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Docket: CI 21-01-32866
(Winnipeg Centre)
Indexed as: The City of Winnipeg v.
The Government of Manitoba et al.
Cited as: 2025 MBKB 62

2025 MBKB 62 (CanLII)

COURT OF KING’S BENCH OF MANITOBA

B E T W E E N:

THE CITY OF WINNIPEG,)	
)	
)	applicant,
)	<u>Kalyn B. Bomback</u>
)	for the applicant
- and -)	
)	
)	
THE GOVERNMENT OF MANITOBA, THE)	<u>Devin A. Johnston</u>
REGISTRAR GENERAL OF MANITOBA, THE)	for the respondents
SENIOR DISTRICT REGISTRAR FOR)	
MANITOBA; AND THE DISTRICT REGISTRAR,)	
WINNIPEG LAND TITLES OFFICE,)	
)	JUDGMENT DELIVERED:
respondents.)	May 30, 2025

LANCHBERY J.

[1] This application brought by the City of Winnipeg (the City) is either a statutory appeal or judicial review of the decision of the Registrar General of Manitoba as to the meaning of section 173 of ***The Real Property Act***, C.C.S.M. c. R30, *The City of Winnipeg Charter*, S.M. 2002, c. 39 (*Winnipeg Charter*), and the City of Winnipeg By-law No. 104/2020.

[2] The respondents to this application are the Government of Manitoba, the Registrar General of Manitoba, the Senior District Registrar for Manitoba, and the District Registrar; Winnipeg Land Titles Office.

[3] The underlying issue is whether the terms “subdivide”, “subdivision” or other variations of the terms in both ***The Real Property Act*** and the *Winnipeg Charter*, by implication, include a consolidation of land.

[4] The respondents argue “subdivision” and “consolidation” are distinct from one another. One is to divide a larger parcel of land into smaller parcels of land. I find the plain and ordinary meaning of the word subdivide and its derivatives are clear. This is consistent with language in *Black’s Law Dictionary*, 10th ed., by Brian A. Garner, ed. St. Paul., Minn.

[5] Equally, I find the ordinary and plain meaning of the word “consolidate” is to take two or more parcels of land and to create one larger parcel. This is also consistent with the language in *Black’s Law Dictionary*.

[6] I find the ordinary and plain meaning of these two concepts in real property law is as described above.

[7] I find this application is not a challenge for the ages. This application is solely due to a unilateral decision of the Senior District Registrar, on behalf of the Government of Manitoba, to amend a longstanding policy. When applications to consolidate lands were received by the Winnipeg District Registrar, approval was required from the City before a consolidated title issued. The record shows the District Registrar discovered he/she was without authority under ***The Real***

Property Act to delay the issuance of a consolidated title requesting the City of Winnipeg's approval of the consolidation. The City filed an appeal of this decision arguing, as they have done before me, the historical treatment of consolidations should continue. The Registrar General denied the appeal.

[8] The applicant and respondents agree the legislation is:

Approval required for registration

117(3) No plan of subdivision to which *The City of Winnipeg Charter* applies, shall be registered unless approval is given to the plan under that Act and unless approval is given by the Registrar-General under this Act.

Approbation de plans

117(3) Tout plan de lotissement régi par la Charte de la ville de Winnipeg ne peut être enregistré s'il n'est pas approuvé aux termes de ladite loi et approuvé par le registraire général sous le régime de la présente loi.

[9] Paragraph 9 of the respondents' brief states:

Over time, the Senior District Registrar became uncomfortable with this practice because it does not accord with the statutory framework. The Senior District Registrar advised the City of his interpretation of the legislation and signalled that approval would not be required going forward.

[10] The City of Winnipeg was afforded the opportunity to provide written submissions setting out its interpretation, and the Senior District Registrar issued a decision in reply to those submissions. The City now appeals that decision.

[11] The jurisdiction of this court is found in section 173(1) of ***The Real Property Act***, which reads:

Appeal from decision of district registrar

173(1) Where a person is dissatisfied with an act, omission, refusal, decision, direction, or order of the district registrar, other than a matter referred to in subsection 169.1(2), the person may require the district registrar to, and the district registrar, with the approval of the Registrar-General, shall, set forth in writing the grounds of the act, omission, refusal, direction, decision, or order, and the person so dissatisfied may then appeal to the court and thereupon all parties interested, including the district registrar and the Registrar-General, shall be served with the notice, which shall state the time and place for the hearing thereof.

Appel de la décision du registraire de district

173(1) Quiconque est insatisfait d'un acte, d'une omission, d'un refus, d'une décision, d'une directive ou d'un ordre du registraire de district, exception faite d'une question visée au paragraphe 169.1(2), peut exiger de ce dernier, lequel doit le faire avec l'approbation du registraire général, qu'il énonce par écrit les motifs de l'acte, de l'omission, du refus, de la directive, de la décision ou de l'ordre, après quoi il peut interjeter appel devant le tribunal. L'avis est ensuite signifié à toutes les parties intéressées, y compris le registraire de district et le registraire général. Y sont indiqués la date, l'heure et le lieu de l'audition de l'appel.

STANDARD OF REVIEW

[12] The parties agreed a statutory appeal of a statutory provision is reviewed on the correctness standard. The City's application includes judicial review of the Registrar General's decision, and the parties agreed this would be reviewed on the reasonableness standard. The City argued, the effective impact, whether a correctness or reasonable standard was applied, the result would be exactly the same. I agree, given the narrowness of the issue before me. I agree that on a correctness or reasonableness standard, the result will be the same. However, this is an appeal under statute and the standard of review is correctness.

(Vavilov)

THE RECORD

[13] The record before me is:

1. Email Correspondence between Russell Davidson, District Registrar (Winnipeg Land Titles Office) and Senior District Registrar for Manitoba, and Sarah Rentz, counsel for the City of Winnipeg, from December 8, 2020 to February 26, 2021, encompassing the grounds for decision of the District Registrar (Winnipeg Land Titles Office) and Senior District Registrar for Manitoba, with respect to plans for subdivision prepared for consolidation (41 pages).
2. Letter from Marc Pittet, Manager of the Real Estate & Land Development Division for the City of Winnipeg, to the Association of Manitoba Land Surveyors, dated February 25, 2021.
3. Summary of the grounds for decision of the District Registrar (Winnipeg Land Titles Office) and Senior District Registrar for Manitoba, with respect to plans for subdivision prepared for consolidation, shared by email with Sarah Rentz, counsel for the City of Winnipeg, on February 26, 2021 (11 pages).
4. Notice to the Association of Manitoba Land Surveyors prepared by Russell Davidson, District Registrar (Winnipeg Land Titles Office) and Senior District Registrar for Manitoba, shared by email with Sarah Rentz, counsel for the City of Winnipeg, on February 26, 2021 (2 pages).
5. Letter from Orvel Currie, counsel for the City of Winnipeg, to Russell Davidson, District Registrar (Winnipeg Land Titles Office) and Senior District Registrar for Manitoba, dated July 28, 2021, requesting a reconsideration of the decision of the District Registrar (Winnipeg Land Titles Office) and Senior District Registrar for Manitoba with respect to plans for subdivision prepared for consolidation (35 pages).
6. Email from Russell Davidson, District Registrar (Winnipeg Land Titles Office) and Senior District Registrar of Manitoba, to Orvel Currie, counsel for the City of Winnipeg, dated September 8, 2021, responding to the legal arguments raised in the letter from Orvel Currie dated July 28, 2021.

THE DECISION

[14] In Manitoba, decisions on subdivisions are dealt with under different legislative provisions. Subdivisions in the City are governed by the *Winnipeg Charter*. Subdivisions in rural Manitoba are governed by ***The Planning Act***, C.C.S.M. c. P80 and amendments thereto.

[15] Similarly, planning decisions are reserved for ***The Planning Act*** in rural Manitoba, and the *Winnipeg Charter* for Winnipeg applications.

[16] The City's argument is that changes, whether by subdivision or consolidation, will impact the City's planning scheme as well as its future vision for the City (Project 2035). I find the facts presented by the City support that view. One of those facts is that if two or more existing real property titles are consolidated without consultation, the owner of the new consolidated titles may be subject to two or more zoning provisions.

[17] The negative impact on the owner of the consolidated property is prior to the owner being able to make full use of the title, a variance to the existing land use may be required. The intended use may not fit within the vision of the City. The City could use its discretion after the proper zoning variance procedures are considered. The owner could then be in a position the consolidation would be for not.

[18] The City submits that instead of the District Registrar General accepting consolidation without consultation, the existing policy should be maintained to prevent future costs being incurred by the landowner. An intended consequence

of consolidation may be Winnipeg zoning and planning regulations prevent the landowner from using the land as the consolidation intended.

[19] The respondents do not take issue with general philosophy expressed by the City, but maintains it is without authority to prevent consolidation. Without statutory authority to deny an application for consolidation, understanding the City's concerns, it lacks jurisdiction.

[20] The Registrar General and the District Registrar's authority is limited to what is granted under the statute. Absent any authority, the Registrar General and the District Registrar are unable to deny any application for consolidation. I find the policy of the Registrar General and the District Registrar, although in existence for over 50 years, should not continue without legislative change despite a policy created by a misinterpretation of ***The Real Property Act***.

[21] Therefore, the appeal is denied as the decision of the Registrar General was the correct interpretation of ***The Real Property Act*** and is confirmed.

[22] I would comment, even if the standard of review is reasonableness, based upon the limited scope of the issue before me, the decision was reasonable.

[23] Each party shall bear their own costs given the narrow scope of the issue before me and all the circumstances.

[24] The reasonable solution is for Manitoba to consider amendments to ***The Real Property Act*** and the *Winnipeg Charter* to address the issue of consolidation.

[25] In the interim, the Registrar General may wish to notify any applicant seeking consolidation as to the potential negative zoning consequence if they proceed with consolidation absent consultation with the City of Winnipeg.

_____ J.