

In the Court of Appeal of Alberta

**Citation: Rostrup v Edmonton (Subdivision and Development Appeal Board),
2026 ABCA 242**

**Date: 20260720
Docket: 2603-0046AC
Registry: Edmonton**

Between:

David Rostrup and Donna Price

Applicants

- and -

**Edmonton Subdivision and Development Appeal Board and
The City of Edmonton**

Respondents

**Reasons for Decision of
The Honourable Justice Jolaine Antonio**

Application for Permission to Appeal

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[1] The applicants David Rostrup and Donna Price apply for permission to appeal a decision of the Edmonton Subdivision and Development Appeal Board. For the reasons that follow, permission is denied.

[2] A developer obtained two development permits for a site in northwest Edmonton: one to demolish an existing residential building and garage, and one to construct a new residential building and garage. The construction permit was later cancelled, leaving only the demolition permit in place.

[3] The applicants, who live adjacent to the site, pursued an appeal of the demolition permit. The Board dismissed their appeal: *L Kawun et al v Development Authority of the City of Edmonton*, 2026 ABESDAB 10007. The applicants seek permission to appeal that dismissal. No other party made submissions in response to their application.

[4] The essence of their argument is that the statutory scheme does not provide for stand-alone demolition permits. Section 7.120.2.1 of the City of Edmonton, Charter Bylaw 20001, *Zoning Bylaw* (23 October 2023) allows demolition to proceed “where a Development Permit has been issued for a new development on the same Site, and the demolition of the existing building or structure is implicit in that Development Permit”. The applicants say when the construction permit was cancelled, this provision ceased to apply, rendering the demolition permit without basis.

[5] They allege the Board erred in concluding the demolition permit could stand notwithstanding the lack of express authority to grant a stand-alone demolition permit. They say the Board filled a gap in the legislative framework rather than interpreting the framework as it exists, and therefore it acted without authority when it confirmed the demolition permit.

[6] Less than two weeks before the applicants’ deadline to apply for permission to appeal, the Development Authority approved a new development permit for construction on the site. That permit was appealed. While a development permit is under appeal, the permit is suspended by operation of *Zoning Bylaw*, s 7.190.2.4. As the new construction permit was suspended pending appeal, the applicants argued there were “live questions which remain to be determined” such that their proposed appeal was not moot. After the hearing of this application, the Board denied the appeal of the new construction permit: *P Kirwin et al v Development Authority of the City of Edmonton*, 2026 ABESDAB 10078. An application for permission to appeal that decision to this Court has been filed.

[7] Importantly, also after the hearing of this application, applicants’ counsel advised that the buildings on the site were demolished on the day this application was heard.

[8] A judge of this Court “may grant permission to appeal if the judge is of the opinion that the appeal involves a question of law of sufficient importance to merit a further appeal and has a reasonable chance of success”: *Municipal Government Act*, RSA 2000, c M-26, s 688(3).

[9] The demolition engages the issue of mootness. A matter is moot when the decision of the court will not have the effect of resolving some controversy which affects or may affect the rights of the parties. As a general policy or practice, courts do not decide moot matters: *Borowski v Canada (Attorney General)*, [1989] 1 SCR 342 at 353, 1989 CanLII 123 (SCC) [*Borowski*]. There is little question that this appeal is now moot; ruling on the validity of the demolition permit will not change the fact that demolition has occurred. The test for permission to appeal is difficult to make out where the proposed appeal is moot: *Pembina Institute for Appropriate Development v Alberta (Utilities Commission)*, 2011 ABCA 302 at para 24; *Eccles v Eccles*, 2025 ABCA 259 at para 12.

[10] The applicants ask me to grant permission despite the demolition, saying that denying permission “would reward behaviour that flouts the legal process established by the Zoning Bylaw”, because the demolition proceeded despite the demolition permit being suspended pending appeal. They submit the issues raised on the proposed appeal are important ones that merit the attention of this Court.

[11] This Court has discretion to hear a moot appeal in appropriate circumstances. In exercising that discretion, it will consider whether there is an adequate adversarial context, the need to promote judicial economy, and the role of the judiciary in our political framework: *Borowski* at 358-365.

[12] I am not convinced it would be appropriate to consider the alleged violation of the suspension of the demolition permit in connection with the exercise of this discretion. Even if it were, it would not justify proceeding with a moot appeal. While I acknowledge the issues raised have arguable merit, the rationales underlying the mootness doctrine do not support allowing the appeal to proceed. As the appeal is moot, it has no reasonable chance of success.

[13] The application for permission to appeal is denied.

Application heard on May 6, 2026
Written Submissions filed on May 11, 2026

Reasons filed at Edmonton, Alberta
this 20th day of July, 2026

Antonio J.A.

Appearances:

G. Stewart-Palmer, KC

A. Reid

for the Applicants

K.L. Hurlburt, KC (no appearance)

for the Respondent Edmonton Subdivision and Development Appeal Board

Respondent The City of Edmonton (no appearance)