

terms, "to erect a two-storey brick *apartment*, near Wells street, on Brunswick avenue, in Limit B., in accordance with plans and specifications approved by this department."

Water service was applied for, and granted by the plaintiffs, and paid for by the defendant.

The work has not been rapidly proceeded with, but some work has been done; and there is nothing before me to indicate bad faith on the part of the defendant.

On the 16th day of April, 1912, an amendment to the Municipal Act was made (2 Geo. V. ch. 40, sec. 10), by which the following clause was added as clause (c) to sec. 541a of the Municipal Act, 1903, as enacted by sec. 19 of the Municipal Amendment Act, 1904: "In the case of cities having a population of not less than 100,000, to prohibit, regulate, and control the erection on certain streets to be named in the by-law of apartment or tenement houses and garages to be used for hire or gain."

The plaintiffs contend that there has been no location of this contemplated apartment house; and so it can, under the recent amendment, be prohibited.

I am of opinion that what was done amounts to a "locating" of this house and a consent by the plaintiffs to its location.

The plaintiffs have assumed to revoke the permission given; and they say that power is given to do so by sec. 6 of the city building by-law, No. 4861. The alleged attempt at revocation was not for any of the causes mentioned in sec. 6.

The case, as presented to me, seems quite like *City of Toronto v. Wheeler*, ante 1424. I agree with the decision and reasons for decision given by Mr. Justice Middleton. It would be manifestly unfair to the defendant—it would be rank injustice to her—after granting the permit, which, in my opinion, amounts to location, within the meaning of the statute, to step in now and stop the work, leaving upon her hands the lot she bought, the plans and estimates prepared, and the work, much or little, already done—of no value to her other than for the house she desires to erect.

The action will be dismissed with costs.

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