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Building Demolition: A Two-Part System?

On July 31, the Court of Appeal handed down its decision in a case involving the City of Gatineau and a contractor that wanted to demolish a century-old house to build housing (2025 QCCA 952).

Initially, the contractor had submitted the demolition request using the process in the demolition by-law adopted under sections 148.0.1 et seq. of the *Act respecting land use planning and development* (ALPD). As part of this process, the city's administrative bodies, including the local heritage council, decided against demolition because the building was considered a heritage immovable according to an inventory that had not yet been officially adopted.

Ultimately, the city's demolition application committee—the decision-making body in this case—denied the demolition.

It is important to note that throughout the process, several expert appraisals were carried out at the request of City authorities.

The contractor exercised its right to apply to the municipal council for a review of the committee's decision, but also filed a demolition appeal based on section 231 of the ALPD, which permits the demolition of dangerous or dilapidated buildings.

At first, the judge concluded that the building did indeed represent a danger to public safety and that there was no useful remedy other than demolition. She therefore ordered that the building be demolished after digital preservation of its heritage elements.

Finally, the Court rejected the City's argument that the contractor had neglected building maintenance, finding that the City's notices had arrived too late to be useful.

This case highlights the fact that there are two parallel regimes for demolishing buildings, particularly when demolition requests come from their owners.

Recall that the Government of Québec has adopted Bill 69, which strengthens municipalities' and RCMs' powers and responsibilities with regard to the protection of cultural and built heritage. As a result, many municipalities and RCMs have adopted by-laws to add obligations for landowners, including obligations to maintain buildings and comply with soil rehabilitation plans if demolition is authorized by municipal authorities.

That said, as mentioned above, the owners of immovables that are considered dangerous or dilapidated can *also* apply to the Superior Court for demolition of their own immovable as long as the criteria in ALPD s. 231 have been met.

The Court also pointed out that applications for demolition authorization under municipal by-laws and those submitted to the Superior Court are subject to separate processes. This means that demolitions authorized under ALPD s. 231 render municipal rules on demolitions—like requirements for owners to rebuild—ineffective or even bypass them entirely.

In light of this finding, it would be wise for municipalities to be strict in requiring owners to maintain buildings, especially heritage buildings, in order to prevent them from becoming dangerous or dilapidated and therefore subject to ALPD s. 231.

The City raised three grounds of appeal.

- **Failure to notify the Minister of Culture:** Overturned, as this is not required by ALPD s. 231.
- **Error in assessment of the hazard:** The judge should have distinguished between the front (less dangerous) and the rear of the building. The Court acknowledged the error, but the judge based her decision on credible expert opinions, and the error would not have changed the decision.
- **Order to preserve heritage elements:** The City argued that the judge had overstepped by ordering digital preservation. The Court rejected this argument, stating that only the contractor could have contested this measure.