

CITATION NO.: Alugard Ltd. v. View, Inc. et al., 2026 ONSC 1507
COURT FILE NO.: CV-25-63279
DATE: March 12, 2026

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Alugard Ltd., Plaintiff

- and -

View, Inc., Nickel Developments Ltd. and Bank of Montreal, Defendants

BEFORE: MacNeil J.

COUNSEL: *Adam Jarvis* – Lawyer for the Plaintiff, Alugard Ltd.

Malika Grewal – Lawyer for the Defendant, Nickel Developments Ltd.

Lia Bruschetta and Madeleine Worndl – Lawyers for the Defendant, View, Inc.

No one appearing for the Defendant, Bank of Montreal

DATE: Heard December 9, 2025

DECISION ON MOTION

[1] The defendant, Nickel Developments Ltd. (“Nickel”), makes this motion pursuant to s. 47 of the *Construction Act*, R.S.O. 1990, c. C.30 for an order vacating and discharging a construction lien and a certificate of action registered by the plaintiff, Alugard Ltd. (“Alugard”), against the subject property, 57 Carlisle Street (“the Property”), among other relief. Alugard seeks that Nickel’s motion be dismissed with costs payable to it.

[2] The parties who appeared on the motion filed affidavits. No cross-examinations were held on those affidavits.

BACKGROUND

[3] Nickel is the registered owner of the Property.

[4] Nickel entered into a prime contract, dated July 29, 2021, with View, Inc. (“View”) for improvements to the Property, which was a mixed-use condominium project, including window installation work (“the Project”).

[5] On October 14, 2021, Alugard executed a “Master Subcontractor Agreement” with View that authorized Alugard to perform work for View under various projects. A “Subcontract Work Order” was also signed that same date by Alugard respecting the Project that set out the subcontract sum and Alugard’s scope of work, described as follows:

Scope of Work:

Manufacture, supply and install all window wall at 57 Carlisle. Including sliding balcony doors, swing doors, entrance doors, awning windows, vision glass and spandrel. Includes store front on ground floor. Glass Supply and pricing is based on Alugard Proposal, Option 3: View glass will be supplied for 23,713 SF of vision glass, and rest of LowE glass to be supplied by Alugard. Option will impact floors 7th Floor to the PH Floor, where View will be the primary Vision Glass. Low-E for rest of building. Does not impact the spandrel glass. Alugard Responsible for:

- Supply all frames and all Spandrel, Low E glass from ground floor to 6th floor
- Alugard to integrate the Low E and View glass in the frame
- Shop Drawings, engineering
- Silling, Caulking, and flashing all materials of the windows and doors on the outside and related
- Deliveries, Transportation, and related expenses

[6] On April 12, 2022, Alugard and View executed a “Subcontract Agreement” respecting the Project.

[7] Commencing April 1, 2022 through to February 12, 2025, Alugard rendered twenty (20) invoices to View in relation to services done and materials supplied for the Project. On April 1, 2025, Alugard rendered a Holdback Invoice seeking payment of the retained holdback amounts of 10% reflected in each of the twenty invoices.

[8] On May 13, 2025, Alugard registered a construction lien against the Property in the amount of \$250,748.07 as Instrument No. NR690573 (“the Lien”).

[9] On June 12, 2025, Alugard registered a certificate of action against the Property as Instrument No. NR692882 (“the Certificate”).

[10] Alugard’s statement of claim was issued on June 4, 2025. In it, Alugard claims the Lien arises from work allegedly performed from May 29, 2023 to March 14, 2025.

[11] Nickel served a statement of defence, dated June 12, 2025, wherein it denies Alugard’s claims and pleads that the Lien is statute-barred under s. 31(1) of the *Construction Act*.

ISSUES

[12] The issues to be determined by this motion are:

- (a) Whether the Lien was registered within the mandatory 60-day preservation period required by section 31(1) of the *Construction Act*?
- (b) Whether the Court should exercise its jurisdiction under section 47 of the *Construction Act* to discharge and vacate the Lien and vacate the Certificate?

EVIDENCE OF THE PARTIES

Nicholas Atalick, for Nickel

[13] Nicholas Atalick is the owner and principal of Nickel. He swore two affidavits upon which Nickel relies for the purposes of this motion, the first on July 10, 2025 (“the First Atalick Affidavit”) and the second on July 28, 2025 (“the Second Atalick Affidavit”).

[14] In the Second Atalick Affidavit, Mr. Atalick attests that the substantial window installation work done by Alugard was completed by December 23, 2024, and relies on the following:

- (a) The pattern of Alugard’s final invoicing, including Invoice No. 24208-INV19, dated December 4, 2024, which represented billing for the completion of its substantial contracted work, and Invoice 25235-INV20, dated February 12, 2025, which represented billing for completed work rather than for ongoing construction activities.
- (b) The cessation of regular construction activities by Alugard personnel following December 23, 2024.
- (c) Receipts showing the hotel rooms that were booked and paid for by Nickel for Alugard’s installers in the months of October, November and December 2024.
- (d) Contemporaneous communications (attached as exhibits) regarding deficiency resolution rather than ongoing installation work, including:
 - (i) Mr. Atalick’s email correspondence to Andi Pengili, Alugard’s Project Supervisor, on December 2, 2024, identifying specific deficiencies requiring immediate attention, including missing glass, non-operating windows, a missing patio door, door closures, and the removal of materials from the site; and their subsequent email exchange.
 - (ii) Mr. Atalick’s text to Mr. Pengili, on December 5, 2024, wherein he inquired: “Andi are your window repair guys here today”.
 - (iii) Mr. Pengili’s email to Nickel and View, dated December 10, 2024, wherein he advised that Alugard had “serviced all sliding doors at Carlisle” and that the doors should be kept closed to prevent damage from other contractors.

[15] Mr. Atalick’s evidence is that the issuance of final invoicing in December 2024 and February 2025 by Alugard reflects standard billing practices for completed work and is fundamentally inconsistent with ongoing construction activities extending through mid-March 2025. Following December 23, 2024, Alugard had no ongoing window installation work at the Property within the scope of its original subcontract as it had been substantially completed.

[16] It is Mr. Atalick's evidence that the work performed by Alugard in March 2025 was done on March 12, 2025, and it was strictly limited in both scope and duration. He references an email (attached as an exhibit) he received from Mr. Pengili, dated March 14, 2025, that refers to the window repair in support of this. Mr. Atalick attests, at para. 11 of the Second Atalick Affidavit:

The repair work was performed by Reza Nikfar, who confirmed to me directly that the limited remedial work was completed on March 12, 2025 to repair a front door lock and glass damage that occurred during insulation removal activities.

Andi Pengili, for Alugard

[17] Andi Pengili was the Project Supervisor for Alugard for the Project. He swore the supporting affidavit filed on behalf of Alugard. It was acknowledged by the parties that in paragraphs 4 through 6 of Mr. Pengili's affidavit, sworn July 18, 2025, he mistakenly references dates in March 2024 when he meant to refer to dates in March 2025.

[18] Attached to Mr. Pengili's affidavit were various emails, invoices, payment details, a copy of the Master Subcontractor Agreement, change orders, and the Purchase Order. In paragraphs 5 and 6 of his affidavit, Mr. Pengili gave evidence about the events of March 14, 2025 as follows:

5. On March 14, [2025], Reza Nikfar, attended the Property for the purposes of addressing the glass broken during the process of rockwool insulation removal at the back of the window. We required a swing stage to gain access to the area to install the window.

6. On March 14, [2025], I sent my last communication to Nick Atalick, to his email address at carlislesquare.nickel@gmail.com, containing a photo taken by Reza Nikfar at the Property that same day pertaining to the aforementioned damaged window and work done. Attached hereto as Exhibit "C" to my affidavit is a true copy of the email I sent to Mr. Atalick.

[19] The March 14, 2025 email sent by Mr. Pengili had four attachments, including two photos, and read:

Hi Nick, There is 1 location (Picture attached) that the glass was broken during the process of rockwool insulation removal at the back of the window. This process was done by your team at the time to accommodate slab movement. We have delivered the glass (Picture attached is at unit 1705) and is [*sic*] waiting there from [*sic*] some time. You need a swing stage, so we can have access in that area to install it. Best Regards, Andi Pengili Project Supervisor.

[20] Of the two photos attached to the email, one shows a large, dark pane of glass sitting on two pieces of wood resting against a wall inside the unit; and the second shows the framed window from outside of the building where the broken glass pane is needing to be replaced.

Ben Albin and Ryan Walsh, for View

[21] View's evidence was presented by two affiants, Ben Albin, Director of Project Management, in an affidavit sworn July 23, 2025 ("the Albin Affidavit"), and Ryan Walsh, Project Engineer, in an affidavit also sworn July 23, 2025 ("the Walsh Affidavit").

[22] In the Walsh Affidavit, Mr. Walsh attests that, in his role as Project Engineer he worked to carry out the commissioning of the Project with Glazier Foreman, Frank Medilek, who was employed by an independent consulting company and was contracted by View to assist on the Project. The commissioning process commenced on December 1, 2024 and was completed on or around March 28, 2025. For commission on the Project to begin, all windows and sliding glass doors had to be installed by Alugard on the Project.

[23] Mr. Walsh's evidence was that all windows and sliding glass doors had been installed by Alugard on the Project prior to Mr. Medilek and Mr. Walsh arriving on site in December 2024. Mr. Walsh provided a chart setting out the dates he was present at the Property to carry out Project commissioning, starting December 1, 2024 and ending April 18, 2025.

[24] In the Albin Affidavit, Mr. Albin attests that, on or about April 5, 2022, View and Alugard entered into a Subcontract Agreement for Alugard to perform the scope of work outlined therein, which included the manufacture, supply and installation of "View Smart Glass" windows and sliding glass doors on the Project. Mr. Albin's evidence is that he understands that Alugard completed its installation of the "View Smart Glass" windows and sliding glass doors on the Project prior to December 2024, and he bases this understanding on various text messages, WhatsApp messages, and correspondence he was sent by the former Project Manager for View, Megan Hiner, and by Mr. Walsh, that he reviewed and attached as exhibits to his affidavit.

[25] Mr. Albin also attests that, based on an email he was copied on from Ms. Hiner to Mr. Pengili, dated February 5, 2025, the only outstanding items on the Project left for Alugard to address as of that date were: (i) two pieces of missing spandrel which Alugard indicated would be completed in a week; (ii) outstanding installation of screens on windows and sliding glass doors which Alugard indicated would be installed on February 14, March 14 and/or April 14, 2025, in coordination with Mr. Atalick; and (iii) some missing beauty caps at sliding door areas which Alugard indicated had been removed and reinstalled by Nickel and therefore no further action was required.

POSITIONS OF THE PARTIES

Nickel Developments Ltd.

[26] It was Nickel's initial position, as set out in its factum, that the key date for calculating the 60-day preservation period under s. 31(1) of the *Construction Act* was January 12, 2025, which Nickel asserted was View's last supply date. Nickel originally contended that, since Alugard was a subcontractor of View, it could not have supplied services or materials to the improvement after the last supply date of View, the prime contractor. However, at the hearing of the motion before

me, Nickel changed its position in this regard and instead argued that Alugard's substantial and final supply of services per the subcontract was completed by December 23, 2024.

[27] Nickel asserts that the evidence tendered establishes that, as of December 23, 2024, Alugard's primary installation work was done and there had been a shift to Alugard rectifying deficiency items rather than ongoing construction activities. The Lien was not registered until May 13, 2025, which is more than 60 days after the expiry of the preservation period.

[28] Nickel acknowledges that Alugard did repair work at the Property in March 2025 but submits that: (i) the work was performed on March 12, 2025; and (ii) the work was minor and remedial in nature and did not constitute ongoing window installation work within Alugard's original scope of work. Nickel submits that, even if the repair work was considered part of the ongoing substantive work under the subcontract (which it denies), the Lien was still registered more than 60 days after March 12, 2025.

[29] Nickel submits that construction lien preservation periods under the *Construction Act* are mandatory, strict, jurisdictional, and outside the scope of judicial discretion. A lien that is not preserved within the time prescribed by the Act is invalid and must be vacated. Section 47 of the *Construction Act* empowers the court to vacate a lien that does not comply with the Act. The jurisprudence establishes that isolated, minor remedial work performed after substantial completion does not constitute "last supply" for the purposes of lien timing under the *Construction Act*.

[30] The registration of the invalid Lien and Certificate creates a cloud on Nickel's title and is causing ongoing prejudice. Property owners and their lenders must be able to rely on statutory preservation periods to determine when lien rights have expired and titles are clear for financing and transfer purposes.

[31] Nickel submits that the Lien and the Certificate should be vacated and discharged as the Lien was registered after the preservation period had expired.

Alugard Ltd.

[32] It is Alugard's position that its claim for lien is timely as it was served within 60 days of March 14, 2025, which was the date of its last supply of materials and services to the Project. Alugard submits that, on March 14th, it performed substantive work pursuant to its ongoing subcontract obligations relating to the improvement of the Property. On that day, its worker attended the Property for the purpose of addressing a pane of glass that had been broken during the process of rockwool insulation removal at the back of the window done by Nickel.

[33] The Lien was registered on May 13, 2025. The registration falls within 60 days after March 14, 2025 and so it meets the requirements of the *Construction Act*.

[34] Alugard submits that the only real dispute between the parties is whether the window was installed by Alugard on March 12, 2025 as Nickel asserts, or on March 14, 2025 as Alugard states.

If the court is unable to determine the installation date based on the record before it, then there is a triable issue as to the date of last supply.

View, Inc.

[35] View does not take a position on the merits of Nickel’s motion or the relief sought.

[36] View filed responding materials to assist the court by clarifying some of the evidence tendered by Nickel, but its counsel did not end up making any oral arguments at the hearing.

[37] View’s evidence included that it was actively working on the Project from December 2024 to the end of March 2025 addressing Project commissioning, after Alugard had finished installing the glass windows and sliding glass doors on the Project prior to December 1, 2024.

THE LAW

[38] Section 14(1) of the *Construction Act* provides for the creation of a lien, stating:

14 (1) A person who supplies services or materials to an improvement for an owner, contractor or subcontractor, has a lien upon the interest of the owner in the premises improved for the price of those services or materials.

[39] The parties agree that s. 31(1) and (3) of the *Construction Act* apply and provide that a lien lapses unless preserved by registration within 60 days after the lien claimant last supplied services or materials to the improvement. Section 31 reads, in part:

Expiry of liens

31 (1) Unless preserved under section 34, the liens arising from the supply of services or materials to an improvement expire as provided in this section.

...

Liens of other persons

- (3) Subject to subsection (4), the lien of any other person,
- (a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the 60-day period next following the occurrence of the earliest of,
- (i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published, as provided in section 32,

- (ii) the date on which the person last supplies services or materials to the improvement,
 - (ii.1) the date the contract is completed, abandoned or terminated, and
 - (iii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under or in respect of that subcontract; and
- (b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the 60-day period next following the occurrence of the earlier of,
- (i) the date on which the person last supplied services or materials to the improvement,
 - (i.1) the date the contract is completed, abandoned or terminated, and
 - (ii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under or in respect of that subcontract.

[40] The term “improvement” is defined in s. 1(1) of the *Construction Act* to mean:

“improvement” means, in respect of any land,

- (a) any alteration, addition or capital repair to the land,
- (b) any construction, erection or installation on the land, including the installation of industrial, mechanical, electrical or other equipment on the land or on any building, structure or works on the land that is essential to the normal or intended use of the land, building, structure or works, or
- (c) the complete or partial demolition or removal of any building, structure or works on the land.

[41] Section 45(1) of the *Construction Act* provides that, on a motion, a court shall declare that a lien has expired and order that the registration of the claim for lien be vacated where there is proof that the lien has not been preserved or perfected within the time allowed for doing so under sections 31 or 36 of the Act.

[42] Section 47 of the *Construction Act* provides the court with authority to make an order discharging a lien that, in the opinion of the court, is frivolous or vexatious or an abuse of the court's process, or on any other proper ground.

[43] Ontario courts have consistently held that lien preservation periods are statutory, mandatory, and a court has no discretion to relieve from them: *Toronto Zenith Contracting Limited v. Fermar Paving Limited*, 2016 ONSC 4696, at para. 24; *Prasher Steel Ltd. v. Pre-Eng Contracting Ltd.*, 2022 ONSC 3458, at paras. 89-90, citing *Rudco Insulation Ltd. v. Toronto Sanitary Inc.* (1998), 42 O.R. (3d) 292 (Ont.C.A.), at p. 298.

[44] The onus is on the lien claimant to prove the proper preservation of its lien, both as to lienable supply and to timeliness: *Toronto Zenith*, at para. 25.

[45] To constitute a lienable supply of services or materials, a person's work must be directly related to the construction of the subject improvement: *Toronto Zenith*, at para. 26.

[46] In *Toronto Zenith*, at para. 27, the court held that acts that do not constitute a lienable supply of services or materials and do not extend the statutory limitation period during which a lien must be preserved, include:

- (a) repair work;
- (b) deficiency work;
- (c) off-site and/or project management work;
- (d) work that is not directly incorporated into the improvement; and
- (e) work that is not invoiced for.

[47] Minor or remedial work, performed after substantial completion of a contract, does not serve to extend the time within which a claim for lien must be registered: *Nortown Electrical Contractors Associates v. Nortown Electrical Contractors Associates*, 2010 ONSC 3284, at para. 15; *Any-Wall Concrete Forming Inc. v. Bloomfield and Ken Temple Contracting Ltd.*, 2012 ONSC 2374, at para. 36.

[48] A lien that does not comply with the mandatory statutory requirements may be discharged under s. 47 of the *Construction Act*. The test to be applied in a s. 47 motion is "whether there is a triable issue in respect to any of the bases on which discharge of the lien is sought", which is analogous to (but not the same as) the test used in summary judgment motions: *XPL Construction Solutions Inc. v. North Bay Capital Investments Ltd.*, 2023 ONSC 238, at paras. 26-27; *Toronto Zenith*, at para. 29.

[49] If there are genuine issues of fact in dispute, the matter should be left to the trial judge to decide: *XPL Construction*, at para. 28.

[50] A discharge order should not be made lightly since doing so may deprive a subcontractor of a legitimate remedy: *XPL Construction*, at para. 79.

ANALYSIS

[51] Nickel filed, as exhibits to the First Atalick Affidavit, a “Statutory Declaration of Progress Payment Distribution by Subcontractor - CCDC 9B-2018” and a “Form 7 – Declaration of Last Supply Under Subsection 31(5) of the Act”. However, at the hearing of the motion, these documents were expressly not relied upon by Nickel. Accordingly, I have not taken them into consideration in making this decision.

(a) *Whether the Lien was registered within the mandatory 60-day preservation period required by section 31(1) of the Construction Act?*

[52] As the lien claimant, Alugard bears the onus of proving, on a balance of probabilities, that its claim for lien was registered before it expired, as required by the *Construction Act*. Since the date of registration of the Lien was May 13, 2025, Alugard must demonstrate that the last day on which it supplied services or materials to the improvement was March 14, 2025, to satisfy its burden.

[53] For the following reasons, I conclude that the last lienable supply of services or materials by Alugard was completed prior to February 12, 2025 and was not on March 14, 2025. Accordingly, Alugard has not met its onus.

Alugard’s Attendance was on March 14, 2025

[54] With respect to the issue of whether Alugard attended at the Property on March 12 or March 14, 2025, I prefer the evidence of Mr. Pengili over that of Mr. Atalick which consisted only of a bald statement that he was informed by Mr. Nikfar that the repair work was completed on March 12, 2025, with no further context or details provided regarding when, how, or why they had communicated about this.

[55] If the repair work had been completed on March 12th, there would have been no reason for Mr. Pengili to have texted Mr. Atalick on March 14th and advise that Alugard has delivered the glass or that a swing stage would be required to install it. There is no evidence showing that Mr. Atalick responded to Mr. Pengili’s March 14th email to advise him that the glass has already been installed, which one would have expected if in fact it had. Further, Mr. Pengili’s March 14th email to Mr. Atalick was sent at 12:25 PM and it incorporates a prior email Mr. Pengili sent to himself a few minutes earlier, at 12:17 PM, with the subject line “Pic”.

[56] On a balance of probabilities, I find that it is more likely than not that Alugard was on site on March 14, 2025 to effect the glass repair.

Repair Work

[57] The evidence of each of Mr. Pengili and Mr. Atalick was consistent regarding the fact that Mr. Nikfar attended at the Property in March 2025 for the purpose of replacing a glass windowpane that had been broken “during the process of rockwool insulation removal”. Mr. Pengili’s evidence was that the rockwool insulation removal was done by Nickel’s team “at the back of the window ... to accommodate slab movement”. I accept all of this evidence.

[58] Given the nature of the work done by Mr. Nikfar, in line with the holdings in *Toronto Zenith* at paragraph 27 and related jurisprudence, I conclude that it was work done to repair damage that had happened after the window had been installed and was not work done to actually complete the subcontract. That is, the installation of the glass pane was not an item that had not yet been completed pursuant to Alugard’s subcontract.

[59] There is no evidence before the court establishing the price of the remedial work done by Mr. Nikfar on March 14, 2025. Alugard did not issue an invoice for the repair work done on that date.

[60] Alugard’s nineteenth invoice, Invoice No. 24208- INV19, dated December 4, 2024, is the last invoice rendered by it containing charges for installation and change order work.

[61] I accept the evidence of Mr. Walsh and Mr. Albin that Alugard’s window and sliding door installation work had been completed prior to View commencing Project commissioning on December 1, 2024. Neither Mr. Walsh nor Mr. Albin were cross-examined on their evidence in this regard. I find that their evidence makes logical sense when considered alongside Alugard’s Invoice 19 which contains the final line-item charges for materials and installation by Alugard.

[62] I find that the documentary evidence establishes that, as of February 5, 2025, the issues outstanding at the Property involving Alugard were in the nature of deficiencies, and that Alugard was taking steps to rectify these.

[63] As well, I find that the emails exchanged between Mr. Pengili and Ms. Hiner on February 5, 2025, containing the subject line “57 Carlisle – Outstanding Items and final billing”, support the finding that Alugard’s substantive contract work had been completed prior to February 12, 2025, when it rendered its twentieth invoice.

[64] Deficiency charges are first found itemized on Alugard’s sixteenth invoice, 24010-INV16, dated January 31, 2024. Charges for deficiencies are then found on the 18th, 19th and 20th invoices rendered by Alugard.

[65] By its twentieth invoice, 25235-INV20, dated February 12, 2025, Alugard charged View for deficiencies and storage containers only. It was the last invoice rendered where the 10% holdback was retained.

[66] Alugard's final invoice, 25266HB, dated April 1, 2025, sought payment only of the accrued holdback amounts of 10% from the 20 invoices previously rendered on the Project; there was no charge for any work done.

[67] When all of the invoices rendered by Alugard are reviewed, it is clear that it did not charge for any services or materials supplied to the Property after February 12, 2025.

[68] I accept Nickel's submission that the characterization and timing of Alugard's last three invoices is inconsistent with its claim that it continued substantive work at the Property through March 14, 2025.

[69] On this motion, Alugard was required to put its "best foot forward" and so it can be assumed that there would be no better evidence produced by it at a trial. I find that there is no genuine issue for trial with respect to whether March 14, 2025 is the last date of lienable supply of services or materials by Alugard in relation to the Property. I have been able to make the necessary findings of fact, apply the law to those facts, and determine that Alugard's date of last lienable supply is not March 14, 2025. The work done by Alugard on March 14, 2025 cannot be relied upon to extend the time for registration of its lien claim.

[70] For all of these reasons, I conclude that the Lien was not preserved in time and was registered too late. It is, therefore, invalid.

(b) *Whether the Court should exercise its jurisdiction under section 47 of the Construction Act to discharge and vacate the Lien and vacate the Certificate?*

[71] Given that I have found the Lien was not preserved in time, I will exercise my jurisdiction under s. 47 of the *Construction Act* and order that the Lien be discharged and that the registration of the Lien and Certificate be vacated.

DISPOSITION

[72] Based on the foregoing, Nickel's motion is granted. The following orders are made pursuant to s. 47 of the *Construction Act*:

- (a) the Lien registered against the Property on May 13, 2025, as Instrument No. NR690573, is ordered to be discharged and vacated;
- (b) the Certificate registered against the Property on June 12, 2025, as Instrument No. NR692882, is ordered to be vacated; and,
- (c) it is declared that the Lien was not preserved in accordance with the requirements of the *Construction Act* and has expired.

COSTS

[73] At the hearing of the motion, Alugard and Nickel agreed that costs should be awarded to the successful party in the amount of \$4,000.00, all inclusive. No costs were sought by or against View.

[74] Nickel is the successful party on this motion. Accordingly, costs fixed in the amount of \$4,000.00 are awarded to Nickel, payable by Alugard within 30 days of the release of these reasons.

MacNEIL J.

Released: March 12, 2026