

Upper Canada Land Titles and Patent Research Initiative
c/o Mr. Anthony Richard Kaluzny
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October 2nd, 2023

Ms. Chantal Carbonneau
Office of the Registrar
Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1

Dear Ms. Carbonneau.

Re: Upper Canada Land Titles and Patent Research Initiative v Regional Municipality of Niagara (a.k.a. Niagara Region), SCC File No. 40865

This correspondence is the reply of Upper Canada Land Titles and Patent Research Initiative (UCLT) to the Niagara Regions response to our application for leave to appeal.

The respondent has raised 3 main issues in their response to our application for leave.

With respect to the first issue, entitled “The Issues Raised on this Leave to Appeal”, the respondent states that we, UCLT, have failed to establish that the facts and circumstances of this particular case are of sufficient public importance or significance to warrant the further consideration of this Court.

Our position is that this statement is incorrect. All land alienated and privately held in our country is patented. Many of the patents granting land, and certainly most in Ontario, make an express grant of all the woods and waters lying and being, subject only to those incidents reserved for the Crown, in this action being trees. And although the white pine trees were often reserved to the Crown, that reservation has been voided in Ontario for land patented prior to April 1st, 1869. All trees now belong to the patentee, heirs and assigns forever as per Section 58 (3) of the Public Lands Act of Ontario.

As discussed in our leave application, questions that were not answered in the lower courts are:

- 1) Have the patents been repealed or altered and if so, when and by what authority?
- 2) Has forever lapsed? The Term on the patent is Heirs and assigns forever.
- 3) Do municipal governments have the right to overrule the prerogative of the Sovereign? Can they remove the rights and prerogative as protected by Section 72 of the legislation Act of Ontario?

With respect, all of these are of sufficient public importance to warrant the consideration of this Court.

The second issue raised by the respondent is entitled "The Applicant's Burden". The theme here is that this matter does not warrant the attention of the Court given the clear delegation of regulatory power to the Region and the ratio of existing jurisprudence. This theme presumes that the Municipal Act entitles municipal governance over trees that are incidents of the land, alienated through Imperial grant, and patented once the restrictions were met, again for the sole and only use of the patentee. This presumption would mean that the Sovereign of the Crown gave the rights to granted trees to the Province and the Region, neither of which existed at the time the granting took place. Future rights were not reserved to anyone but the patentee, heirs and assigns forever. In our humble opinion, without a stated reservation, the honour of the Crown would be put in disrepute. The Crown is bound by its grants. It is the sworn duty of the Region of Niagara to defend the rights and prerogative of the Sovereign.

The third issue raised by the respondent is entitled "The Regulation of Land Use". The respondent contends that each issue raised by ULTC constitutes a transparent attempt to challenge the regulation of land use by the Province or the delegated municipalities. This is not the case. We presented many current Provincial Statutes, including the Public Lands Act, The Conveyancing and Law of Property Act, The Evidence Act and The Real Property Limitations Act but they were not considered in the decision(s), yet each supports our position.

The respondent portrays "the original transfer of ownership or title through the means of a Crown Patent" as a typical conveyance. It was not. These grants were gifts of land. Presents from the Sovereign of the Crown. They were the prerogative of the Sovereign with the heading of the patent reading, "To all to whom these presents shall come, -- GREETING." A typical conveyance is not a present from the Sovereign of the Imperial government that establishes a holding in fee simple.

Our challenge is as much about respect for our Constitution and the intent of the Sovereign as it is about the rights to the land and its incidents granted through Letters Patent. It was presented as a Constitutional Question claiming the Niagara Region Woodlands Bylaw is ultra vires. We have quoted current provincial statute supporting our position. We have provided copies of the Matter of Record being an Imperial Letters Patent and yet the courts have failed to acknowledge their validity and this question remains unresolved.

For the reasons discussed above and in the application for leave to appeal, UCLT submits that leave to appeal should be granted.

Sincerely,



Anthony Richard Kaluzny