

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Holly C. Beard
Madam Justice Jennifer A. Pfuetzner
Mr. Justice David J. Kroft

BETWEEN:

<i>BARRY WAYNE ROCHELLE</i>	)	<i>J. Rock</i>
	)	<i>for the Appellant</i>
<i>(Applicant) Appellant</i>	)	
	)	<i>C. P. McNicol</i>
<i>- and -</i>	)	<i>for the Respondents</i>
	)	
<i>THE RURAL MUNICIPALITY OF</i>	)	<i>Appeal heard and</i>
<i>ST. CLEMENTS and RED RIVER</i>	)	<i>Decision pronounced:</i>
<i>PLANNING DISTRICT</i>	)	<i>October 31, 2025</i>
	)	
<i>(Respondents) Respondents</i>	)	<i>Written reasons:</i>
	)	<i>November 7, 2025</i>

PFUETZNER JA (for the Court):

[1] The applicant appealed the judge's dismissal of his application for an extension of time to file a claim in negligence against the respondents under section 14(1) of the now repealed *The Limitation of Actions Act*, CCSM c L150 [the *Former Act*]. After hearing argument, we dismissed the appeal with reasons to follow. These are those reasons.

[2] The applicant alleges that the respondents breached a duty of care owed to him to advise him that his request to sever a parcel of land into two roughly equal lots could have been accomplished by way of a simple request/transmission form filed with the land titles office under *The Planning*

Act, CCSM c P80. However, this alternative course of action would have resulted in two lots of unequal size.

[3] The judge’s endorsement contains a few minor misstatements of fact. However, in our view, the judge made no errors of law or palpable and overriding errors of fact or of mixed fact and law. Nor is his decision so clearly wrong as to amount to an injustice (see *St Boniface General Hospital v PCL Constructors of Canada Inc*, 2019 MBCA 57 at para 17).

[4] In particular, we are not persuaded that the judge erred in finding that the applicant had the required knowledge of all material facts of a decisive character more than twelve months prior to bringing his application to the Court under the *Former Act*. Moreover, we are not convinced that the judge erred in his alternative finding that the facts before him failed to “support a claim in negligence” against the respondents.

[5] In the result, we dismissed the appeal with costs.

Pfuetzner JA

Beard JA

Kroft JA