

COURT OF APPEAL FOR ONTARIO

B E T W E E N :

ONTARIO PLACE PROTECTORS

Appellant

- and -

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO and
ATTORNEY GENERAL FOR ONTARIO**

Respondents

**NOTICE OF MOTION
(To Admit Fresh Evidence)**

The moving party, Ontario Place Protectors, will make a motion to the Court on January 16, 2025, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- In writing under subrule 37.12.1 (1) because it is (*insert one of* on consent, unopposed *or* made without notice);
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

Court of Appeal, Courtroom One, 130 Queen Street West, Toronto, ON M5H 2N5.

THE MOTION IS FOR:

1. An Order admitting as fresh evidence of the following material:
 - a. Affidavit of Sarah Quidon affirmed January 7, 2025, and attached Auditor General's Report;
2. The costs of this motion; and
3. Such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:

4. On December 3, 2024, Ontario's Auditor General released her Independent Auditor's Report titled '*Performance Audit: Ontario Place Redevelopment*' (the "Auditor General's Report"). Amongst many other findings the Auditor General concludes:

Our audit found that the Ministry of Infrastructure (MOI), in conjunction with Infrastructure Ontario (IO), did not design and conduct the CFD [Call for Development] and the resulting redevelopment of Ontario Place in accordance with the published CFD process, and best practices for large-scale, modern land-use development projects.

We found that the CFD process and realty decisions were not fair, transparent, or accountable to all participants as would be required by the Realty Directive, the CFD document, and best practices. There were many instances where the rules and guidelines outlined in the CFD document were not followed. For example, despite published guidance that contact with government officials was prohibited during the open period, some participants were invited to meet with government officials and high-ranking political staff during the CFD open period. [Auditor General's Report dated December 3, 2024, "Our Conclusions", p. 4]

5. The New Evidence:
 - a. was not available at the time of the hearing of the appellant's application;
 - b. is relevant;
 - c. is credible; and
 - d. taken on its own, or together with the other evidence adduced, would materially affect the result of the proceeding, as it demonstrates that there are entities with

potentially significant claims against the respondents, who are denied any compensation/redress as a result of ROPA;

6. Rules 37, 39, and 61 of the *Rules of Civil Procedure*; and
7. Such further or other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

8. The Motion Record of the Appellants to Admit Fresh Evidence dated January 7, 2025; and
9. Such further or other evidence as counsel may advise and this Court may permit.

January 7, 2025

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**ONTARIO PLACE
PROTECTORS**

- and -

**HIS MAJESTY THE KING
IN RIGHT OF ONTARIO
and ATTORNEY
GENERAL OF ONTARIO**

Court of Appeal File No: COA-24-CV-0838
Court File No.: CV-24-00719861-0000

Appellant

Respondents

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Proceeding Commenced at Toronto

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