A. C. McMaster, for plaintiff.

J. R. Roaf, for defendant.

HON. MR. JUSTICE BRITTON:—The judgment of Teetzel, J., is (1) that the building then in course of erection contravened the building restrictions; (a) in that the buildings of defendant being erected were two, and that one of these buildings, viz., the western one, has not appurtenant to it land having a frontage on Palmerston avenue of at least 33 feet—and (b) that this building not being a stable or outbuilding being upon the lot which has a frontage upon Harbord street as well as upon Palmerston avenue—not its front on Palmerston avenue—and by that judgment the defendant was restrained from proceeding with the erection of said building, unless and until the said buildings are altered so as to conform with the said building restrictions.

The reasons for the decision of the learned trial Judge are reported in 22 O. W. R. 767.

The defendant apparently accepted the decision and proceeded at once to alter the so-called buildings to make them conform with the restrictions.

The objections in short are that there are two buildings—and if so the western one does not conform to the restrictions—and that even if only one building it does not front upon Palmerston avenue, within the true meaning of and as required by the restrictions.

The fact of there being two buildings, as found by the trial Judge, was so found as then there was the vertical division wall running north and south, extending the whole height of the building, dividing it into two equal divisions . . . "There is no door or other opening in this division wall so that there is no means of access to or from the easterly halves of the building. Each half has its independent entrance facing upon Harbord street." That is now changed—there is a door-way through that vertical wall. It was made in good faith as a permanent door—or passage-way—to be furnished and to remain as part of the structure—with such an opening through a middle wall—called a fire wall—a fire wall required by the city—and in a building with the four enclosing walls, all under one roof, I am not able to say that this building is two buildings within the meaning of the restriction—and if not there is no violation of the injunction in that respect. The case, *Ilford Parks Estate Ltd.* v. *Jacob*,