

CV 22006805520000

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

MARIO OLIVEIRA JR.

Plaintiff

- and -

Robert Girdi,  
Salvatore Girdi and  
The corporation of The City of Toronto aka  
City of Toronto

Defendants



**STATEMENT OF CLAIM**

**TO THE DEFENDANTS**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the Plaintiff. The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you, or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada, or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

**TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED** if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: M a y 2 , 2 0 2 2 Issued by:

**LOCAL REGISTRAR**  
**COURT ADDRESS:**  
330 University Avenue  
Toronto, Ontario M5G 1R7

**TO:**

**Robert Girdali  
2165 Dufferin St.  
Toronto, ON  
M6E 3R9**

**AND TO:**

**Salvatore Girdali  
2165 Dufferin St.  
Toronto, ON  
M6E 3R9**

**AND TO:**

**Michael Gauthey | Solicitor/Avocat, Prosecutions Section  
City of Toronto | Legal Services Division  
T: (416) 392-7412 | F: (416) 338-7703 | [Michael.Gauthey@toronto.ca](mailto:Michael.Gauthey@toronto.ca)  
The City of Toronto  
City Hall  
100 Queen St. W.  
Toronto, ON  
M5H 2N2**

## **C L A I M**

### **1. THE PLAINTIFF CLAIMS AS AGAINST THE DEFENDANTS JOINTLY AND SEVERALLY:**

- (a) Damages in the amount of \$250,000.00 on account of negligence, breach of duty of care, nuisance, Intrusion upon Seclusion, Malicious Prosecution, Abuse of Process, Wrongful Distress, trespass, battery, assault;
- (b) The further sum of \$850,000.00 on account of damages for emotional distress and, or, related pain and suffering which the plaintiff experienced as a result of the actions and sustained harassment encompassing 30 years of the defendants, or either of them, as set out below;
- (c) The further sum of \$350,000.00 on account of punitive, exemplary, aggravated, consequential, and, or, moral damages;
- (d) The Further \$150,000.00 on account of invasion of privacy, aggravated and moral damages;
- (e) The further sum of \$50,000.00 on account of Compensatory Damages - These include things such as medical expenses, damage to personal property, and theft of personal property to compensate for the injury sustained;
- (f) The further sum of \$100,000.00 on account of Nominal damages as an acknowledgment that the Plaintiff has suffered a technical invasion of rights;
- (g) The further sum of \$100,000.00 on account of breach of obligations of good faith;
- (h) The further sum of \$100,000.00 on account of revocation of rights to use of the parking space as set out below;
- (i) A further sum of \$11000.00 on account of materials and Labour for the construction of the Fence and the demolition and removal of fence;
- (j) A Court Order requiring the defendants to reimburse / remit to the plaintiff any and all monies remitted by the plaintiff with respect to fees and services pertaining to those matters referenced below, being the principal sum of \$3,700.00 or with other amount as may be ascertained;
- (k) An order in the alternative to (i) and (j) that the Fence be allowed to be completed.
- (l) A court finding that the provision of advice and denial of permit by building officials of the City of Toronto and the City of Toronto is

negligent and unreasonable. A reasonable person would accept the building official's conduct and the city of Toronto was improper.

(m) A court finding that issuance of order and prosecution for failing to obtain building permit was negligence by the building officials and acted unreasonably in:

I concluding that a building permit was required for the fence,

II denying the permit for fence,

III issuing order to comply, and

IV in commencing prosecution for failing to comply with order.

(n) An order dismissing the charges against Mario De Oliveira (75176) and De Oliveira Clotilde (75177);

(o) Pre-judgment interest on any, and, all monies found due and owing pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

(p) Costs of these proceedings on a substantial indemnity scale inclusive of applicable taxes;

(q) Such further or other relief as to this Honourable Court may deem just.

2. The plaintiff, Mario Oliveira, is a resident of the City of Toronto, previously the City of York before amalgamation, in the Province of Ontario residing at 2167 Dufferin St. and was, at all material times, a neighbor of the two defendants, The Giraldis or either of them.

3. The defendant, Robert Giraldis, was, during the course of the plaintiff's residence the plaintiffs next door neighbor and son of Salvatore Giraldis. Mr. Robert Giraldis is a persistent drug user who at one time was suspended from his employment of operating the TTC buses because of his drug use and while under the influence of drugs at work while operating and transporting passengers for the Toronto Transit Commission.

4. The defendant, Salvatore Giraldis, is the owner and resident of the property 2165 Dufferin Street adjacent to the Plaintiff, is a retired construction worker and was, at

all material times, a neighbor of the Plaintiff and father of the Defendant Robert Girdali.

5. The Corporation of the City of Toronto, is the organization responsible for the administration of the municipal government of Toronto, Ontario, Canada. As the City of Toronto is constituted by, and derives its powers from, the province of Ontario, it is a "creature of the province" and is legally bound by various regulations and legislation of the Ontario Legislature, such as the City of Toronto Act, Municipal Elections Act, Planning Act, and others. The City of Toronto was amalgamated last in 1998 encompassing several municipalities including the former City of York.
6. The plaintiff states that the defendants, or either of them have harassed, threatened, vandalized, terrorized and were a nuisance as set out below going back over the last 30 years that has continue to this day.
7. A couple of years after the Plaintiffs moved in next door to the Defendants Girdali's in 1985, the defendant Robert Girdali, exhibited concerning and recurring behaviors involving obsessive observation of unsuspecting persons living in the neighborhood. This Voyeurism is a form of sexual perversion (paraphilia) which involved "peeping" at other people who don't know the Defendant was watching them. This behavior was observed for approximately a decade. Robert Girdali was fixated with a single polish female neighbour living adjacent to the Plaintiffs North side dwelling. He also showed an interest with the plaintiffs' sisters as well as with the two twin girls South and adjacent to the Defendants home. The Plaintiff family began to diligently close the curtains especially so in the evening, being careful about their privacy as a way to address this issue of Mr. Robert Girdali voyeurism. Unfortunately, this was the start of Mr. Robert Girdali delinquency which carried through his formative years and has overlapped into late adulthood.
8. For about the next 30 years the Defendant Mr. Robert Girdali has been vandalizing the plaintiff's vehicle and the various vehicles of the Plaintiff family. This has

included puncturing vehicle tires, scratching and denting the automobiles surface, puncturing water hoses, theft of tools and other property. The defendants conduct formed an intentional tort and contrary to the established standards of conduct for all members of society. This civil wrong following and resulting from these antisocial behaviors of the defendant culminated in the intentional interference with one's person, reputation, and property (intentional torts).

9. In early 90s the Defendant Salvatore Giraldi excavated his veranda and extended it along the length of the front of the home, extending it forward from the front as well, thereby increasing the square footage of the veranda and basement space of the home without a permit or registering the square footage increase in the basement space.
10. The defendant also curved the stairway towards the mutual shared driveway without permission from the Plaintiff or permit from the city. These structural changes pose a safety issue, especially for emergency personnel access to the defendants' home if for any reason a vehicle is temporarily parked in the driveway. In that instance there is no entrance to their property as it is blocked if the driveway is occupied. This denies access to the front of the defendant's home or to the back and is a bylaw violation.
11. Another time the defendant Salvatore Giraldi also excavated the front lawn of his home and paved all of it with asphalt. This work was done without permission or a permit from the City of York (before Amalgamation) now the City of Toronto. Mr. Salvatore Giraldi was not and is not allowed to park or occupy the whole of the front yard and was ordered by the City of York to place the lawn back. Mr. Salvatore has instead placed some planters in place of the lawn to thwart and get around the order and by-laws and the City has allowed this. The Girardi's continues to park one or two vehicles on a regular basis occupying the whole of the front yard contrary to the city of York order and to the current City of Toronto By-laws. The

- City of Toronto have not enforced their by-laws in regard to Mr. Giraldi.
12. For several years the Plaintiff owned a snow mobile and removed the snow from the mutual shared driveway himself despite being the responsibility of both the Plaintiff and the Defendant. After some 10 years the Snowmobile broke down the Defendants refused to clean the shared driveway. Instead, the Defendant is opted to park both their vehicle in the front of their home or in the neighbors parking spot out of spite for the Plaintiff.
  13. In the last 35 years the Plaintiff has witnessed the defendant only wash the mutual driveway once with a water hose and another time the defendant swept it with a broom. They refuse to clean or maintain the shared driveway even though they use it regularly to park their vehicles.
  14. Several years ago, the Plaintiff agreed to the defendant's request to pay and replace the asphalt in the mutual driveway since the defendant was replacing the asphalt in the front of his home. The Plaintiff agreed to pay his portion. Mr. Salvatore Giraldi told the contractor without the knowledge of the Plaintiff to lower the amount of asphalt on the Plaintiffs side of the driveway. The mutual driveway was on an angle since the defendant's home is about a foot lower as a result of the homes being situated on a hill. The Defendants actions caused damage to the plaintiff wall and exposed it to water damage from rain and freezing ice.
  15. On one occasion there was a minor flood in the Plaintiff's basement and the plaintiff left the side door open for access purposes while he cleaned up the flood. The Defendant Salvatore came over and threatened the Plaintiffs because there was a small white bag next to the Plaintiff door in the driveway. Mr. Salvatore believes he solely owns the driveway except when it needs maintenance it reverts back to a mutual driveway or like many winters it is not his to clean. The defendants are bullies and vindictive who harass and threaten the Plaintiff and his family.
  16. Some years ago, the defendant had his garage roof redone with asphalt and

willfully and purposely cut one foot into the Plaintiffs roof overlapping and thereby placing the seam joint one foot into the plaintiff's garage as opposed to the middle of the dual and attached garages. This causes a weak area of the joint to be placed not on the concrete wall dividing the structurally connected garages but instead completely on the plaintiff's side where there is likely to be water damage. The roof was cut one foot into the Plaintiffs side and the seam or joint is one foot into the Plaintiffs roof. This area is the weakest point on the roof and the Defendant purposely had the contractors do this so there would be no weak point on his roof by placing it onto the Plaintiffs. The Defendant also took without permission for his own use a 2X10 belonging to the Plaintiff and rapped it with asphalt liner and place it in the middle separating the roofs.

17. On another occasion the Defendant Giraldi took a propane gas tank from the plaintiff BBQ in the back deck and placed his empty one in place of it. Other times the Defendant Giraldi took construction wood from the Plaintiff back yard without permission for his own use.
18. One time the Plaintiffs storm side door in the mutual driveway had not completely closed and Robert Giraldi rammed his car at the door, breaking and damaging the door as he drove up the driveway. He then went casually inside his home as if nothing had happened. The Plaintiff had to contact his insurance company and pay out of pocket deduction because he could not provide any details about Robert Giraldi insurance. The Defendant just simply ignored what he had done.
19. Another time when Robert Giraldi had been snorting cocaine in the backyard, he began kicking the side of the Plaintiff's residence in anger. The Plaintiffs elderly mother went outside to find Robert responsible as Robert complained the back yard was dirty and that he was going to call the police. The Plaintiffs mother told him to call the Police because she would like to tell them that he is a drug user driving Torontonians in the TTC busses. Mr. Robert Giraldi never called the police.



20. Over the years the Plaintiff various cars have suffered and continue to suffer damage from dents to massive scratches from one end to another on vehicles. The Plaintiffs sisters and their spouses have also suffered similar damage to their vehicles over the years. The vandalism was only directed at the Plaintiff and his family.
21. Two summers ago, the plaintiff had to replace 3 water hoses in a two-month period. The Plaintiff alleges the damage was caused by the Defendant puncturing the hose with a sharp object due to the Plaintiff regularly leaving the hose along the driveway and against his home.
22. The defendants always barbecue inside their garage. In the year 2000 the Plaintiff went to take his new Chrysler Jeep out of his own garage and when the Plaintiff opened the Garage door the whole of the garage and inside of the car was full of thick smoke. After several occurrences like this the Plaintiff was unable to use the garage for a few years until he eventually sealed the garage wall separating the two garages so that no smoke from the pressure of the defendant opened garage could not penetrate into the plaintiff's side. It is also a by-law violation and safety issue to have an open fire inside the garage.
23. A Couple of years ago the Giraldis excavated the mutual drive way to repair their side of their foundation. Their contractor placed all the excavated dirt against the Plaintiffs side of the house covering the brick work with mud. After the work was done the Giraldis repaved part of the driveway up until the side of the Plaintiffs home willfully leaving a seam on the plaintiffs' foundation side leaving it vulnerable to water damage and creating a leak on the Plaintiffs side. The defendant is a calculating, vindictive and petty man.
24. The Plaintiff alleges that the Defendant got surveillance camera without permission to place it on the mutual driveway causing an invasion of privacy intentionally intruding, physically or otherwise, upon the seclusion of another being the Plaintiff.

The defendant's conduct was intentional, within which I would include reckless. Defendant invaded without lawful justification, the plaintiff's private affairs or concerns and that a reasonable person including the Plaintiff regarded the invasion as highly offensive causing distress. This intrusion is subject to liability for the invasion of the plaintiff's privacy.

25. The last couple of years the defendants have begun calling and complaining to the city of Toronto on a regular basis. The defendants complain about a single cigarette butt being left in the drive way to everything else. They complained that the Plaintiff was supposedly tearing down an old shed which was not true. They complain about the Plaintiff was building a new shed. The Defendants complained to the city about the Plaintiff planting trees in the front of the home and complained about the Plaintiff parking in the front of his home.
26. The City of Toronto has willfully been negligent, incompetent and a nuisance and has joined and participated in the harassment of the Plaintiff.
27. About 2 years ago the Plaintiff contacted the City of Toronto because he wanted to build a safety fence on the garage. The Roof of the two garages is easily accessible and dangerous to falls. The garage is partly set into the back hill earth on the properties. The back of the garage has earth which is above the height of the back of the garage. The back of the hill is higher than the top of the back of the garage. The Plaintiff explained this to the city officials and they told the plaintiff he did not need a permit.
28. The Plaintiff purchased treated deck wood for building the fence. The Plaintiff removed the old fence at the back dividing the property. The old fence was placed there by the Plaintiffs father decades earlier. Mr. Salvatore Giraldi hurled insults and threatened the Plaintiff if he continued to remove the old fence. At one point the Defendant Salvatore Giraldi tossed a large amount of a liquid from a pale at the Plaintiff and wetting the Plaintiff. This was done during the covid pandemic. Mr.

Giraldi then had the audacity to contact the police who refused to come and assist him.

29. The Giraldis then once more called the city of Toronto and complained. The city inspectors came and stated that the plaintiff had to apply for a permit. The Giraldis continued to complain to the city. The City of Toronto inspectors told the Plaintiff he now needed to hire an engineer and draw up design plans for the application of the permit. This occurred just after the Start of the pandemic. Construction on the fence stopped. Another time the city inspector came by and tried to claim that more work had been done on the fence which wasn't true.
30. The inspector for the city continued harassing the Plaintiff for the drawings at which point the Plaintiff called the architect and put him on the phone with the inspector to prove that drawings had been ordered. Sometime later the inspector kept harassing the Plaintiff for the drawings. The Plaintiff hired another architect to design plans and hopefully provide them sooner. The city inspector then fined the plaintiff even though they knew the plaintiff had hired another architect. This heavy-handed conduct was unfair and punitive especially given that everyone was in the middle of a pandemic. After the Plaintiff paid the fine and the fee for the permit, he was then denied the application.
31. The defendants engaged in some conduct that affects the plaintiffs use or enjoyment of her/his land. The defendants activity is an unreasonable and substantial interference with the plaintiffs use or enjoyment of his property in effect creating a tort of nuisance.
32. The defendants engaged in an intentional infliction of mental distress with their intentions or unintentional conduct.
33. The defendants conduct resulted in an invasion of privacy "intrusion upon seclusion". The defendants are responsible for their actions regardless of their intent at the time.

34. The city stated that the fence violated certain bylaws. However, the bylaws do not apply to this situation. The city is trying to use vague bylaws in the hopes it will stick. Other properties in the neighborhood have similar fences.
35. The city inspectors have engaged in harassment of the Plaintiff and have become a nuisance. City inspectors warned the Plaintiff that he couldn't park his vehicle in the front of his home. The Plaintiff has been parking there for 35 plus years. The city demanded that a barrier be placed in the front of the parking space yet no such demand is made of the Giraldis. The Plaintiff contacted the city of Toronto and after some conversation they have chosen to ignore the issue.
36. The city through its agents' or employees have been prejudiced and racist because their inspectors who approached the plaintiff is of Italian heritage like the defendant Giraldis and the Plaintiff is of French/Portuguese heritage. A bias exists especially from the defendant Giraldis conduct.
37. The city of Toronto has taken legal action against the Plaintiff to force the removal of the fence unlawfully, unfairly, arbitrary and inequitably. The City has charged the wrong parties for the constructing the fence. The city breached the standard of care that is due to its residents.
38. The city of Toronto didn't appropriately regard the manner in which it approaches every other resident in the same manner. The standard of conduct was unreasonable and arbitrary and targeted.
39. There is a relationship of proximity between the parties such that it would be reasonably foreseeable that carelessness on the part of the public body would result in injury to the other party.
40. The city of Toronto acted unreasonably in not issuing a building permit and can be charged under the OHSA.
41. The city of York now the city of Toronto was Negligent in the Building Inspection when Garages were constructed. A "reasonable" building inspection would have

determined the likelihood of a known or foreseeable harm, a fall from an easily accessible roof as well as the gravity of the harm, and the burden or cost that would be incurred from an injury or death. A municipality of the city of Toronto may also be liable for negligence if it is reasonably foreseeable that a failure to enforce a property standards by-law will result in harm or injury to another or another's property or if a remedy to correct the issue is not granted.

42. The inspections were not carried out according to an inspection scheme based on good faith policy decisions. Any rate payer is in close enough proximity to the Township to be owed a duty, and in the cases of building inspections, it is well settled that the Building Code is there to protect owners. If a municipality is negligent in its inspections, it is responsible for the losses.
43. The city of Toronto is placing the Plaintiff and owners in a position of contributory negligence. In doing so the City itself is negligent.
44. The City of Toronto is being unreasonable in not allowing the Plaintiff to secure the Roof of his Garage. In doing so the City of Toronto is creating a safety issue to go unaddressed and uncorrected and in violation of the plaintiff rights. The Plaintiff has a right to secure the safety hazard that the Garage roof poses not only to himself but to anyone that ventures onto the property. The plaintiff has a lawful right to secure his property in a safe manner and perimeter of his property to trespass. The City of Toronto is being negligent and creating a cause of action in tort for negligent actions resulting in potential injury or death.
45. The Plaintiff has a constitutional right to the benefits and use of his property in a safe and sound manner. If he is deprived of that then the defendants are liable for the plaintiff's loss of use.
46. The City of Toronto agents acted in bad faith and breached the duties of office. The city has acted in an arbitrary unfair manner. The City of Toronto and the other defendants have deprived the plaintiff the use and benefit of his property out of

malice and indifference.

47. The Plaintiffs alleges negligence and breach of Charter rights in relation to the City of Toronto policies and procedures regarding administrative and enforcement actions. City of Toronto Public authorities are liable for their negligent operational decisions and for careless conduct in implementing legislation or policy. These operational decisions made by City of Toronto Staff exposes the City to liability. A duty of care was owed to the Plaintiff by public authorities who breached the standard associated with that duty.
48. The City of Toronto targeted enforcement on the plaintiff parking reduces the value of the property and it ought to pay for the financial harm it inflicts on the plaintiff.
49. The city of Toronto violated section 15 of the Charter which protects and promotes substantive equality of opportunity for all.
50. The city was negligent when it informed the plaintiff, he didn't need a permit for the fence. This caused the Plaintiff to spend funds on the build causing financial harm to the Plaintiff if he is required to take down or modify the fence.
51. The Defendants maliciously or recklessly engaged in communications or conduct so outrageous in character, duration, and extreme in degree so as to go beyond all possible bounds of decency and tolerance. the defendant had an intent to cause fear, anxiety, emotional upset or to impugn the dignity of the plaintiff, and the plaintiff suffered the harm intended by the defendants. The Tort of Harassment was severe or harsh enough to cause actual emotional distress. The Defendants caused an infliction of mental distress to the Plaintiff.
52. The Defendants conduct towards the plaintiff was outrageous, flagrant, wanton, extreme and insensitive. The defendant intended to cause emotional stress, had a reckless disregard for causing the plaintiff to suffer emotional harm. The impact of the conduct was known by the Defendants to be substantially certain to follow.
53. The defendants engaged in a malicious prosecution of the Plaintiff, conduct so

harsh, vindictive, reprehensible and malicious or high handed as to offend the court's sense of decency. The Defendants engaged in a clear abuse of process.

54. As a result of the negligence, harassment, breach of obligations and duty of care on the part of the defendants, or either of them, as set out herein, the plaintiff has sustained damages including, without limitation, legal costs and other out-of-pocket expenses.
55. As a result of the negligence, breach of fiduciary obligations on the part of the defendants and related facts and circumstances, as set out above, the plaintiff has sustained emotional suffering, anxiety. that, as a result, the plaintiff would sustain damages, including damages arising from inability to return to gainful employment. The plaintiff claims recovery of such damages as against the defendants in these proceedings, the full extent of which are presently unknown but will be provided, to the extent possible, prior to the trial of these proceedings.
56. In addition, the plaintiff states that based upon the facts and circumstances, as set out above, the conduct on the part of the defendants, or either of them represented a flagrant breach of obligations owed to the plaintiff, at law, for which it is just and appropriate for the plaintiff to recover additional punitive, aggravated, exemplary, consequential, and, or, moral damages as well as damages on account of breach of good faith obligations. The plaintiff claims, as against the defendants, recovery of the same in these proceedings.

**THE PLAINTIFF** proposes that the trial of this action take place at the City of Toronto.

DATE: May 2, 2022

**MARIO OLIVEIRA**

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OLIVEIRA, MARIO

-and-

Robert Girdi, Salvatore Girdi and The Corporation of City of Toron.  
City of Toronto

Plaintiff

Defendants

CV 22 20 680 552 000

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ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceedings Commenced at Toronto

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STATEMENT OF CLAIM

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