion of its elected councillors. The applicant does not allege that it is illegal or was unlawfully enacted. Instead, it argues that the by-law is unreasonable. The law is clear that a by-law may not be challenged on the basis that it is unreasonable.
- [48] While the applicant does not appear to directly argue that the City breached any duties of procedural fairness, any such arguments would be doomed to fail even if made. The Superior Court has affirmed that a "municipal council acting legislatively does not have a common law duty of procedural fairness to those who may be affected by its actions" see *Blair Engaged - Residents' Association Inc. v.*

*Corporation of the City of Cambridge*, 2023 ONSC 1964, 41 M.P.L.R. (6th) 142 (Div. Ct.), at para. 72; *Toronto Taxi Alliance Inc. v. City of Toronto*, 2015 ONSC 685, 33 M.P.L.R. (5th) 103, at para. 48. Such a duty only exists where a municipality makes an administrative decision that affects individual rights or interests.

- [49] In passing the revised by-law, the City was acting legislatively. It was regulating a range of mobile services and setting policy, rather than making an administrative decision. It was not subject to any duty of procedural fairness. Thus, even if the applicant is alleging that the by-law ought to be quashed for want of procedural fairness, such an argument is legally untenable.

#### *No Evidence of Irreparable Harm*

- [50] To show irreparable harm, a party must lead evidence that there is a high degree of probability that permanent and non-compensable harm will occur to the moving party. Speculation is not sufficient. Possible harm to third parties is not sufficient. Monetary damages are not sufficient. See *Temagami (Municipality) v. Temagami Barge Limited*, 2024 ONCA 859, at paras. 11, 21 and *The Castlefield Event Theatre Inc. v. Capitol Place Inc.*, 2014 ONSC 2544, at para. 5.
- [51] I find that the applicant has not adduced any evidence that could ground a finding that there is a high risk it will suffer irreparable harm. Its evidence is vague, consists of bald assertions and invokes alleged harm to third parties. At its highest, the allegations of actual harm are monetary – a presumed cessation of rent payments from Refreshment Vehicle owners.
- [52] The allegations are not supported. For example, Value Assets alleges that the by-law is “expected to jeopardize the livelihoods of a large number of individuals employed at the Food District approximately 72 employees” but there is no evidence from any of the employees whom Value Assets states will be harmed. There is no evidence that Value Assets has any employees. Only family members are referenced as working in the business and no details are provided.

[53] Value Assets also asserts that an alleged investment of \$1,000,000 is at risk, without any evidence of actual investment or the nature of the risk. It provides no evidence of revenues earned from its current Class C Refreshment Vehicle tenants that would be lost, or ongoing revenues from its non-affected tenant(s). None of the applicable leases have been produced. Moreover, the future losses anticipated by Value Assets are long-term and do not answer the question of irreparable harm from now until when the application is decided.

#### *Balancing of Harms Test Favours the City*

[54] When an injunction is sought to restrain the enforcement of a by-law, there are special considerations because the law presumes that staying enforcement of a law will harm the public interest. Courts are reluctant to enjoin a government from enforcing the law: *Temagami*, at paras. 28-29.

[55] The Supreme Court has held that the onus for a public authority to prove “irreparable harm to the public interest is less than that of a private applicant” and that the “...test will nearly always be satisfied simply upon proof that the authority is charged with the duty of promoting or protecting the public interest and upon some indication that the impugned legislation, regulation, or activity was undertaken pursuant to that responsibility: *RJR-MacDonald*, at pp. 346.

[56] There is thus a presumption of harm if the City’s new by-law is stayed.

[57] City Council is a democratically elected body that has exercised its discretion to enact new policies for the regulation of mobile businesses. Staying the revised by-law would do much more than simply permit Value Assets to continue to lease its property to Class C Refreshment Vehicles. It would also remove the new fire safety regulations, eliminate the requirement that Refreshment Vehicles obtain approval for the area in which they will operate, remove the prohibition on selling cannabis and remove peddlers of goods from the regulatory scheme entirely. In addition, there is harm to nearby restaurants that can lose business as a result of the operations of Class C Refreshment Vehicles within 50 metres.

[58] I find that those harms significantly outweigh the potential, unquantified loss of rental income to the applicant that might be incurred prior to the determination of this application. Moreover, a party seeking an interlocutory injunction is required to give an undertaking as to damages in the event the injunction is later found to have been unwarranted. Value Assets offers no undertaking to the City or the BIA for damages.

### **Motion for Injunctive Relief is Dismissed**

[59] The evidence led by Value Assets on this Motion does not support an injunction prohibiting the enforcement of a validly passed municipal by-law. The passing of a by-law is a legislative function, not an administrative function. The motion is dismissed.

### **Costs**

[60] If the parties are unable to resolve the issue of costs, the City and the BIA shall serve, file, and upload their written submissions by August 29, 2025. The City has already uploaded a Costs Outline which they may amend to include the preparation of costs submissions. The BIA may upload a Costs Outline by August 29, 2025. Value Assets may serve, file, and upload its written costs submissions by September 12, 2025. Replies, if any, are due by September 26, 2025. No submission may exceed three pages.