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**Prohibited Contact in Public Procurement – *It Doesn't Matter Who Started It***

**Key Takeaway**

Contractors and consultants bidding on public projects should take note of *Land Design Inc v Ontario Infrastructure and Lands Corp*, 2026 ONSC 4690.[1] Ontario's Divisional Court upheld a firm's disqualification from a request for proposal ("**RFP**") process after its employees arranged a visit by Premier Doug Ford and a cabinet minister. The RFP was for construction administration services on the Ontario Place redevelopment. The court held that Infrastructure Ontario ("**IO**") reasonably disqualified the firm. In the court's words, the visit was a "*direct violation*" of the RFP that "*would reasonably be viewed by other respondents as an unfair advantage for LANDinc in the RFP Process*".[2] The case also shows when concerns about political access and procurement integrity can open a procurement decision to judicial review.

**Background**

Before the RFP at issue, Land Design Incorporated ("**LANDinc**") had already worked on the Ontario Place redevelopment as a landscape architecture and design consultant. That work included a 3D model of the proposed redevelopment. On May 4, 2026, IO issued an RFP for contract administration services for construction on the project. LANDinc entered the competition the next day.

The RFP prohibited lobbying to influence the outcome and barred contact with specified persons on matters relating to the RFP process, documents or proposals. The prohibited contacts expressly included the Premier's Office and Members of Provincial Parliament, including the Premier. These restrictions applied to bidders' employees and representatives, and IO had discretion to disqualify a bidder for prohibited contact or attempted contact.

On May 11, a junior LANDinc employee met the Premier at an event and mentioned the 3D model. The Premier expressed interest in seeing it, and the employee followed up with the Premier's Office to arrange a visit. On May 26, the Premier and Ontario's Minister of Tourism attended LANDinc's offices to view the model and meet its personnel.

IO investigated the visit, gave LANDinc an opportunity to respond, and then disqualified it for breaching the contact restrictions. IO maintained its decision on reconsideration, and LANDinc applied for judicial review. The court held that the disqualification was reasonable and upheld it.

**Political access and judicial review**

Public procurement decisions are not automatically subject to judicial review.[3] The Divisional Court rejected the suggestion that Ontario Place's prominence, the scale of the redevelopment or the substantial public spending were enough to establish jurisdiction. Instead, "*the grounds for disqualification*" and "*the involvement of senior members of the Executive*" gave the case a sufficient public dimension.

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[1] *Land Design Inc v Ontario Infrastructure and Lands Corp*, 2026 ONSC 4690. [*Land Design Inc*]
[2] *Ibid.* at para 48.
[3] *Ibid.* at para 27.

That focus on political access is notable given the scrutiny already surrounding Ontario Place. The redevelopment, including the private Therme spa and the relocation of the Ontario Science Centre, has attracted criticism over public costs and the province's dealings with private proponents. In 2024, the Auditor General concluded that the earlier process for selecting development partners was "*not fair, transparent or accountable*" and found that some participants met political staff despite rules prohibiting those contacts.[4] The government disputed the criticism, and the Auditor General said there was no evidence that the Premier's Office had interfered in the process.[5] Against that background, the court's emphasis on the appearance of fairness carries particular weight.

**Why the disqualification stood**

***The earlier IO visit did not excuse the political visit***

LANDinc argued that an earlier visit by IO personnel to view the model on May 6, after the RFP had begun, gave it a "*legitimate expectation*" that the Premier and Minister could also visit. The court questioned whether that doctrine applied at all, explaining that legitimate expectations concern "*procedural representations regarding the decision-making process, not the substantive result of the process*".[6] The court nevertheless assumed, without deciding, that the doctrine could apply and considered LANDinc's argument on its merits.

The court reasoned that the earlier visit may also have been inconsistent with terms of the RFP and provided no reasonable basis for treating the political visit as permissible. IO had not determined whether the earlier meeting itself complied with the RFP, but its occurrence could not override the express prohibition on contact with the Premier and other MPPs. The court described the political visit as "*a direct violation of these provisions*" that other bidders could reasonably view as an unfair advantage.

The court ultimately dismissed the argument. IO had addressed it reasonably, and LANDinc had used its prior work on the project to gain a further advantage by meeting senior political officials.[7]

***LANDinc remained responsible for the visit***

LANDinc also disputed IO's finding that it had initiated contact, pointing to the Premier's own interest in seeing the model. It further argued that IO's reading of the contact restrictions was "*extreme and unworkable*", because it could mean disqualification for a chance encounter or an unsuccessful attempt at contact.[8] The court rejected that characterization. The visit was arranged over two weeks through formal correspondence copied to senior LANDinc personnel, and senior personnel took part. The junior employee's initial conversation alone likely would not have warranted a sanction, but IO was entitled to assess the organized visit in its full context. In the end, it did not matter "*who started it*".[9]

***Fairness to all bidders supported disqualification***

LANDinc also argued that disqualification was arbitrary and breached IO's obligation to administer the competition fairly. The court rejected the premise that fairness required IO to permit LANDinc's

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[4] Office of the Auditor General of Ontario, *Ontario Place Redevelopment* (December 2024) at p. 1.
[5] Allison Jones and Liam Casey, "Auditor general slams Ontario Place redevelopment process as unfair, subjective", The Canadian Press, published by CityNews (3 December 2024).
[6] *Land Design Inc, supra* note 1 at para 41.
[7] *Ibid.* at paras 48-50.
[8] *Ibid.* at paras 49 and 52-53.
[9] *Ibid.* at para 55.

continued participation: "*This is a duty owed, not just to LANDinc, but to all respondents*".[10] That duty included even-handed enforcement of the RFP's rules. Although an incumbent inevitably enjoys some advantage from its prior work, using that position to obtain private access to political officials increased the apparent advantage over other bidders. Disqualification was expressly authorized by the RFP and, in these circumstances, was a reasonable means of protecting both the fairness of the competition and its appearance of fairness.[11]

**Protecting your bid**

The key lesson for anyone bidding on public projects: read the contact restrictions and brief the whole team, including junior employees and staff doing existing work on the project. Identify who is off limits, and use the designated procurement contact to clarify how ongoing project communications should be handled. Teams should also designate a single point of contact and escalate any unexpected contact promptly.



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[10] *Ibid.* at para 63.
[11] *Ibid.* at paras 69-71.