The power to expropriate and its limits: the case of 9428-2506 Québec inc. v. Ville de Drummondville

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Author

Anne-Marie Asselin

Senior Associate

With the collaboration of

Victoria Guillemette

Student

Expropriation is one of the most substantial powers a municipality has to achieve its public-interest objectives.[1] The legislature has granted municipalities broad authority, allowing them to acquire any immovable, part of an immovable or servitude needed for "any municipal purpose" or for "industrial purposes."[2] Because municipalities have such latitude, the courts generally exercise judicial restraint and intervene only in cases of bad faith, injustice or abuse of process.[3] That is why the decision in *9428-2506 Québec inc.* v. *Ville de Drummondville* ("the Drummondville case") is so noteworthy. The Court struck down the expropriation in the case, finding that the city administration had acted in bad faith even though it had complied with all formal requirements.[4] In light of the court's decision, this article examines the key factors that served to rebut the presumption that the city had exercised its power of expropriation in good faith.

1. Substitution for the owner

The Court began by pointing out that a municipality cannot use its power of expropriation to substitute itself for an owner to pursue a project the owner already plans to develop. In the Drummondville case, the city wanted to develop an industrial park, but the plaintiff was already pursuing its own industrial project on the land in question. To justify its intervention, the city claimed that zoning restrictions prevented the land from being developed for industrial purposes. However,

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the Court dismissed the justification as [translation] “a pure pretext,”[5] concluding that the city had unlawfully substituted itself for the plaintiff without demonstrating the necessity of acquiring the land for its own project.[6]

2. Expropriation as a bargaining tool

The Court also reiterated that expropriation cannot be used as a pressure tactic in out-of-court settlement negotiations with a property owner. In the Drummondville case, the Court found that the city had used its expropriation power not out of genuine necessity, but as leverage to force the owner to reduce the size of its property, which constituted an unlawful use of that power.[7] The Court denounced the expropriate-first-negotiate-later strategy, reiterating that [translation] “expropriation is not a bargaining tool.”[8]

3. Expropriation to benefit a third party

Lastly, the Court stressed that the power of expropriation must always serve the public interest. A municipality cannot use expropriation for an improper collateral purpose that does not benefit the community.[9] In the Drummondville case, the Court concluded that the city had provided no valid justification for disclosing a confidential expropriation plan to a third party three years before serving the notices of expropriation.[10] In the Court’s view, the unwarranted disclosure of confidential information to a single party resulted in unfair treatment of other developers who lacked access to the information.[11] Other facts, including the city’s disregard for its own wetland conservation studies to advance the third party’s project, further supported the finding of bad faith on the city’s part.[12]

Conclusion

Ultimately, the Drummondville case serves as a reminder that good faith is crucial in exercising the power of expropriation and that, while good faith is presumed, the presumption can be rebutted by the circumstances surrounding the exercise of the power. Conduct revealing an improper, abusive or discriminatory purpose—as well as a municipality unwarrantedly substituting itself for an owner and resorting to expropriation as a bargaining tool—can demonstrate bad faith[13].

On October 2, 2026, the city appealed the decision.[14] The final chapter in this case has yet to be written.

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1. For a more detailed discussion of expropriation, see *The ABCs of Expropriation: an Overview of the Different Regimes*, by Anne-Marie Asselin, Senior Associate.
2. *Cities and Towns Act,* CQLR c. C-19 s. 570(1)(c); *Act respecting municipal industrial immovables,* CQLR c. I-0.1 s. 2(1) and s. 6(1).
3. Pierre ISSALYS and Denis LEMIEUX, *L’action gouvernementale : précis de droit des institutions administratives*, 2020, Montréal, Éditions Yvon Blais, para. 3.19.
4. 2026 QCCS 3363, para. 330.
5. *Ibid.,* para. 180.
6. *Ibid.,* paras. 201–202.
7. *Ibid.,* paras. 245 and 247–248.
8. *Ibid.,* para. 249.
9. *9379-1242 Québec inc.* v. *Ville de Sept-Îles*, 2024 QCCS 3611, para. 16.
10. 2026 QCCS 3363, *supra* note 1, paras. 273–274.
11. *Ibid,* para. 283.
12. *Ibid.,* paras. 309–310 and 328.
13. *Ibid.,* para. 330.
14. Application for leave to appeal and notice of appeal, October 2, 2026, (C.A.) 500-09-032224-263.

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