

**CITATION:** Democracy Watch v. Ontario Integrity Commissioner, 2022 ONSC 4761  
**DIVISIONAL COURT FILE NOS.:** 632/20, 633/20, 634/20, 644/20, 645/20, 646/20, 647/20,  
648/20, 660/20  
**DATE:** 20220819

**SUPERIOR COURT OF JUSTICE – ONTARIO  
DIVISIONAL COURT**

**RE:** DEMOCRACY WATCH, Applicant (Moving Party)

**AND:**

ONTARIO INTEGRITY COMMISSIONER, Respondent (Responding Party)

**BEFORE:** ACJSC McWatt, Molloy and Chalmers JJ.

**COUNSEL:** *Nick Papageorge and Ashley Wilson*, for the Moving Party

*Justin Safayeni and Stephen Aylward*, for the Responding Party

**HEARD:** August 15, 2022, by Zoom

**ENDORSEMENT**

[1] Democracy Watch brings this motion for an order setting aside the November 10, 2021 order of Favreau J. quashing nine judicial review applications on the grounds that Democracy Watch lacked standing to bring them. The motion judge provided thorough written reasons for her decision.<sup>1</sup> The background facts and statutory scheme are set out in the motion judge’s decision, and we will not repeat them here.

[2] A panel of the Divisional Court has the authority to hear a motion to set aside the order of a single judge of this Court pursuant to s. 21(5) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43. It is not the role of this panel to hear the motion *de novo*. The court will only intervene if it is established that the motion judge made an error of law or a palpable and overriding error of fact.<sup>2</sup> The moving party argues that a decision to deny public interest standing is not entitled to deference where the motion judge makes an “error in principle,” relying on *Alford v. Canada (Attorney General)*, 2019 ONCA 657. It is not clear that *Alford* expands the standard on review, as opposed to stating it in different language. However, we need not decide that issue, as we find no error in principle, no error of law nor any palpable or overriding error with respect to findings of mixed fact and law.

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<sup>1</sup> *Democracy Watch v. Ontario Integrity Commissioner*, 2021 ONSC 7383.

<sup>2</sup> *Canadian National Railway Company v. Teamsters Canada Rail Conference*, 2019 ONSC 3644 (Div.Ct.); *Guillaume v. Barney Rivers Investments Inc.*, 2022 ONSC 1123 (Div. Ct.).

[3] The motion judge correctly stated the test she was to apply, as is conceded by the moving party. We do not agree that the motion judge then proceeded to ignore the test she had articulated. On the contrary, she recognized that the judicial review applications should not be quashed unless it was plain and obvious or beyond doubt that the applications could not succeed. The motion judge recognized that this standard applied to the issue of standing. She noted that this was not a close case. We find no error.

[4] Likewise, we reject the moving party's argument that the motion judge failed to give a liberal and purposive interpretation to the principles underlying public interest standing. She specifically identified the importance of doing so and her reasons demonstrate that she paid close attention to these principles.

[5] The motion judge correctly stated the three requirements for public standing, while noting they should not be given a rigid interpretation.<sup>3</sup> The parties had agreed, and she accepted, that one aspect of the test was clearly met: Democracy Watch had a serious interest in the issue to be tried.

[6] However, the motion judge found that Democracy Watch had failed to establish the two other required grounds: that the application raised a serious justiciable issue and that the judicial review proceedings were a reasonable and effective way to bring the issue before the courts. She gave detailed reasons for coming to those conclusions, relying on precedent we consider to be applicable. We agree entirely with the reasons given by the motion judge. We find no error of law.

[7] On the serious justiciable issue point, the motion judge focused on the nature of the decisions made by the Commissioner under the *Lobbyists Registration Act* ("LRA")<sup>4</sup> being individual exercises of discretion in nine specific, individual cases. The motion judge considered this within the context of the legislative scheme and concluded that the issues raised had not been demonstrated to transcend specific individual interests or to have a broad societal impact. In coming to that conclusion, she made no finding on the merits of those cases or on the merits of the judicial review applications themselves. Rather, she appropriately concluded that Democracy Watch had failed to show an issue that transcended the parties' immediate interests so as to justify public interest standing. There is no error of law and, in applying that law to the circumstances before her, the motion judge made no reviewable error.

[8] We make the same observations about the motion judge's conclusion that these judicial review proceedings are not a reasonable and effective way to bring the issue before the court. For the reasons given by the motion judge, we agree.

[9] Accordingly, we find no error by the motion judge with respect to her decision that Democracy Watch lacked standing to bring these applications. As this renders the other issues moot, there is no reason to deal with them.

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<sup>3</sup> *Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45, [2012] 2 S.C.R. 524.

<sup>4</sup> *Lobbyists Registration Act*, 1998, S.O. 1998, c. 27.

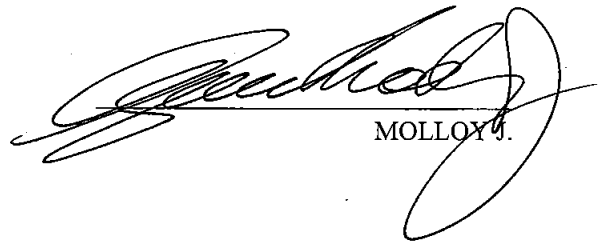
[10] These applications to set aside the order of Favreau J. are therefore dismissed.

[11] Notwithstanding the conclusion that Democracy Watch does not have standing to bring these particular judicial review applications, it is clear that this is public interest litigation brought in good faith to advance the rights of citizens in our democracy. Given the nature of Democracy Watch and the issues involved, it is appropriate that there be no order as to costs.



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ACJSC McWatt



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MOLLOY J.



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C HALMERS, J.

Date: August 19, 2022