

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

***IN THE MATTER OF AN APPEAL OF THE CORPORATION OF THE CITY OF THUNDER  
BAY PROPERTY STANDARDS ORDER OCCURRENCE # EF:25-501648***

**BETWEEN:**

**KIE SHIROMA, IN HER CAPACITY AS ESTATE TRUSTEE FOR THE ESTATE OF  
NORIKO SHIROMA**

**Appellant**

**-and-**

**THE CORPORATION OF THE CITY OF THUNDER BAY**

**Respondent**

**AFFIDAVIT OF KIE SHIROMA**

**Sworn July 17, 2025**

**I, KIE SHIROMA, of the City of Calgary, in the Province of Alberta, MAKE OATH AND SAY  
AS FOLLOWS:**

1. I am the Applicant in this Appeal and the trustee of the land at issue, 339 Rupert Street, Thunder Bay, Ontario (“the Property” or “my Property”). As such, I have knowledge of the matters hereinafter deposed, except as stated to be based on information and belief, in which cases I have identified the source of my information and believe it to be true.

2. My mother, Noriko Shiroma, purchased the Property on June 10, 2016.
3. My mother passed away on January 16, 2024 and I have been acting as her Estate Trustee ever since.
4. Due to The City of Thunder Bay Property Standards Order #EF: 25-501648 (“the Order”), I have been unable to sell the Property and close my mother’s estate.
5. It is my belief that neither my Property, nor I as the Property’s trustee, should bear any responsibility to repair the retaining wall that forms the subject of the Order.
6. As such, as supported by the contents of this Affidavit and accompanying material, I ask that the Order be rescinded entirely.

### **The Property**

7. My Property is located on the slope of a hill.
8. As a result, the neighbouring property immediately beside and to the north, 335 Rupert Street (“the Neighbouring Property”) sits at a higher elevation in relation to my Property.
9. Through correspondence with my realtor, I have learned that my Property was built in 1953.
10. Through separate correspondence with the City of Thunder Bay Building Department, I have learned that the building permit for the Neighbouring Property was not granted until 1979, leading me to presume the Neighbouring Property was not built until that year or shortly thereafter.
11. As a result of the difference in elevation, a retaining wall sits between the two properties.

12. Attached as **“Exhibit A”** is a photo taken from the Rupert Street sidewalk showing my Property, the Neighbouring Property, and the retaining wall between them.

### **The Retaining Wall**

13. The retaining wall is approximately 133 feet long and 3.5 feet above ground-level at the front of my Property.
14. Due to the fact that the neighbouring lot slopes upward along the depth of their lot, the wall grows taller in comparison to the ground-level of my Property to approximately 7.5 feet tall at the back of my Property.
15. At the rear of the Neighbouring Property, the wall turns 90 degrees and runs along the back of the Neighbouring Property for approximately 3 feet, creating an “L” shape.
16. Two different fences are installed on top of the wall, a black metal fence running the length of the driveway and a wooden fence enclosing the Neighbouring Property’s backyard.
17. Attached as **“Exhibit B”** is a photo taken from behind the properties showing the end of the wall and the “L” shape wrapping around the Neighbouring Property.
18. Through correspondence with the City of Thunder Bay Building Department, I have learned and have been informed by my solicitors that the City of Thunder Bay has no records showing when the retaining was built nor records of which side of the property line the wall was originally on.
19. An upward sloping paved driveway for the Neighbouring Property runs along the partial length of the retaining wall.

20. It is my belief that the original purpose of the retaining wall was to “hold up” the neighbouring driveway and property, preventing erosion towards my Property.
21. Since then, or potentially at the same time, fences have been built on the wall to enclose the Neighbouring Property and as a safety precaution for those occupying or visiting 335.
22. It is my further belief that the wall was originally built as part of the construction of the Neighbouring Property and was likely on their side of the property line for the following reasons.
23. First, the retaining wall between the properties is similar in appearance to a smaller retaining wall at the front of the Neighbouring Property. The other retaining wall can be seen in the photo attached as “**Exhibit C**” roughly halfway between the Neighbouring Property and its neighbouring property.
24. Second, before construction of the Neighbouring Property, I believe that the retaining wall would have had no purpose given that the wall “holds up” the Neighbouring Property’s driveway and property.
25. Finally, the wall wraps around the back of the Neighbouring Property.

#### **The Encroachment of the Wall onto My Property**

26. Through images on Google Street View, I have seen that, since at least 2009, the retaining wall has been progressively leaning towards my Property.
27. The lean of the wall is greater at the front of the properties than at the back.

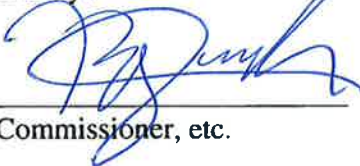
28. A preliminary survey completed by JD Barnes Limited in 2025 shows that the retaining wall is now on my Property at the front of the wall and crosses over into the Neighbouring Property approximately halfway down the length of the wall. The neighbouring driveway also partially crosses into my Property. Attached as **"Exhibit D"** is the preliminary survey by JD Barnes Limited in Thunder Bay.
29. Due to the apparent movement of the wall, and the fact I believe it was built in 1979, I believe the wall may have originally been entirely on the Neighbouring Property's side of the property line.
30. I believe that the progressive lean is entirely caused by the Neighbouring Property and the resident's use of the same property. Specifically, I believe that the lean is caused and contributed to by all or any of the following.
31. First, by the weight of vehicles continually driving up and down the driveway of the Neighbouring Property, which is directly adjacent to the wall.
32. Second, by water run-off and snow accumulation from the Neighbouring Property towards the retaining wall, which may also be exacerbated in winter and spring months (see, for example, **"Exhibit A"**).
33. Third, by possible negligent construction of the wall including lack of a proper water drainage system throughout the wall, leading to major hydrostatic pressure and lack of a proper foundation, leading to bowing, cracking, and other instability.
34. Fourth, by a tree growing from underneath the retaining wall, with its roots causing structural instability and force on the wall, resulting in cracks, shifting, and displacement of the wall. This tree can be seen in **"Exhibit B"**.

35. Lastly, by a wooden fence built on top of the retaining wall that catches the wind, creating a “wind sail” that adds significant pressure to the wall. This impact is evidenced by the fact that the back section of the wall, where the fence is located, shows additional leaning and curving.
36. By contrast, my Property does not benefit from nor use the retaining wall except that the wall prevents the Neighbouring Property from eroding into my Property.

### **Conclusion**

37. I make this Affidavit in support of this Appeal and for no other, improper, or fraudulent purpose.

SWORN REMOTELY by Kie Shiroma )  
of the City of Calgary, )  
in the Province of Alberta, )  
before me at the City of )  
Thunder Bay, in the Province of Ontario )  
this 17th day of July, 2025 )  
in accordance with *O.Reg 431/20*, )  
Administering Oath or Declaration )  
Remotely. )

  
A Commissioner, etc.

  
KIE SHIROMA

**BRENT C. JOURDAIN**  
Barrister and Solicitor

**“Exhibit A”**



*Photo taken by me in March 2025 from the sidewalk of Rupert Street. My property is partially shown to the far right while the neighbouring property is shown to the far left. The retaining wall is shown in the middle.*

This Is Exhibit A referred to in the  
affidavit of Kie Shiramce  
sworn before me, this 17<sup>th</sup>  
day of July 2025  
[Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS

**BRENT C. JOURDAIN**  
Barrister and Solicitor



**Exhibit "B"**



*Photo taken by my realtor in April 2025 from behind the properties. My property is shown to the left while the neighbouring property is shown to the upper right.*

This is Exhibit B referred to in the  
affidavit of Kie Shiroma  
sworn before me, this 17<sup>th</sup>  
day of July 2025  
[Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS

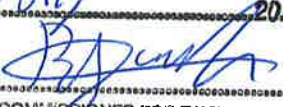
**BRENT C. JOURDAIN**  
Barrister and Solicitor



**Exhibit "C"**

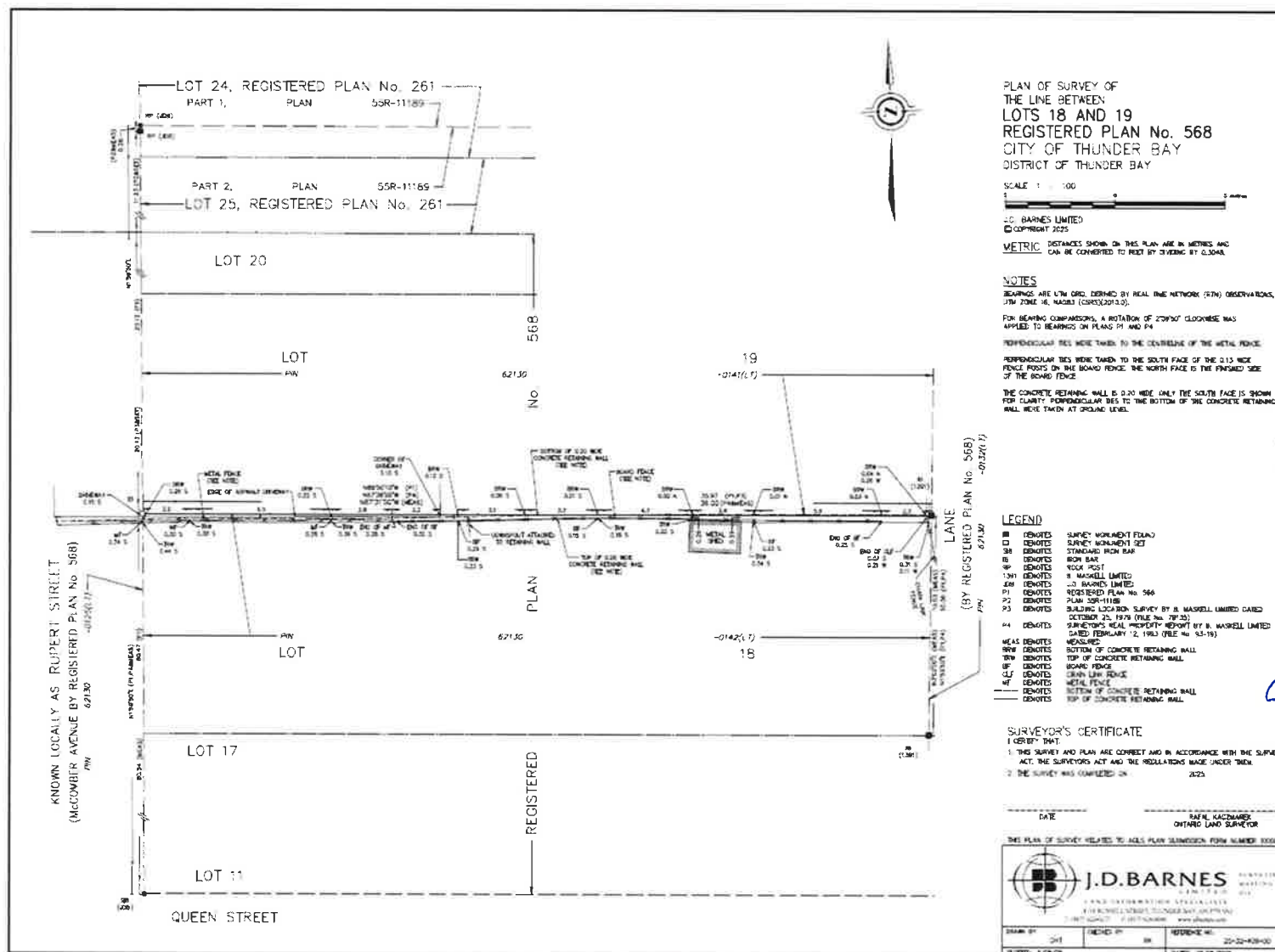


*A screenshot taken from Google Street View in June 2025. Original image captured in July 2024. The smaller retaining wall is shown to the centre left of the photo, while the retaining wall that is the subject of the Order is shown to the right. I have added the blue circles.*

This is Exhibit C referred to in the  
affidavit of Kie Shironaka  
sworn before me, this 17th  
day of July, 2025  
  
A COMMISSIONER FOR TAKING AFFIDAVITS

**BRENT C. JOURDAIN**  
Barrister and Solicitor

## Exhibit D



**BRENT C. JOURDAIN**  
Barrister and Solicitor

This is Exhibit 1 returned to the  
affidavit of Kie Spicane  
sworn before me, this 17<sup>th</sup>  
day of July 2025  
[Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS

*A preliminary survey completed by JD Barnes Limited in 2025.*