

CANADA / JUDGMENT

Liu v. Qi

2025 BCSC 1465

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 1465 Liu v. Qi

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Liu v. Qi,

2025 BCSC 1465

Date: 20250730

Docket: S245487

Registry: Vancouver

Between:

Hong Liu and Jin Guo Bai

Plaintiffs

And

Cong Yi Qi and Ping Gu

Defendants

Before: The Honourable Madam Justice W.A. Baker

Reasons for Judgment

Counsel for Plaintiffs:

A.L. Doolittle

J. Czypinski

The Defendant, Cong Yi Qi appearing in person and on behalf of Ping Gu:

C. Qi

Place and Date of Hearing:

Vancouver, B.C.

July 8, 2025

Place and Date of Judgment:

Vancouver, B.C.

July 30, 2025

Introduction

- [1] This application stems from a dispute between neighbours regarding the use of an easement providing access for the plaintiffs across the property of the defendants. On January 29, 2025 the court made an interim order respecting the use of the easement (the "Interim Order"). Before me, the plaintiffs seek an order that the defendants are in contempt of the Interim Order and, in the alternative, that the Interim Order be varied to more specifically restrict the defendants use of the easement.
- [2] The defendants assert that they have complied with the Interim Order, and say that the restrictions sought by the plaintiffs are inconsistent with the plain language of the easement and would unduly interfere with their property rights.
- [3] This issues on this application are:
- a) Are the defendants in contempt of the Interim Order?
 - b) If the defendants are not in contempt, should the Interim Order be varied?

Background

- [4] The plaintiffs own a residential property located at 14716 Russell Ave, White Rock, BC. The defendants own a neighbouring property with the address 14722 Russell Ave, White Rock, BC. Both 14716 and 14722 were created through the subdivision of a larger lot with access onto Russell Ave.
- [5] When the properties were created, 14716 was granted an easement over part of 14722, to allow it to access Russell Ave. 14716 is the dominant tenement, and 14722 is the servient tenement.
- [6] The easement creates an angled access across the driveway portion of the defendants' property. It is not a rectangle, but is a modified "L" shape. The north edge of the easement abuts Russell Avenue. The west edge of the easement abuts the plaintiffs' property. There is no direct access to Russell Avenue from the plaintiffs' property. The shape of the easement is illustrated on the diagram attached to the easement filed in the Land Title Office:

- [7] For reasons that may no longer be valid, the easement was formed around a small portion of the defendants' land. The isolated piece of the defendants' property is located on the northwest corner of the lot, and has been defined in the litigation as the "R Area". The R Area is approximately 20.5 square metres. The defendants' home is located immediately south of the easement.
- [8] In around 2010 the vegetation in the R Area was removed, and the R Area was paved. After this point, the parties operated as if the R Area was part of the easement. The plaintiffs would enter the easement area from Russell Ave, and traverse the R Area to get to the driveway/parking area in front of their home. The southern portion of the easement was not required to be used regularly by the plaintiffs.
- [9] In April 2024 the defendants decided that they no longer wanted the plaintiffs accessing their property over the R Area. They installed traffic cones and other obstacles to prevent the plaintiffs from driving through the R Area. As a result, the plaintiffs were forced to use the southern portion of the easement to access their property.
- [10] The difficulty over the use of the easement arose because the defendants began parking their vehicles on the easement in front of their home. Because the plaintiffs were restricted to access their property within the strict parameters of the easement only, they had to negotiate between the vehicles parked on the easement, and the obstructions placed by the defendants on the R Area.

Issues

Are the defendants in contempt of the interim order?

- [11] On January 29, 2025, the plaintiffs brought an application to restrain the defendants from obstructing the easement, on an interim basis pending determination of this action. They were successful and obtained the Interim Order which included the following term:
3. On an interim basis, until resolution of these matters on their merits, before a mediator or by court order, the Defendants be prohibited from obstructing the following easement to and from the Plaintiffs' home to Russell Avenue. The Defendants must immediately remove any objects that are obstructing the Plaintiffs' access to and from their home.
- [12] Following the Interim Order, the defendants continued to park their cars outside their garage. The defendants, at times, allow two cars to be parked outside their garage. The primary focus on this application was the car usually parked along the western edge of the easement. The western edge of the easement abuts the plaintiffs' parking and driveway area. There is a dispute between the parties as to how many metres of the western edge of the easement are taken up by the parked car, and how many metres are left to allow the plaintiffs to access their property.

- [13] On this application, I do not need to decide exactly how much space is left along the western edge of the easement when the defendants' car is parked in that location. For the purposes of this interim application, I am satisfied, based on the photographs exhibited to the affidavits filed by both parties, that the parked car takes up approximately half of the available space on the western edge of the easement abutting the plaintiffs' property.
- [14] While the defendants' cars (or their tenant's or guests' cars) are not parked in the easement at all times, I am satisfied that the defendants do allow cars to be parked in the easement on a regular and consistent basis.
- [15] The plaintiffs attest to the difficulties they have in navigating the tight space left between the R Area and the defendants' parked cars, as they attempt to enter their own property. They have collided with the obstructions placed in the R Area as they try to drive in and out of their parking area. The plaintiffs rented a delivery truck to deliver something to their home, but were unable to safely access their property and were forced to unload the truck in the easement. This caused the defendants to file their own motion against the plaintiffs, which I dismissed from the bench at the hearing of the two applications as being completely unwarranted and without foundation.
- [16] Ms. Yuan Li, a tenant of the plaintiffs, also provided an affidavit in which she describes the difficulties she had in trying to get in and out of the parking area when the defendants' cars were parked in the easement. Ms. Li attests that she needs assistance to safely manoeuvre her vehicle through the easement when the defendants' cars are in the easement. She and her visitors have inadvertently hit obstacles in the easement, and in the R Area as they try to navigate through the easement. She attests to drone footage taken of her and her daughter by the defendants. Ultimately, the stress of living next door to the defendants, and trying to access the plaintiffs' property through the easement became too much, and Ms. Li moved out as of the end of June 2025.
- [17] The plaintiff Ms. Liu attested to her husband's medical condition, and her concern that should a medical emergency arise, an ambulance and emergency medical personnel would not be able to access their home.
- [18] The defendants assert that they are within their rights to park their vehicles wherever they want on the easement, as long as a passage which they deem wide enough is left for the plaintiffs' vehicles to pass through. They point to the fact that the plaintiffs have successfully navigated the narrow passage they have left for them. They state they park as close to their house as they can on the southern edge of the easement, and that they have a right to reasonable use of the easement. They disagree that the plaintiff Mr. Bai has a serious medical condition. They state that the plaintiffs have exaggerated their difficulties and have staged incidents which paint the defendants in a bad light.

Analysis

- [19] The Interim Order prohibits the defendants from obstructing the easement between the plaintiffs' home and Russell Avenue, and requires them to remove any objects that are obstructing the plaintiffs' access to and from their home. As such, the central issue is whether by allowing cars to be parked on the easement, the defendants are obstructing the plaintiffs' access to their property.
- [20] In seeking a declaration of contempt, the plaintiffs must establish the following three elements, beyond a reasonable doubt, *Carey v. Laiken*, 2015 SCC 17 at paras. 31-35):
- a) The Interim Order clearly and unequivocally states what should and should not be done.
 - b) The defendants have actual knowledge of the Interim Order.
 - c) The defendants have intentionally done the act the Interim Order prohibits.
- [21] There is no dispute that the defendants have actual knowledge of the Interim Order. Further, there is no dispute that the defendants have intentionally allowed cars to be parked on the easement. The defendants in their affidavit material confirm that they have parked cars, or allowed cars to be parked, in the easement.
- [22] Therefore, the only live issue before me is whether the Interim Order clearly and unequivocally prohibits the defendants from allowing cars to be parked in the easement.
- [23] The critical issue in the Interim Order is the meaning of the term "obstructing". When the defendants allow cars to be parked in the easement, are such cars obstructing the easement, as prohibited in the Interim Order?
- [24] To understand whether the defendants' actions are obstructing the easement, I must look to the language of the easement itself. The easement provides:

C. The Servient and Dominant Tenements are adjoining properties and the Grantor [the defendants] intends that the Grantee [the plaintiffs] shall have an easement for access and the placement of utilities over part of the Servient Tenement, as more particular described herein, to facilitate the supply of services and the passage of persons with or without vehicles between the Dominant Tenement and Russell Avenue;

1. (a) The Grantor, as owner of the Servient Tenement, hereby grants to the Grantee as owner of the Dominant Tenement, the full and free right, liberty and easement for the Grantee and their servants, agents, occupiers, contractors, workmen, employees, customers, invitees and licensees and all others now or hereafter having the like right, at all times hereafter to enter into and upon that part of the Servient Tenement shown outlined in heavy black line .. for:
 - (i) going, returning, passing and repassing over the Easement Area, on foot and with vehicles, for the purposes of obtaining access, ingress and egress to and from the Dominant Tenement and Russell Avenue

2. The Grantor and the Grantee covenant and agree with each other as follows:
- (a) The Grantor will not construct or permit to exist any fence, barrier, sign, structure or any other improvements of any kind whatsoever in the Easement Area which would prevent or inhibit the use or enjoyment of the rights herein granted or the free and uninterrupted flow of traffic or Utilities through the Easement Area. If the Grantor commences constructing any such improvements, then the Grantee shall have the right to apply for an injunction to prohibit such construction.
12. It is understood and agreed that nothing herein contained shall be interpreted so as to restrict or prevent the Grantor from using the Easement Area in any manner which does not interfere with the security or efficient function of, or unobstructed access to and egress from the Easement Area and Russell Avenue.
- [25] It is clear that the intention of the easement is to provide full access across the easement for the plaintiffs to enter and exit Russell Avenue. Paragraph 12 states that the defendants cannot interfere with the plaintiffs' unobstructed access to and egress from the Easement Area and Russell Avenue. Paragraph 2(a) prohibits the defendants from permitting the existence of any structure or improvement of any kind whatsoever that would interfere with the free and uninterrupted flow of traffic through the easement area.
- [26] The Interim Order confirms that the defendants must not obstruct the easement, and must remove any objects that are obstructing the plaintiffs' access to their home or Russell Avenue. In other words, the Interim Order confirms the intention of the easement. There is no ambiguity between the easement and the terms of the Interim Order. I find that the Interim Order clearly and unequivocally prohibits the defendants from obstructing the easement, including through the placement of objects, and obstructing the plaintiffs' access to and from their home.
- [27] Black's Law Dictionary (12th ed. 2024) defines obstruct as follows:
- obstruct (əb-strəkt) vb. (16c) 1. To block or stop up (a road, passageway, etc.); to close up or close off, esp. by obstacle <obstruct the runway>. 2. To make difficult or impossible; to keep from happening; hinder <to obstruct the peace process>. 3. To cut off a line of vision; to shut out <the new construction obstructs our view of the road>.
- [28] The defendants argue that their actions have not obstructed the plaintiffs' access because, they say, it is possible for the plaintiffs to "thread the needle" of the passageway they have left between the vehicles parked on the easement and the R Area. They argue the easement is not blocked, and therefore they have not obstructed the easement. I disagree.
- [29] Obstructing is not limited to a total blockage. An obstruction occurs when an action is hindered, or made difficult especially by an obstacle. In my view, by the defendants allowing vehicles to be parked in front of their home on the easement, the defendants have created such a narrow passage on the easement that it amounts to an obstruction.

- [30] I accept the evidence of the plaintiffs that they cannot easily navigate through the narrow gap, often times requiring the assistance of a person standing outside their car to talk their way through the passage. I accept the evidence of the plaintiffs that their vehicles have struck the vehicles parked on the easement, and obstructions placed within the R Area, as they attempted to use the easement. I accept the evidence of Ms. Liu that Mr. Bai was unable to safely navigate a delivery truck through the passage left in the easement, and had to unload the truck on the easement in front of the defendants' home. I find Ms. Liu has expressed a legitimate concern that emergency vehicles could not pass through the easement to provide aid in a medical emergency. I find all of these interferences significantly impact the plaintiffs' use of the easement.
- [31] The language of the easement and the Interim Order does not prevent the defendants from driving on the easement, or stopping on the easement to briefly unload or load their vehicles. However, by allowing vehicles to park on the easement, the defendants have placed objects on the easement that obstruct the plaintiffs' use of the easement, and have obstructed the plaintiffs' access to and from their home. The actions of the defendants are in direct contradiction of the Interim Order.
- [32] I have no difficulty in making the declaration sought, namely that the defendants are in contempt of court for contravening the Interim Order.

If the defendants are not in contempt, should the interim order be varied?

- [33] Because I have found the defendants are in contempt of the Interim Order, I make no orders in relation to the alternative relief sought, namely to vary the language of the Interim Order.

Costs

- [34] The plaintiffs seek special costs of this application, relying on *Workers' Compensation Board v. G & D Construction Ltd.*, 2022 BCSC 976 at para. 58.
- [35] As the plaintiffs were successful on this application for contempt, special costs are properly ordered. The plaintiffs have been put to the expense of an application to enforce the Interim Order, which clearly prohibited the defendants from the conduct they have continued with since the date of the Interim Order. A failure to abide by court order is reprehensible and deserving of rebuke.
- [36] I order special costs of this application to the plaintiffs, payable forthwith.

"W.A. Baker J."

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