Tribunals Ontario | **Tribunaux décisionnels Ontario**

Human Rights Tribunal of Ontario | Tribunal des droits de la personne de l'Ontario

B E T W E E N:

Falah Rashed

Applicant

-and-

Hazelview Investments Inc.

Respondent

A N D B E T W E E N:

Mohammed Yussuf

Applicant

-and-

Hazelview Investments Inc.

Respondent

A N D B E T W E E N:

Maha Jabur

Applicant

-and-

Hazelview Investments Inc.

Respondent

DECISION

Adjudicator: Joseph Tascona

Date: October 30, 2026

File Numbers: 2019-38481-I; 2019-36522-I and 2019-36518-I

Citation: 2026 HRTO 1605

Indexed as: **Rashed v. Hazelview Investments Inc.**

APPERANCES

Falah Rashed, Mohammed Yussef and Maha Jabur, Applicants	)	Daniel Tucker-Simmons and Yavar Hameed, Counsel
Hazelview Investments Inc., Respondent	)	Lynn Harnden and Neil Dzuba, Counsel

INTRODUCTION

[1] There are thirty-seven consolidated Applications alleging a breach of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended ("*Code*") on the grounds of race, colour, place of origin, ethnic origin, family status and receipt of public assistance in the social area of housing.

[2] At the hearing the applicant's counsel advised the Tribunal that the *Code* grounds of family status and receipt of public assistance were removed from the Applications. The Tribunal granted the applicant's counsel request.

[3] The Applications were filed in April 2019 and have now been withdrawn against all respondents, including the City of Ottawa, with the exception of Hazelview Investments Inc. ("Hazelview").

[4] The applicants allege that Hazelview discriminated against them in the way they dealt with their requests for repairs of their homes, and in the way they displaced them from their homes with the goal of redevelopment and attracting a different group of tenants.

[5] In Case Assessment Direction dated March 14, 2022, the parties confirmed their Agreement that Falah Rashad (file 2019-38481-I), Mohammed Yussuf (file 2019-36522-I) and Maha Jabur (file 2019-36518-I) would be the lead cases that should proceed.

[6] It was further agreed that the remaining 34 Applications are to be held in abeyance, or deferred, until a decision was rendered with respect to the first three. From there, the parties could determine whether or not to withdraw, settle or proceed with remaining Applications. In the event that the litigation of the remaining matters was to proceed, the adjudicator would remain seized, such that the evidence relating to the remaining Applications could be limited.

[7] The summary hearing was held by video conference on September 25 and 29, 2026. All parties participated. The Tribunal permitted the filing of written submissions

which the applicant did on October 9, 2026, and respondent did in reply on October 21, 2026.

[8] For the reasons that follow, the three Applications are dismissed.

SUMMARY HEARING PROCESS

[9] The summary hearing process is described in Rule 19A of the Tribunal's Rules of Procedure ('Rules") as well as the Tribunal's Practice Direction on Summary Hearing Requests. The purpose of a summary hearing is to consider, early in the proceeding and usually before a Response is filed, whether an Application should be dismissed in whole or in part because there is no reasonable prospect that the Application will succeed.

[10] The Tribunal cannot address allegations of unfairness that are unrelated to the *Code*. The Tribunal's jurisdiction is limited to claims of discrimination that are linked to the protections set out in the *Code*.

[11] The test that is applied at the summary hearing stage is whether an Application has no reasonable prospect of success. At this stage, the Tribunal is not determining whether the applicant is telling the truth or assessing the impact of the treatment they experienced. The test of no reasonable prospect of success is determined by assuming the applicant's version of events is true unless there is some clear evidence to the contrary or the evidence is not disputed by the applicant.

[12] However, and significantly, accepting the facts alleged by the applicant does not include accepting the applicant's assumptions about why they were treated unfairly. The purpose of the summary hearing is to determine whether the applicant is able to point to any information which tends to support his belief that he or she has experienced discrimination under the *Code*. The question that the Tribunal must decide at a summary hearing is whether there is likely to be any evidence, or any evidence that may be reasonably available to the applicant to connect the unfair treatment allegedly experienced by the applicant with the *Code's* protections.

[13] As the Tribunal indicated in *Forde v. Elementary Teachers' Federation of Ontario*, 2011 HRTO 1389 ("*Forde*"), for an Application to continue in the Tribunal's process following a summary hearing, there must be a basis beyond mere speculation and accusations to believe that an applicant could show a breach of the *Code*.

[14] Having set out the basic framework for determining whether an Application should be dismissed because it has no reasonable prospect of success, I now turn to the facts of this particular case.

BACKGROUND

[15] This matter concerns the redevelopment of Heron Gate Village ("Heron Gate"), a residential community located within the Alta Vista neighbourhood of the City of Ottawa.

[16] Heron Gate was acquired by Hazelview in 2012 and 2013 as part of a broader portfolio transaction. At the time of acquisition, the property was in poor condition due to prior neglect.

[17] Hazelview subsequently invested over $50 million in repairs and improvements, including major structural upgrades and roof replacements in units formerly occupied by the Applicants.

[18] Despite these investments, Hazelview eventually determined that certain townhomes were structurally unsound due to their age and the extent of prior neglect. It became clear after several years of extensive repairs that continued piecemeal maintenance was no longer viable for various townhomes in the Heron Gate. Hazelview therefore proceeded with a phased demolition strategy.

[19] Hazelview made a proposal to the City of Ottawa for their planned redevelopment. The proposal was subjected to the applicable municipal planning, consultation, rezoning, and approval processes.

[20] Throughout the approval process, the City of Ottawa was charged with considering the public interest impacts of the redevelopment, including matters relating to housing, neighborhood planning and the displacement of residents. Ultimately, the City approved the redevelopment and issued the necessary approvals.

[21] The applicants initially named the City of Ottawa as a respondent to the Applications. The Applications alleged discrimination on the part of the City of Ottawa because it failed to ensure that the applicants' housing needs were accommodated and incorporated into the respondents' development proposals. The applicants additionally asserted that the City of Ottawa was "systematically negligent", and engaged in systemic discrimination, by allowing Heron Gate to become dilapidated.

[22] In its response to the Applications, the City of Ottawa stated the following:

> *… pursuant to the legislation the City can approve local priorities whereby families are offered units in priority to those waiting chronologically. The City of Ottawa has previously approved a local priority for "displaced subsidized households" who lose their unit for reasons that include loss due to the sale or demolition of the unit.*
>
> *As a result of the City of Ottawa local priorities, all subsidized households residing in the Herongate community were offered this local priority status to able to be offered an alternate subsidized unit as suitable units became available both within the current subsidized housing stock and in the private market.*
>
> *With the assistance of City staff, all 21 of those households were able to secure new housing prior to the eviction deadline.*

[23] The applicants elected to release the City of Ottawa from the Applications for reasons which have not been disclosed.

[24] The entity which might have been in a position to address any alleged inadequacies of the above-noted measures which were offered to the applicants affected by the demolition of their units is no longer before the Tribunal.

[25] A section of the community known as Heron Gate 7 was demolished in 2016 due to structural concerns. In 2018, Hazelview determined that the townhomes in Heron Gate 5 also suffered from structural deficiencies and required demolition. Accordingly, all units in that section had to be vacated as well.

[26] In both instances where demolition was deemed necessary, Hazelview provided tenants with notice and compensation exceeding the minimum requirements set out in the *Residential Tenancies Act*. All affected tenants were informed of the need to relocate. They signed Agreements to End the Tenancy and were offered relocation assistance. All leases were terminated with the same notice period, and all tenants were offered the same compensation package.

[27] No distinction was made between tenants on the basis of their race, colour, place of origin or ethnic origin. All leases were terminated, including the applicants. All tenants were offered the same compensation package. Hazelview treated all tenants equally. And they were all affected equally.

[28] Hazelview implemented a range of voluntary measures to support its tenants during this transition, such as multilingual relocation services, informational sessions, and weekly drop-in opportunities where tenants could ask questions and receive personalized assistance.

[29] To ensure equitable access to these supports, Hazelview provided information and documentation in five languages, ensured that relocation staff could assist tenants in multiple languages – including Arabic and Somali – and extended office hours to enhance accessibility to assistance and information.

[30] Hazelview additionally provided affected tenants with information about available legal, and housing supports. This included contact details for the Landlord and Tenant Board, the Law Society of Ontario’s Lawyer Referral Service, Pro Bono Ontario and Legal Aid Ontario.

FINDINGS

[31] The redevelopment affected some residents who were of Somali or Arab descent, including the applicants Falah Rashad and Maha Jabur who are from Iraq identifying as Arab and the applicant Mohammed Yussuf who is from Somalia identifying as black.

[32] In this case the applicants make two broad allegations. First, the applicants allege that the practice of repositioning disproportionately impacts racialized renters in Canada. It asserts that they face *disproportionate risk exposure* to eviction by repositioning. Second, as a result this relative disadvantage is why repositioning is discriminatory: it negatively affects racialized renters living in racialized communities more *as compared to* non-racialized renters living in non-racialized communities.

[33] The applicants intend to rely on five academic papers, including public statements by Hazelview on how repositioning works, to link the impugned redevelopment system or practice to systemic discrimination with a disproportionate adverse impact on racialized tenants.

[34] The applicants essentially rely on assertions, opinions and social commentary, without identifying admissible evidence capable of establishing that any alleged disadvantage was experienced because of a *Code*- protected ground. There is thus no direct evidence of discrimination on Hazelview's project to demonstrate that its conduct contributed to a disproportionate impact on the applicants because all tenants in the affected areas of Heron Gate were treated and affected equally, without regard to any characteristics related to a *Code*-protected ground.

[35] The applicants failed to identify an appropriate comparator group made between groups situated within the same social and political context and affected by Hazelview's project. Instead, the applicants propose a comparison between "non-racialized renters living in non-racialized neighbourhoods" ignoring the issue of whether the alleged disadvantage is linked to a distinction based on a protected ground, not whether the applicants have identified an exact mirror comparator. See *Withler v. Canada* (Attorney General), 2011 SCC 12, at paras. 58 and 62.

Sharma and Metro Taxi Differential Treatment

[36] In *R. v. Sharma*, 2022 SCC 39, the Supreme Court held that, to establish differential treatment, a claimant must show that the impugned action "in its impact, *creates or contributes* to a disproportionate impact on the basis of a protected ground".

[37] The Ontario Superior Court applied this approach in *Metro Taxi Ltd. et al. v. City of Ottawa*, 2024 ONSC 2725, with respect to allegations under both the *Charter* and the *Human Rights Code*. In this case, the Plaintiffs alleged that the City of Ottawa was negligent in enforcing a Taxi By-Law following the entry of Uber into the market. One of the central issues in that case was whether the City's failure to enforce the By-Law constituted a breach of section 15 of the *Charter* or section 3 of the *Human Rights Code.*

[38] The Plaintiffs, representing the taxi industry, argued that its members – who were primarily racialized and immigrant individuals – faced systemic discrimination. Similar to the applicants in the present matter, who allege that the redevelopment of Heron Gate disproportionately affected residents of particular ethnic backgrounds, the Plaintiffs in *Metro Taxi* claimed that the City's conduct adversely impacted them and perpetuated disadvantage based on race and ethnic origin.

[39] The Superior Court acknowledged that taxi plate holders were predominantly from racialized and immigrant communities but nevertheless concluded that the City's conduct did not constitute discrimination. His Honour Justice Smith in his decision at paragraph 300 emphasized that, in regard to alleged disproportionate impacts on the claimants: Disproportionate is used to mean unequal. To determine if it is disproportionate, the Plaintiffs must show that the City's regulatory actions treat the claimant group differently than other groups that are within the same social and political context.

[40] The Superior Court cautioned against relying on overly broad or generalized comparisons, such as between racialized individuals and the general population, when assessing the impact of government action. See Metro Taxi at paras. 317 to 320.

[41] In *Metro Taxi*, the affected group was taxi drivers. Comparing the drivers' plight against the general population did "not achieve the goal of assessing whether the City's regulatory actions have had a disproportionate impact on the racialized plate holders". See Metro Taxi at para. 318.

[42] The Plaintiffs' claim ultimately failed because they were unable to point to any evidence demonstrating that they had been subject to differential treatment as compared to others affected by the City's regulatory actions. This absence of discriminatory impact was fatal to their allegations.

Hazelview Project Discriminatory Distinction

[43] Hazelview did not act unilaterally but undertook the redevelopment in accordance with the express approval of the City of Ottawa. As a property owner and landlord, Hazelview proposed a redevelopment that it believed would enhance the value and utility of its property. The proposal was then subjected to the applicable municipal planning, consultation, rezoning, and approval processes. Throughout that process, the City of Ottawa was charged with considering the public interest impacts of the redevelopment, including matters relating to housing, neighborhood planning, and displacement. Ultimately, the City of Ottawa approved the redevelopment and issued the necessary approvals and Hazelview thereafter proceeded in accordance with those approvals.

[44] Once the redevelopment was approved and eviction notices were issued, any challenge to those notices, including challenges based on the *Code*, could and should have been pursued through the process established under the *Residential Tenancies Act*. The Landlord and Tenant Board is the specialized forum tasked with adjudicating disputes arising from eviction proceedings and regularly considers *Code*-based arguments in that context. The applicants' concerns ought to have been raised through a challenge to the eviction before the Landlord and Tenant Board, rather than in this proceeding.

[45] The Applications, and the submissions of the applicants, were devoid of any real or cogent particulars of discrimination that substantiated how the applicants were treated differently in being evicted from their housing and in building maintenance. There is thus no direct evidence to support the conclusion that there is any connection between the incidents the applicants have complained of and that their *Code* grounds were a factor in Hazlview's alleged discriminatory conduct.

[46] As Member Nichols observed in her Case Management Direction issued on May 19, 2023, the Tribunal cannot decide general allegations of unfairness that are unrelated to the *Code*. The Member further emphasized in paragraph 17 that:

> […] While […] the applicants claim that they are not making general allegations of unfairness but claim that they experienced direct discrimination under the Code, that is not entirely clear from the contents of the Applications and the references to international law and such social concepts as demographic engineering.

[47] The Tribunal "does not have jurisdiction over general allegations of unfairness unrelated to the *Code*": *Hay v. Ontario* (Human Right Tribunal), 2014 ONSC 2858; *Bello v. Toronto* Transit Commission, 2014 ONSC 5535. To fall within the Tribunal's jurisdiction, "an Application must provide some factual basis beyond a bald assertion which link's their ground(s) to the respondents' actions and explains why they think that these actions are discriminatory in nature": Hay, at para. 8.

[48] In *Mehedi v. Mondalez* Bakery, 2023, ONSC 1737, the Divisional Court decided the Tribunal's decision to dismiss the Application for lack of jurisdiction was reasonable and cited *Hay and Xia v. Board of Governors of Lakehead University*, 2020 ONSC 6150 (Div. Ct.), which upheld the Tribunal's dismissal of an application for lack of jurisdiction on the basis that the applicant failed to establish a basis "beyond mere speculation and accusation" that the respondents' conduct was discriminatorily linked to an enumerated ground.

[49] I have considered all the applicants grounds of discrimination under the *Code*. I find that the applicants have been unable to point to any evidence, or any evidence that

may reasonably be available to them, to make that connection or link to their prohibited grounds, and as such that there is no reasonable prospect that the Applications will succeed.

CONCLUSION

[50] For the above reasons, the three Applications are dismissed in whole as having no reasonable prospect of success.

ORDER

[51] For all of the foregoing reasons, the three Applications are dismissed.

Dated at Toronto, October 30, 2026.



Joseph Tascona
Vice-Chair