

JUNE 16TH, 1913.

RE COLEMAN AND McCALLUM.

Municipal Corporations—Regulation of Erection of Buildings in City—Apartment House—Lodging House—Hotel—City By-laws—Municipal Act, 1902, sec. 541a—Amendment by 2 Geo. V. ch. 40, sec. 10—Mandamus for Approval of Plans Granted on Terms—Reversal of Order on Appeal.

Appeal by Robert McCallum and the Corporation of the City of Toronto from the order of LENNOX, J., in Chambers, ante 1127.

The appeal was heard by MULOCK, C.J.Ex., CLUTE, RIDDELL, and SUTHERLAND, JJ.

Irving S. Fairty, for the appellants.

J. T. White, for Alfred B. Coleman, the respondent.

The judgment of the Court was delivered by SUTHERLAND, J.:—The applicant is the owner of land situated at the corner of Sherbourne and Rachael streets in the city of Toronto, and desires to erect a building thereon. He had plans and specifications prepared by an architect originally for an apartment house, and applied to the respondents for a permit to erect it. The respondent McCallum is the City Architect and Superintendent of Buildings for the respondent corporation. The application was refused. Alterations were made in the plans, and further applications made and refused. Thereupon a motion was launched on the 20th March, 1913, "for an order of peremptory mandamus directing the respondents to forthwith approve and stamp the plans and specifications submitted by the applicant . . . and to issue a permit for the erection thereof."

The motion was heard before Lennox, J., and on the 19th April, 1913, he made an order to the following effect: "The applicant, for himself and his heirs and representatives in estate, now undertaking to amend the plans on file in the City Architect's Department of the City of Toronto, so as to provide that each of the bed-rooms in the apartment house which he proposes to build on the south-west corner of Sherbourne and Rachael streets in the city of Toronto, shall have a clear floor area of one hundred square feet at least, and the applicant by