



A land developer's lawsuit against a residents' group was meant to silence critics and can't go forward, the Supreme Court has unanimously ruled.

1704604 Ontario Ltd. was a land development company in Sault Ste. Marie, Ontario. It wanted to build a neighbourhood on an area that was part of a wetland. Some local residents were against the plan. They said it would destroy the wetland and cause other damage to the environment. They formed a group called Pointes Protection.

The company had to get permission to build the neighbourhood. It needed approvals from the local Conservation Authority and City Council.

The Conservation Authority approved the plan. Pointes Protection said the decision was wrong. It asked a court to review it. While this was happening, Council said no to the plan. The company appealed Council's decision to the Ontario Municipal Board, which decides on planning disagreements.

Pointes Protection agreed not to go to court about the Conservation Authority decision. It agreed not to say that the Conservation Authority's decisions were against the law or not allowed.

The company lost at the Municipal Board hearing. During the hearing, a Pointes Protection representative testified about the company's plan. He said the plan would hurt the environment and destroy part of the wetland. The company said this went against the agreement. It sued for breach of contract and asked for \$6 million in damages.

Pointes Protection said the company was wrongly trying to stop residents from speaking out. It said the company was trying to silence criticism on an important public issue. It said this was a "strategic lawsuit against public participation," or "SLAPP." SLAPPs aren't about genuine legal claims. They are about intimidating and silencing critics. They are about getting people to settle and stop speaking to avoid the time and money it would cost to go to court. Like some other provinces, Ontario has a law to stop SLAPPs before they ever go to trial.

The motion judge said the lawsuit wasn't a SLAPP and it could go forward. The Court of Appeal said it was a SLAPP, so it had to be dismissed.

All the judges at the Supreme Court of Canada agreed this was a SLAPP. They said that SLAPPs hurt people's right to freedom of expression, and that freedom of expression is important to our democracy.

Ontario's rules about SLAPPs were new, so the Court had to decide how to apply them. For a lawsuit to be a SLAPP, it had to be about something the defendant (the person being sued) communicated. Whatever it was the defendant communicated had to be important to the public. But the person suing (the plaintiff) could show the lawsuit *wasn't* a SLAPP by showing three things. The first was that they were likely to win. The second was that the person being sued had no valid defence. The third was that it was more important to the public to let the lawsuit go forward than to protect what the defendant said. The Court said judges have to look at the whole situation, between the parties and in society, to decide whether a lawsuit is really a SLAPP and should be stopped.

In this case, the testimony at the Ontario Municipal Board was an expression related to the public interest, as it was about the environmental impacts of the company's plan. The lawsuit was based on what the Pointes Protection representative said in the testimony. The Court said that the company didn't have much of a chance of winning because its argument was based on an incorrect interpretation of the agreement. Pointes Protection had agreed it wouldn't raise their environmental concerns to the Conservation Authority. However, nothing in the contract said it couldn't use the same evidence in a different situation. The Court also said it was more important to the public to protect Pointes Protection's testimony before an administrative decision-maker than to prevent the harm the company said it experienced.

This was the first time the Supreme Court dealt with Ontario's new rules about SLAPPs. Another case, [*Bent v. Platnick*](#), was also about SLAPPs. The Court used its decision in this case and applied it to that one. The Court heard the cases on the same day.

Breakdown of the decision: *Unanimous*: Justice Suzanne [Côté](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Abella](#), [Moldaver](#), [Karakatsanis](#), [Brown](#), [Rowe](#), [Martin](#), and [Kasirer](#) agreed)

More information (case # 38376): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

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