

COURT OF APPEAL FOR ONTARIO

CITATION: Enbridge Gas Distribution Inc. v. Toronto (City), 2012 ONCA 881

DATE: 20121213

DOCKET: C55713

Doherty, Juriansz and Hoy JJ.A.

BETWEEN

Enbridge Gas Distribution Inc.

Applicant (Appellant in Appeal)

and

The City of Toronto

Respondent (Respondent in Appeal)

Robert G. Doumani and Tom Halinski for the appellant

D.A. Smith for the respondent

Heard: December 12, 2012

On appeal from the judgment of Justice S.M. Stevenson of the Superior Court of Justice, dated June 13, 2012.

APPEAL BOOK ENDORSEMENT

[1] The appellant acknowledges the bylaw under attack is presumed to be valid and it must clearly demonstrate the bylaw is beyond the municipality's powers. We are not persuaded it has met that onus. Section 9 of the regulation allows the imposition of fees and charges to recover the City's costs for issuing permits, and goes on to make specific reference to cutting pavement and digging

up highways. Section 9 provides that nothing in section 8 prevents the imposition of such fees or charges.

[2] In the absence of a clear demonstration the bylaw is beyond the city's powers, the appeal fails and is dismissed. Costs are fixed in the amount of \$15,000.00 all inclusive.