

Court File No. 28237/19
Divisional Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

BETWEEN:

CITY OF ELLIOT LAKE
(INTEGRITY COMMISSIONER)

Applicant

-and-

CHRIS PATRIE

Respondent

MOTION RECORD

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Court File No. 28237/19
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NOTICE OF MOTION

The Respondent, Chris Patrie, will make a motion to the Court on February 13, 2023 at 9:30 a.m. at the Courthouse, at 155 Elm Street, Sudbury, ON P3C 1T9.

PROPOSED METHOD OF HEARING: The motion is to be heard (*choose appropriate option*)

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: to be provided by the Court.

(Courthouse address for in person hearing or telephone conference or video conference details, such as a dial-in number, access code, video link, etc., if applicable)

THE MOTION IS FOR:

1. An Order abridging the time for the serving and filing of the within Notice of Motion;
2. An Order adding The Corporation of the City of Elliot Lake as a party to this Motion in the proceeding;
3. An Order that The Corporation of the City of Elliot Lake take no further steps pursuant to the provisions of section 263 of the *Municipal Act, 2001*, S.O. 2001, c. 25, to fill the vacancy in the office of the Head of Council or make any interim appointment of a Head of Council until the Appeal of Chris Patrie in this proceeding is heard and determined by the Divisional Court.

THE GROUNDS FOR THE MOTION ARE:

1. The consent of the Applicant, City of Elliot Lake (Integrity Commissioner), and The Corporation of the City of Elliot Lake;
2. The Respondent, a previously sitting councillor for The Corporation of the City of Elliot Lake was elected Mayor (Head of Council) of The Corporation of the City of Elliot Lake following his election on October 24, 2022;

3. Pursuant to an Application commenced by the Applicant, City of Elliot Lake (Integrity Commissioner), on October 16, 2019, which was heard before this Court on August 12 and August 13, 2021, whereupon Judgment was rendered by the Honourable Justice Rasaiah on January 9, 2023, the Respondent was ordered to be removed from office and disqualified from being a member for a period of two years pursuant to subsection 9(1) of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50;
4. On January 12, 2023, Council of The Corporation of the City of Elliot Lake by Resolution declared the seat of the Mayor vacant pursuant to the provisions of subsection 262(1) of the *Municipal Act, 2001*;
5. The Respondent, through legal counsel, has advised that he is appealing the decision of the Honourable Justice Rasaiah which Notice of Appeal is to be served and filed on or before February 8, 2023;
6. Pursuant to paragraph 263(5) 1 of the *Municipal Act, 2001*, the City is required to make a decision within 60 days of January 12, 2023 to fill the vacancy in the office of Head of Council by either appointment or by requiring a by-election;
7. An order is required to stop the mandatory operation of section 263(5) of the *Municipal Act, 2001*;
8. The Respondent, through legal counsel, has advised that he will not seek a stay of the decision of the Honourable Justice Rasaiah on the condition that the City not take any steps to fill the vacancy pending the hearing and determination of his Appeal and that this Motion is being made on the basis of the Court's inherent jurisdiction to issue such order;

9. The Corporation of the City of Elliot Lake is a necessary party to this proceeding;
10. The Respondent has been advised by the Applicant and the City that each of them consent to an order adding the City and pausing the running of the 60 day period pending the final determination of the appeal before this Court;
11. The proposed order is in the interests of justice;
12. Rule 5.03 and 63.02 of the Rules of Civil Procedure;
13. Sections 262 and 263 of the *Municipal Act, 2001*, S.O. 2001, c. 25; and
14. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. The Consent of the parties and of The Corporation of the City of Elliot Lake;
2. The Statement of Agreed Facts to be filed by the parties; and
3. Such further and other material as counsel may advise and this Honourable Court may permit.

February 6, 2023

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Proceeding commenced at Sault Ste. Marie

NOTICE OF MOTION

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