

Case Name:  
**R. v. Cadieux**

**Between**  
**Christine Cadieux, Appellant, and**  
**City of Ottawa, Respondent**

[2008] O.J. No. 1246

Information Nos. 05-1764 and 05-1765

Ontario Court of Justice  
Ottawa, Ontario

**P. Coulson J.**

Oral judgment: March 11, 2008.

(15 paras.)

*Charges: Section 53(1)(a) - City of Ottawa Bylaw 2003-77 -- Section 65 - City of Ottawa Bylaw 2003-77.*

**Counsel:**

D. Anber: Agent for the Appellant.

O. Ansari: Agent for the Respondent.

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REASONS FOR JUDGMENT

**1 P. COULSON J.** (orally):-- There are some elements of this case about which I can promptly make up my mind. One, I am satisfied that the learned Justice of the Peace was correct when he asserted that he was satisfied that the zoning of this particular location was settled. I think there was evidence before him upon which he could make that finding, and he did, and I would not disturb it.

**2** The basis for Ms. Sadler's stating that it was residential was based on the inference that she drew from the examination of the West Carleton by-law on the computer system maintained by the City of Ottawa, and that was entirely reasonable for her. It was reasonable for the Justice of the Peace to found his decision that the zoning was established as RCL, Residential Country Lot. Although it is in the country, it is residential, and it was at the time that she purchased the lot.

**3** I bet she is sorry that she did not take it up with her lawyer before she bought the lot to ensure that the intended use would be permitted. She seems to have assumed that it would be permitted without getting legal advice on that subject and determining that, because she was deliberately moving out of the city to

what she called a "rural" area. She was going out in the country so that she would be able to carry on this business that she wanted to enlarge back in 2000. That was her plan. It would have been awfully wise to know with precision that she could do that. She specifically said that she had not asked her lawyer to look into that. She made an assumption.

**4** When she learned that there were difficulties, what did she do about it? I am of the view that she did what most reasonable people would do, she went to this official, Mr. Beatty, who had to do with this kind of subject on behalf of the City. She did not go to the waterworks people or the electricity people or the tax people, she went to somebody connected with the inquiry she wished to make, and she got certain reassurances from him, "Don't worry about it."

**5** At that point, she has given notice to the City, through this official Mr. Beatty, of what it is she is doing. She wants to get a licence, and she is told she cannot have one, but what does this vague expression, "Don't worry about it" mean in terms of your liability for being charged with an offence under a by-law? Again, I will bet she is sorry that she did not spend some money then getting a legal opinion on where she was before she got further into this. Frankly, I think that the quote from *R. v. Jorgensen* [1995] 3 S.C.R. 55 is an apt one in the circumstances, that the test for the individual is not nearly so onerous as the test for a professional about what is permitted:

... an individual relying on advice has less knowledge of the law than the official in question, the individual must not be required to assess reasonableness at a high threshold.

**6** I respectfully disagree with the learned Justice of the Peace that the lady acted unreasonably. She did, in her examination in-chief, name the individual, and she named the municipality represented by that individual, Mr. Beatty. She told of her encounter with Mr. Beatty, and I think that the City of Ottawa was, from that point forward, precluded from prosecuting her for the offences for which she was found guilty by the learned Justice of the Peace.

**7** With considerable deference to the Justice of the Peace, who I thought took a lot of time, was very patient in going through all of these matters and gave quite a lengthy decision in the circumstances, I think he was in error in finding the lady guilty for the offences charged under this by-law, and the appeal is successful.

**8** I need not, therefore, address the issue of the sentence appeal as I have found her not guilty. If I had found her guilty, I would have relieved against the size of the penalty too.

**9** MR. ANSARI: Your Honour, just one point of clarification. Would it not be a stay that would apply in this particular case?

**10** THE COURT: I'm sorry, what?

**11** MR. ANSARI: Would not a stay apply in this particular case because ... .

**12** THE COURT: It appears she is still in violation of the by-law.

**13** MR. ANSARI: She would still be in violation and she would still -- so it would be a stay rather than an acquittal.

**14** THE COURT: No, I do not think so. I am going to find her not guilty and permit the full reliance on the officially-induced error created by her communication with this Mr. Beatty. Mr. Beatty could have been identified, could have been called, could have been questioned, and wasn't. Perhaps he should have been called for the defence, but he did not have to be in order to make out the reasonableness of this lady's relying upon the advice that she got.

**15** Thank you, gentlemen. I am indebted to you for the quality of your work. It has long been said that the quality that comes out of courts and judges is highly dependent upon the quality that counsel put in. So, if I

do any good work, I would like to give you credit.

P. COULSON J.

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