

CANADA / JUDGMENT

West Vancouver (District) v. Este

2024 BCSC 2363

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2024 BCSC 2363 West Vancouver (District) v. Este

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

West Vancouver (District) v. Este,

2024 BCSC 2363

Date: 20241224

Docket: S247392

Registry: Vancouver

Between:

District of West Vancouver

Petitioner

And

Rosa Donna Este

Respondent

And

Mina Esteghamat-Ardakani

Respondent

Before: The Honourable Justice Marzari

Reasons for Judgment

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Place and Date of Hearing:

Vancouver, B.C.

November 21, 2024

Place and Date of Judgment:

Vancouver, B.C.

December 24, 2024

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Introduction

- [1] This decision deals with the latest in a series of disputes involving a fire-damaged residential structure (the "House") located at 2668 Bellevue Avenue, West Vancouver (the "Property").

- [2] In 2003, Dr. Rosa Donna Este and her mother, Mina Esteghamat-Ardakani, purchased the Property. Both are on title, and both are respondents in this application.
- [3] Dr. Este says that she resided in the House on the Property until 2015, when a fire caused extensive damage to the structure.
- [4] On December 14, 2020, the District of West Vancouver (the "District") passed a remedial action requirement pursuant to ss. 72-74 of the Community Charter, S.B.C. 2003 c. 26, requiring that the fire-damaged House be demolished (the "Demolition Order"). On March 29, 2021, the District affirmed this resolution.
- [5] The District brings this interlocutory application for an injunction to prevent Dr. Este, or others with knowledge of this order, from various breaches of the District of West Vancouver Building Bylaw No. 4400, 2004, and from interfering with the execution of the Demolition Order.
- [6] The injunction application is not opposed by Ms. Esteghamat-Ardakani, who is on title to the House and who has been in prolonged litigation with her daughter regarding control of the Property. Ms. Esteghamat-Ardakani accepts the validity of the Demolition Order.
- [7] The application is opposed by Dr. Este, who argues passionately to save the House from demolition on several grounds, including on the basis that it is a beautiful house, the invalidity or inapplicability of the Demolition Order to the House, and her asserted legal right to obtain permits to restore the House despite the Demolition Order and without her co-owner's consent.
- [8] The application is also opposed by Dr. Este's ex-husband, Mehran Taherkhani, who was not served with the application but nevertheless asserts the right to take a position in this matter on the basis that he is the holder of a Certificate of Pending Litigation ("CPL") on the Property in relation to a family claim.
- [9] Many of the disputes between Dr. Este, her mother, her ex-husband and the District regarding the House and Property have been litigated in this Court before this application. As a result, this interlocutory injunction application comes to me with many matters already addressed in this court, many of them on a final basis.

Procedural History

- [10] This Property has been the subject of litigation for many years, between multiple parties. I will attempt to summarize these proceedings below.

Family Litigation

- [11] Mr. Taherkhani filed a Notice of Family Claim on May 22, 2013, seeking a divorce and various forms of corollary relief, including a claimed interest in the Property (the "Family Proceedings"). In filed documents, Dr. Este swore that Ms. Esteghamat-Ardakani was the sole beneficial owner of the Property.
- [12] On May 27, 2014, the Family Proceedings were resolved by a consent order made by Justice Skolrood (as he then was), in which Mr. Taherkhani's claim of an interest in the Property was effectively dismissed.
- [13] Later, in 2017, Mr. Taherkhani brought an application to rescind the settlement agreement and set aside those parts of the May 27, 2014, order of Skolrood J. dealing with corollary relief on the basis that Dr. Este had falsely represented the nature and extent of her property ownership in the circumstances leading up to that agreement and order.
- [14] On February 7, 2018, Justice Pearlman granted the application, ordering that Mr. Taherkhani's notice of family claim was to proceed as if no settlement was reached and no court order for corollary relief was made. This decision was upheld by the Court of Appeal by reasons for judgment indexed as 2023 BCCA 290, leave to appeal to SCC ref'd, 40928 (21 March 2024).
- [15] There has yet to be a trial of the Family Proceedings. I am advised that, after having been rescheduled a number of times, the trial is currently set for April 2026.

Property Disputes Between Dr. Este and Ms. Esteghamat-Ardakani

- [16] In February 2015, Dr. Este commenced an action against Ms. Esteghamat-Ardakani, claiming interests in several properties and funds, including that she was the sole beneficial owner of the Property.
- [17] At the trial in May 2017, Ms. Esteghamat-Ardakani applied for dismissal of the action on the basis of abuse of process. In particular, she contended that Dr. Este's position was inconsistent with the ownership interests she had previously alleged in the Family Proceedings.
- [18] Justice Funt agreed, dismissing Dr. Este's action on the basis that it was an abuse of process, by reasons for judgment indexed as 2017 BCSC 878, aff'd 2018 BCCA 290, leave to appeal to SCC ref'd 38384 (14 March 2019).
- [19] A further dispute arose between Dr. Este and Ms. Esteghamat-Ardakani as to whether the fire-damaged House should be rebuilt. Dr. Este wished to design and build a new house on the Property using insurance proceeds, but Ms. Esteghamat-Ardakani did not, refusing to sign an authorization to secure the appropriate building permits.

- [20] On December 3, 2019, Dr. Este applied for a mandatory injunction compelling Ms. Esteghamat-Ardakani to sign an authorization allowing Dr. Este to act on her behalf in order to secure the permits. By reasons for judgment indexed as 2019 BCSC 2214, Justice Giaschi allowed the application and issued the injunction.
- [21] However, for reasons indexed as 2020 BCCA 202, leave to appeal to SCC ref'd, 39458 (1 April 2021), the Court of Appeal determined that it was not open to Dr. Este to demand Ms. Esteghamat-Ardakani take any action in respect of the use of the Property: para. 47. Moreover, as part of a tenancy in common, absent a positive act of destruction or agreement to the contrary, Ms. Esteghamat-Ardakani was immune from a mandatory injunction compelling her to act so as to alter the Property, even if the alteration may have improved its value: para. 48. The Court of Appeal therefore allowed the appeal, and set aside the order.

Judicial Review of Permit and Demolition Decisions

- [22] In 2021, Dr. Este alone applied for a permit to build a new house on the Property. By decisions in March, June, and September 2021, the District refused to grant the building permit (the "Permit Decision") and on March 29, 2021, confirmed the Demolition Order, which was to go ahead without a permit for the construction of a new house on the Property.
- [23] Shortly afterward, Dr. Este applied for judicial review of the Permit Decision and the Demolition Order.
- [24] At issue on judicial review was whether Ms. Esteghamat-Ardakani, as a co-owner, was required to support Dr. Este's application for a permit to demolish and rebuild a new house on the Property. The District took the position that the bylaw requires all owners to participate in a permit application, and refused the application on the grounds that it had not been made on behalf of both registered owners. Dr. Este argued that this was an unreasonable decision and interpretation of the bylaw.
- [25] By reasons for judgment indexed at 2022 BCSC 584, Justice Burke dismissed the petition for judicial review, finding that the Permit Decision was reasonable, and the Demolition Order was both reasonable and procedurally fair. In doing so, the Court agreed with the District's interpretation of the bylaw, concluding that it was reasonable for the District to refuse to consider an application for a building permit that was not made by or on behalf of all registered owners: paras. 51-54.
- [26] The Court of Appeal dismissed Dr. Este's appeal of the judicial review, by reasons for judgment indexed at 2022 BCCA 445, leave to appeal to SCC ref'd, 40599 (22 June 2023).
- [27] On October 26, 2023, Dr. Este's application for a stay of execution of the Demolition Order was dismissed by Justice Tammen.

Test for Statutory Injunction

- [28] At issue before me is whether to grant the statutory injunction as sought by the District.

- [29] The legal principles pertaining to interlocutory statutory injunctions were recently set out by Justice Matthews in *City of Port Coquitlam v. Ground X Site Service Ltd.*, 2024 BCSC 1348 as follows:
- [15] The three-stage test on an application for an equitable interlocutory injunction set out in *RJR-MacDonald* will have limited, if any, application to the application for a grant of a statutorily based injunction: *Peachland (District) v. Peachland Self Storage Ltd.*, 2011 BCCA 466 at para. 33, citing *Kamloops (City) v. Baines*, [1996] B.C.J. No. 835, 32 M.P.L.R. (2d) 264 (S.C.). Where an interlocutory injunction is sought to enforce a public right, the courts will be reluctant to refuse it on the types of considerations that inform the balance of convenience analysis for equitable interlocutory injunctions: *Maple Ridge (District) v. Thornhill Aggregates Ltd.*, 162 D.L.R. (4th) 203, 1998 CanLII 6446 (B.C.C.A.) at paras. 7, 9.
- [16] Rather, once a clear breach of an enactment is shown, the courts will refuse an injunction to restrain the continued breach only in exceptional circumstances: *Vancouver (City) v. Maurice*, 2005 BCCA 37 at para. 34. That is because there is a strong public interest in enforcing orders of a local government, not encouraging flouting of laws by allowing breaches with impunity, and because the public interest in having laws obeyed will not be outweighed by the hardship occasioned by enforcing the law: *CRD v. Sooke River Hotel/Jadwiga Holdings et al.*, 2001 BCSC 1373 at para. 24 citing *Regional District of Kootenay Boundary v. Demski*, 2000 BCSC 877 at para. 6 and cases cited therein.
- [17] The merits threshold to establish a breach that will give rise to an interlocutory injunction has been described as a "clear breach" (*Maurice* at para. 34), a "plain breach" (*Peachland Self Storage* at para. 38), a "strong prima facie case" or a "clear breach" (*Whistler (Resort Municipality) v. Wright*, 2003 BCSC 1192 at para. 38); and a "breach [that] is established" (*Langley v. Wood*, 1999 BCCA 260 at para. 17).
- [25] A clear breach or a strong prima facie case does not describe a standard of proof, or that the standard is higher than a balance of probabilities. Rather, it postulates that there must be evidence and law that supports the moving party's case, and that case can be characterized as strong. A strong prima facie case is synonymous with a good arguable case and does not require the applicant to establish that they are bound to succeed: *Fernandes v. Legacy Financial Systems, Inc.*, 2020 BCSC 885 at para. 13, citing *Tracy v. Instalogs Financial Solutions Centres (B.C.) Ltd.*, 2007 BCCA 481 at para. 54. That threshold, in those cases, was discussed in the context of applications for interlocutory Mareva interlocutory injunctions, where the courts have described that the relief should only be granted in the "clearest" of cases: *Mooney v. Orr* (1994), 100 B.C.L.R. (2d) 335 at 349-351, 1994 CanLII 1779 (S.C.). Those authorities stand for the proposition that a strong prima facie case can exist in the face of an arguable defence.
- [26] I prefer to the language "strong prima facie case" to "clear breach" because of the more developed jurisprudence on that phrase.

- [30] While it is seeking an interlocutory injunction at this point, the District acknowledges that preventing Dr. Este from interfering with the demolition of the House will effectively accomplish the permanent relief sought in its anticipated petition. They say, however, that even if they had to make out their case on the basis of a permanent, rather than interlocutory, statutory injunction, they have done so.
- [31] To obtain a permanent statutory injunction, the District must prove the alleged breach on a balance of probabilities: *Sunshine Coast (Regional District) v. Vanderhaeghe*, 2024 BCCA 169 at para. 87 [*Sunshine Coast*], citing *Abbotsford (City) v. Mary Jane's Glass & Gifts Ltd.*, 2017 BCSC 237 at para. 43; *Thompson-Nicola Regional District v. 0751548 B.C. Ltd.*, 2014 BCSC 1867 at para. 119.
- [32] As a general rule, once a breach has been demonstrated, the court has limited discretion to deny a statutory injunction to enforce a public right: *Sunshine Coast* at para. 87, citing *District of West Vancouver (Corporation of) v. Liu*, 2016 BCCA 96 at para. 68; *Burnaby (City) v. Oh*, 2011 BCCA 222 at para. 41, leave to appeal to SCC ref'd, 34373 (8 December 2011). This limited discretion is generally reserved for rare cases with exceptional circumstances: *White Rock (City) v. Mashiana*, 2023 BCSC 2352.
- [33] The Court of Appeal in *Maple Ridge (District) v. Thornhill Aggregates Ltd.*, (1998), 54 B.C.L.R. (3d) 155, 1998 CanLII 6446 (C.A.), leave to appeal to SCC ref'd 26818 (29 April 1999), explained as follows:
- [9] Where an injunction is sought to enforce a public right, the courts will be reluctant to refuse it on discretionary grounds. To the extent that the appellants may suffer hardship from the imposition and enforcement of an injunction, that will not outweigh the public interest in having the law obeyed.

Parties' Positions

- [34] The District says that the following breaches are established on the evidence before me:
- Dr. Este has not complied with the Demolition Order;
 - Dr. Este is proceeding with demolition of parts of the House without a demolition permit;
 - Dr. Este is proceeding with construction on the Property without a building permit;
 - Dr. Este is interfering with stop work orders and the work of District contractors and officers seeking to enforce the Building Bylaw and the Demolition Order.
- [35] None of these breaches are seriously in contention before me. Dr. Este does not dispute that she has not complied with the Demolition Order: her argument is that she should not have to demolish the House in its entirety because the Demolition Order is either invalid, or obsolete because the House is no longer in poor repair. In either event, she argues that the Demolition Order is unenforceable.

- [36] Dr. Este also does not dispute that she went ahead with demolition of fire-damaged portions of the House, and with reconstruction of the House, without the required permits, or that she has interfered with the posted stop work orders. Instead, her argument is that she has a right to a building permit for the work she has done to date on the House, and these permits have been wrongfully withheld by the District.
- [37] In her own words, when asked whether she went ahead without the permits, she acknowledged doing so, but argued she did so openly and "disclosed to them that I'm going to do this." She argued that the further permits she applied for (without her mother's consent and not in accordance with the Demolition Order) were wrongfully withheld, and that the breach was therefore not an intentional one or one that broke the law.
- [38] Dr. Este says the injunction should not be issued because it would result in the District proceeding with the demolition of the House, and that there are several triable issues that should be determined before the demolition is allowed to proceed, which I summarize as follows:
- a) The Demolition Order is not valid because of non-disclosure to Council of an email regarding the soundness of the foundations from her Insurance company's engineer, and other alleged irregularities in the passing of the Demolition Order.
 - b) The Demolition Order is not applicable anymore because she no longer wants to demolish the House entirely, as she did previously, and because she has already undertaken demolition and reconstruction without permits so that the House is no longer "derelict", a nuisance, or unsafe.
 - c) She had a right to be issued permits for her new plan in 2023 to keep and repair the existing House rather than demolish it entirely, and Ms. Esteghamat-Ardakani's unwillingness to sign the permit application is irrelevant now because Dr. Este now seeks permits for restoration of the House rather than a redesign.
 - d) The District failed to provide reasons for the refusal of her permit applications sought in 2023.
- [39] Dr. Este also makes arguments that I would characterize as going to the issue of hardship, or the balance of convenience, including as follows:
- a) She loves the House and looking out at the views of the water from the House. It is a beautiful 6000 square foot home on the West Vancouver waterfront. She has spared no expense in her efforts in the last year to rebuild it. The front door alone is worth \$10,000.
 - b) If she must demolish the House, or allow its demolition, then she will have to comply with current building codes and bylaws, including restrictions with respect to construction on or near the foreshore. Those requirements would not allow her to proceed with her previous design, or to rebuild the current House, without significant modifications.

Analysis

- [40] The first question I am tasked with answering is whether the District has established a strong prima facie case, that Dr. Este has breached the Building Bylaw or the Demolition Order.
- [41] It is clear on all the evidence before me, including her own, that Dr. Este has proceeded with demolition and reconstruction of the House without permits. I am satisfied on the uncontested evidence that Dr. Este has demolished parts of the House, and reconstructed parts of the House, contrary to the District's Building Bylaw that require permits for such work, as well as contrary to the Demolition Order. I am also satisfied that Dr. Este has interfered with stop work orders and the ability of the District to proceed with demolition of the House pursuant to the Demolition Order. I am satisfied of all of these facts on a balance of probabilities on the evidence before me.
- [42] With respect to Dr. Este's arguments that the Demolition Order is not valid or applicable, or that there are triable issues with respect to its enforceability or applicability to the House and the Property, I find that this Court's determination on judicial review, confirmed on appeal, is determinative of these issues.
- [43] I find that the myriad of arguments Dr. Este makes that directly or indirectly question the fairness of the process by which the Demolition Order was passed by the District have also been finally resolved by this Court, and are now res judicata.
- [44] Efforts to raise new or fresh evidence to reopen those arguments are now far too late. That may have been available on appeal, which was taken. They are no longer available to Dr. Este.
- [45] In any event, the only fresh evidence that Dr. Este took me to as a basis for questioning anew the validity of the Demolition Order was an email sent on January 22, 2016, from an engineer hired by her insurance company to the District. The subject of that email, which is brief, relates to the strength of the foundations of the House after the fire in relation to current building code requirements. The engineer states that the foundations do not show signs of damage and were built to current building code requirements. Assuming that this document was not included in the record before this Court on judicial review, as asserted by Dr. Este, I am nevertheless satisfied that, had this document been included, it would not have changed the outcome.
- [46] I also find that Dr. Este's current objections to the enforcement of the Demolition Order are an impermissible collateral attack on the existing orders of this Court.
- [47] Dr. Este's arguments that the District was required to issue her new building permits without her mother's signature as co-owner are estopped by the ruling of the Court of Appeal in *Este v. Esteghamat-Ardakani*, 2020 BCCA 202. Although the arguments Dr. Este makes before me relate to a new proposed building permit, not the building permit that she sought previously, I find that the issue of whether a building permit can be issued by the District with respect to

the Property without the consent of Ms. Esteghamat-Ardakani has been determined finally and conclusively as between Dr. Este, her mother, and the District.

- [48] Specifically, the Court of Appeal found that the District's decision not to accept and process building permits over the objection of one of the co-owners on title was a reasonable one. The fact that the permits Dr. Este now seeks to have issued over Ms. Esteghamat-Ardakani's objections are for repair and reconstruction of the House, as opposed to a new design, does not change the District's legal dilemma or the legal nature of the issue. Ms. Esteghamat-Ardakani is still unwilling to sign the permit applications for this Property, and the Court of Appeal has ruled that the District reasonably interpreted the bylaw to require her consent.
- [49] Furthermore, I find that Dr. Este's position that building permits should be issued for the repair and reconstruction of the existing House, in lieu of proceeding with the demolition of the House, ignores the effect of the Demolition Order with respect to the House, which has the force of law, and which has been upheld by this Court and the Court of Appeal on judicial review.
- [50] Dr. Este's change of heart, indicating that she would now prefer to keep the existing House and repair it, does not make the Demolition Order for the House inapplicable or invalid. That Order has been upheld. The change in requirements for new construction on the foreshore is also not a basis upon which this Court could or will reopen a judicial review on the validity of the Demolition Order.
- [51] In my view, it would be an abuse of process to allow Dr. Este to change her legal position in this regard and would undermine the integrity of the court's orders and their finality, to allow Dr. Este to reargue these points. It was for a similar reason that Dr. Este was not allowed to change her position on her beneficial ownership of the Property itself as between her dispute with Mr. Taherkhani, and then in her legal dispute with her mother. As Justice Funt explained therein, for reasons indexed as 2017 BCSC 878:
- [31] It is an abuse of process for a litigant to pursue inconsistent rights. In other words, in one proceeding, a plaintiff cannot claim that he or she did not own Blackacre and then in a subsequent proceeding, claim to own, at the relevant time, Blackacre in order to support his or her claim.
- [33] A litigant cannot use the Court's process to state one set of rights in a proceeding and then in a subsequent proceeding assert rights inconsistent with the rights first stated. Otherwise, uncertainty would result and many paths for mischief would be introduced into our law for the avaricious, the malicious, and the vexatious. The litigant must elect at the outset which set of rights the litigant wishes the Court to recognize.
- [52] With respect to hardship, it is difficult not to feel some sympathy for Dr. Este who has a beautiful house that was destroyed by a fire, and now wants to keep it. However, this is not the type of exceptional case where hardship or some other equitable basis ought to interfere with the requirement to comply with the law. Dr. Este says she has not lived in this House

since the fire in 2016, only going there from time to time to garden or meditate. She says that she has been provided with rental accommodation at her insurer's expense while the dispute as to whether the House is required to be demolished or not has proceeded, and until recently she sought to demolish the House to replace it with a new design.

- [53] Nor can the District be held to account for the delays in the demolition or the issuance of building permits to replace the House. It was Dr. Este that brought her unsuccessful applications for judicial review, and it was more than reasonable for the District not to proceed with its self-help remedy under the Community Charter and the Demolition Order until Dr. Este's judicial review was concluded.
- [54] Furthermore, it is Dr. Este's dispute with her co-owner that have fundamentally prevented the issuance of permits consistent with the Demolition Order. The District is not responsible for that delay, nor can the requirement to comply with the law find an exception on the basis of this mother-daughter dispute.
- [55] In sum, I am satisfied that Ms. Este's suggestions of triable issues are already issues that have been tried with respect to the validity and enforceability of the Demolition Order. Ms. Este's hardship due to the loss of her House as a result of the Demolition Order has already been implicitly considered by this Court in upholding the Demolition Order and is not, in any event, the type of hardship that would justify forestalling compliance with an order that has the force of law and that has already been tested in this Court.

Mr. Taherkhani's Alternative Position

- [56] While not served with this application, Mr. Taherkhani filed a response, claiming standing in the proceeding. I gather that the District does not agree that he has such standing. Nevertheless, I allowed Mr. Taherkhani to make his submissions on standing and on the merits of the injunction application together.
- [57] Mr. Taherkhani has a CPL over the Property in the Family Proceedings that were re-opened in 2018. This gives Mr. Taherkhani a potential financial claim over some portion of the value of the Property, should it be established that Dr. Este had beneficial ownership of the Property during the parties' marriage.
- [58] I find it unnecessary to decide the issue of standing and will resolve the issue raised by Mr. Taherkhani on its merits.
- [59] Mr. Taherkhani says that the House was not repaired in the past year, but rather was demolished and reconstructed (albeit without a permit) and so the Demolition Order is now moot, as it does not authorize demolition of what he says is now a new structure. He argues that there should be no injunction preventing Dr. Este or others from interfering with the Demolition Order on that basis.

- [60] The foundation of Mr. Taherkhani's position is that, on the evidence put forward by the District and Dr. Este, I should be able to find that the existing structure was not repaired but was actually demolished, and that a new structure has been rebuilt in its place.
- [61] However, this suggestion is contradicted by Dr. Este's own evidence and position: that she no longer wants to demolish the House pursuant to the Demolition Order because she could not rebuild the House if she proceeded with the demolition. It would also mean that the reconstruction thus far was of a new structure built entirely without permits, and not in accordance with the foreshore requirements that Dr. Este has found to be an obstacle to any new construction. I find that Mr. Taherkhani's interpretation of the evidence before me is also not supported by the District's evidence, which establishes the House itself has not been demolished, only portions of it. To suggest that a municipal order made pursuant to the Community Charter can be avoided by breaching that order is untenable.
- [62] In any event, I find that neither the District's evidence nor Dr. Este's evidence supports Mr. Taherkhani's factual assertions, and I do not see this argument as a barrier to issuing the injunction. I find the House still exists and that the Demolition Order still applies to it.

Conclusion

- [63] In conclusion, I find that there are no triable issues raised by Dr. Este as to the validity or enforceability of the Demolition Order.
- [64] I find that Dr. Este's breaches of the District's Building Bylaw, and her interference with the requirements of the Demolition Order, are established on the evidence before me. I find that, in the absence of a viable attack on the applicability or enforceability of the Demolition Order, the legal test for an interlocutory injunction is met. Even were I to apply the test for a permanent injunction, which may well be the effect of an interlocutory injunction to prevent Dr. Este with interfering with the execution of the Demolition Order, I find that the test has been met.
- [65] The breach of the bylaw and Demolition Order is clear. It is established on the evidence. Despite the harm that will be caused by the execution of the Demolition Order, in the sense that the House will not be able to be rebuilt, the balance of convenience, to the extent that it applies to statutory injunctions, favours the issuance of the injunction. Compliance with the law, including the Demolition Order as already tested in this Court, is fundamentally in the public interest.
- [66] Therefore, I grant the interlocutory order in the form sought by the petitioner District, with the exception of the police enforcement clauses. The Court expects the support of law enforcement with respect to breaches of Court orders, and I have no evidence on this application to suggest that such support will not be provided absent such an order.
- [67] I hereby grant the following orders:

- a) An interlocutory order, pursuant to s. 274(1) of the Community Charter, enjoining and restraining the Respondent Rosa Donna Este, her agents, servants, employees, contractors, or any other person having notice of this order from doing any of the following on or from the lands and premises with a civic address of 2668 Bellevue Avenue, legally described as PID 013-216-422, Lot 5, Block 33, District Lot 555, Plan 3058 (the "Property"):
 - i. carrying out any construction or demolition work upon the Property without a valid and subsisting permit issued to that person for the subject work, contrary to section 5.1 of the Building Bylaw;
 - ii. removing, defacing, obscuring or otherwise tampering with any Stop Work Order posted on or near the Property, contrary to section 5.3 of the Building Bylaw;
 - iii. obstructing the entry of the District's Building Inspectors, including Bylaw Officers, on and into the Property, contrary to section 5.4 of the Building Bylaw; and
 - iv. obstructing the entry of District building contractors on and into the Property, contrary to the District of West Vancouver Demolition Order dated December 14, 2020 (the "Remedial Action Requirement");
 - b) An interlocutory order, pursuant to s. 274(1) of the Community Charter, preventing the Respondent Rosa Donna Este from further interfering with the carrying out of the Remedial Action Requirement by prohibiting her from attending on or within 100 feet of the Property, until the demolition work ordered by the Remedial Action Requirement has been fully completed;
 - c) An order that this injunction will remain in effect pending final disposition of the petition in this proceeding; and
 - d) An order that the petition in this matter will be filed within 30 days of the date of this order.
- [68] The District is entitled to payment of its costs against Dr. Este forthwith and in any event of the cause. Should any of the parties wish to make further submissions on costs, I direct them to contact the Registry within 30 days to make arrangements to appear before me for this purpose.

"Marzari J."

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