

**ONTARIO SUPERIOR COURT OF JUSTICE
CIVIL ENDORSEMENT FORM**
(Rule 59.02(2)(c)(i))

BEFORE:	Justice/Associate Justice JUSTICE JOHN CALLAGHAN	Court File Number: CV-26-00006051-0000
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Title of Proceeding:		Applicant(s)/ Plaintiff(s)
JANET LYN ROSENBERG		
-v-		
DESTINY DEVELOPMENT LIMITED IN TRUST		
		Respondent(s)/ Defendant(s)

Case Management: ☐ Yes If so, by whom:	☐ No
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Participants and Non-Participants: (Rule 59.02(2)(vii))

Party	Counsel	E-mail Address	Phone #	Participant (Y/N)
1) APPLICANT – JANET LYN ROSENBERG	Matthew R. Harris	mharris@szklaw.ca	416-477-1077	
2) RESPONDENT – DEVELOPMENT LIMITED IN TRUST				

Date Heard: (Rule 59.02(2)(c)(iii))**Nature of Hearing (mark with an “X”):** (Rule 59.02(2)(c)(iv))

☐ Motion	☐ Appeal	☐ Case Conference	☐ Pre-Trial Conference	☒ Application
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Format of Hearing (mark with an “X”): (Rule 59.02(2)(c)(iv))

☒ In Writing	☐ Telephone	☐ Videoconference	☐ In Person
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If in person, indicate courthouse address:

Relief Requested: (Rule 59.02(2)(c)(v))

Disposition made at hearing or conference (operative terms ordered): (Rule 59.02(2)(c)(vi))

Costs: On a **N/A** indemnity basis, fixed at \$ are payable
by to [when]

Brief Reasons, if any: (Rule 59.02(2)(b))

The applicant sought to refinance her home. She acquired the property on May 10, 1983 from Destiny Development Limited. In seeking to refinance the home, she learned that there was a certificate of pending litigation (CPL) or, as it was then called, a certificate of *lis pendens*, registered on title in 1979. The property was converted to land titles on November 25, 2002, and until now, this outstanding CPL had gone unnoticed. Searches for any underlying action turned up nothing that would indicate how or in support of what action this CPL was registered. Destiny Development Limited could also not be located.

The Court has broad discretion to discharge a CPL where it is just to do so: *Courts of Justice Act*, RSO 1990, c C.43, s 103; *Rules of Civil Procedure*, RRO 1990, Reg 194, s.42.01. In doing so, the Court examines all relevant factors to determine whether a certificate of pending litigation should be discharged: see *Perruzza v. Spatone*, [2010 ONSC 841](#), at para. 20. The case law has set out a host of factors.

In this case, the CPL was obtained over 50 years ago. Any action to which it might refer has either been resolved or is of such ancient origin that there is no prospect of it proceeding. Indeed, the records no longer disclose the nature of the action. In any event, the applicant has lived in the home for almost 45 years. Her enjoyment of the land, including the right to refinance, ought not to be fettered by an unknown claim by a party that cannot be located which, if it still exists, has done nothing to prosecute a claim for almost half a century. Both justice and equity favour the discharge of the CPL.

The requested order is granted.

Additional pages attached: ☐ Yes ☐ No



August 4

2026

Date of Endorsement (Rule 59.02(2)(c)(ii))

Signature of Judge/Associate Judge (Rule 59.02(2)(c)(i))