

I think the appeal must be allowed; and in view of the perfectly reasonable suspicions of the defendants as to the dog, and the absence of any improper conduct on their part, either before or after the beginning of the action, I think they should have their costs both in this Court and in the Court below.

HON. MR. JUSTICE BRITTON.

AUGUST 7TH, 1912.

TORONTO v. WILLIAMS.

3 O. W. N.

Municipal Corporations—By-laws—Building Restrictions—Permit Issued for Apartment House—Motion to Restrain Erection of Building.

Motion to continue injunction restraining defendant from locating or proceeding with the location of an apartment house in a residential district in contravention of a civic by-law passed on May 13th, 1912, under the authority of 2 Geo. V. ch. 40, sec. 10, permitting certain municipalities "to prohibit, regulate and control on certain streets to be named in the by-law of apartment houses" Prior to the passage of the by-law in question defendant had purchased the lot, prepared plans and specifications for an apartment house, applied for and obtained a permit for the erection of the same from the City Architect's department, and obtained and paid for a water service from plaintiffs. Plaintiffs sought to distinguish this case from *Toronto v. Wheeler*, 22 O. W. R. 326; 3 O. W. N. 1424, on the ground that no work had actually been done on the lot looking to the erection of an apartment house prior to the passage of the by-law.

BRITTON, J., held that the granting of a building permit in itself constituted a "location" within the meaning of the statute.

Action dismissed with costs.

(Case is being appealed.—Ed.)

Motion in Single Court by the city of Toronto to continue an injunction restraining the defendant from erecting an apartment house upon her lot on Brunswick avenue. By consent of counsel the motion was turned into a motion for judgment.

I. S. Fairty, for the plaintiffs.

Mr. Campbell, for the defendant.

HON. MR. JUSTICE BRITTON:—The defendant purchased the land upon Brunswick avenue in May, 1911.

In the affidavit of the father of defendant it is stated, and I have no doubt of the truth of the statement, that this lot was purchased by the defendant for the purpose of erecting an apartment house thereon.

Shortly after the purchase proceedings were taken for expropriating part of that lot having in view the straightening of Brunswick avenue, and enlarging Kendall square. The defendant naturally halted as to their going on with the contemplated building. Subsequently the project or proposal