

SUPERIOR COURT
(CLASS ACTION)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-06-000843-173

DATE: August 21, 2018

BY THE HONOURABLE KAREN M. ROGERS, J.S.C.

FRANK BERDAH
-and-
9316-1305 QUÉBEC INC.
-and-
GIOVANNI PAQUIN
Applicants

v.

ATTORNEY GENERAL OF QUÉBEC
-and-
KPH TURCOT, UN PARTENARIAT S.E.N.C
-and-
CONSTRUCTION KIEWIT CIE
-and-
PARSONS CANADA LTD.
Defendants

**JUDGMENT TO DISCONTINUE THE PUTATIVE CLASS ACTION
AGAINST KPH TURCOT, UN PARTENARIAT S.E.N.C., CONSTRUCTION KIEWIT
CIE, AND PARSONS CANADA LTD.**

JR1825

[1] On February 1st, 2017, the Applicants filed an *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiffs* against

four (4) Defendants, namely the Attorney General of Quebec, KPH Turcot, un partenariat s.e.n.c., Construction Kiewit cie and Parsons Canada Ltd., as it appears from the Court record.

[2] On or around April 6th, 2017, the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiffs* was amended, notably to include Mr. Giovanni Paquin as an Applicant.

[3] The authorization hearing took place on January 22nd and January 23rd, 2018.

[4] On January 23rd, 2018, the Applicants requested and subsequently obtained the Court's permission to modify their Authorization Application. The Applicants now seek to represent the following class:

English:

All persons, owners or tenants who, at any time since March 21st, 2015, resided within a circumference of 350 meters from the Turcot Project in the cities of Montreal (including the South-West Borough, Ville-Marie and Notre-Dame-de-Grâce), Montreal West and Westmount.

French:

Toutes les personnes, propriétaires ou locataires, qui, à un moment donné depuis le 21 mars 2015, ont résidé dans un périmètre circonférentiel de trois cent cinquante (350) mètres du Projet Turcot, dans les villes de Montréal (incluant les arrondissements du Sud-Ouest, Ville-Marie et Notre-Dame-de-Grâce), Montréal-Ouest et Westmount.

or any other Class to be determined by the Court

[5] On January 23rd, 2018, the Applicants made a request for authorization to discontinue the class action against Defendants KPH Turcot, un partenariat s.e.n.c., Construction Kiewit cie and Parsons Canada Ltd. (arts. 213 and 585 C.C.P.).

[6] Following the submissions of counsel for the Parties and the representations made by attorneys for the Contractor Respondents, the authorization to discontinue the class action against Defendants KPH Turcot, un partenariat s.e.n.c., Construction Kiewit cie and Parsons Canada Ltd. was requested by the Applicants, and authorized by the Court.

[7] Class members will not be prejudiced if the request for discontinuance is granted, since the Class members may still pursue individual legal actions based on the same facts, allegations and legal issues as the *Amended Application to Authorize the Bringing of a Class Action*, since the prescription has been suspended since the date of filing of the Application for Authorization, per article 2908 of the Québec Civil Code.

[8] Applicants have not signed and will not sign any release or discharge in favour of Defendants KPH Turcot, un partenariat s.e.n.c., Construction Kiewit cie and Parsons Canada Ltd.

[9] At the present time, a discontinuance against Defendants KPH Turcot, un partenariat s.e.n.c., Construction Kiewit cie and Parsons Canada Ltd. respects the rule of proportionality, is in the interest of justice and does not prejudice the rights of any of the Class members.

[10] Defendants KPH Turcot, un partenariat s.e.n.c., Construction Kiewit cie and Parsons Canada Ltd. did not contest the request for authorization to discontinue the putative class action.

[11] Counsel for Applicants agree to upload the present Judgment to the Quebec Class Actions Registry.

WHEREFORE, THE COURT:

[12] **GRANTS** the Applicants' request for authorization to discontinue the putative class action against KPH Turcot, un partenariat s.e.n.c., Construction Kiewit cie and Parsons Canada Ltd.;

[13] **AUTHORIZES** the Applicants to file a discontinuance in favor of KPH Turcot, un partenariat s.e.n.c., Construction Kiewit cie and Parsons Canada Ltd. within ten (10) days following the date of the present judgment;

[14] **ORDERS** the Applicants to upload the present judgment on the Quebec Class Actions Registry within ten (10) days following the date of the present judgment;

[15] **THE WHOLE** without costs.


KAREN M. ROGERS, J.S.O.

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Hearing dates: January 22-23, 2018