

FEDERAL COURT

BETWEEN:

THOMAS ALBERT GOLDTHORPE

Applicant

and

MINISTER OF NATIONAL REVENUE

Respondent

NOTICE OF APPLICATION FOR JUDICIAL REVIEW PURSUANT TO SECTION 18.1 OF THE *FEDERAL COURTS ACT*

NOTICE OF APPLICATION TO FEDERAL COURT FOR JUDICIAL REVIEW

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: _____

Issued by: _____

(Registry Officer)

Address of

local office: 180 Queen Street West

Suite 200

Toronto, Ontario

M5V 3L6

TO: MINISTER OF NATIONAL REVENUE

c/o Canada Revenue Agency

7th Floor

555 MacKenzie Avenue

Ottawa ON K1A 0L5

Respondent

AND TO: ATTORNEY GENERAL OF CANADA

Ontario Regional Office

Department of Justice Canada

120 Adelaide Street West, Suite 400

Toronto, ON M5H 1T1

Application

1. THE APPLICANT makes an Application for:

- (a) Judicial review of the decision made by the Canada Revenue Agency (“
CRA”) issued on 28 September 2023 to reject my GST/HST New
Housing Rebate application.
- (b) A Mandamus ordering the CRA to approve my GST/HST New Housing
Rebate application.
- (c) In the alternative, a Declaration that the threshold for extraordinary
circumstances has been met and an Order for the CRA to reassess my
GST/HST New Housing Rebate application.
- (d) In the further alternative, an Order for the CRA to reassess my GST/HST
New Housing Rebate application.
- (e) Such further and other relief that this Honourable Court deems just.

2. THE GROUNDS FOR THE APPLICATION are:

Background:

- (a) My GST/HST New Housing Rebate application is for my owner-built
home.
- (b) CRA determined that my base date was 14 June 2019.
- (c) Barring extraordinary circumstances, my application had to be received
by CRA within two years of my base date. In this case that would have
been by 14 June 2021.

- (d) My application was rejected as it was received on 18 August 2021 or a little more than two months after the date stated in point (c) above. It was determined that my application was a) valid in all respects except for when it was filed, and b) would be a valid application if extraordinary circumstances were present.
- (e) CRA determined that my application did not meet the definition of extraordinary circumstances and rejected my final allowable appeal on 28 September 2023.

Extraordinary Circumstances:

- (f) Page 12 of the GST/HST New Housing Rebate handbook (RC4028(E) Rev. 22) outlines the ability of a late-filed rebate application for an owner-built home to be accepted due to extraordinary circumstances.
- The exact wording is:

Late-filed rebate applications

If, due to extraordinary circumstances, you were prevented from filing your rebate application for an owner-built home by the applicable deadline, we will consider a request to accept your late-filed rebate application. Such extraordinary circumstances may include: natural or human-made disasters, such as a flood or fire; civil disturbances or disruptions in services, such as a postal strike; serious illness or accident; or serious emotional or mental distress. We will also consider a request to accept a late-filed owner-built home rebate application where the delay resulted primarily from our actions, for example if we provided you with inaccurate information.

Note

This applies only for owner-built homes. It does not apply if you purchased a house from a builder.

- (g) My application clearly falls under this definition as:

(h) I was a primary caregiver for three young children who were isolated at home during the pandemic with no external supports permissible, due to lengthy and repetitive lockdowns. The two oldest (3 and 6 years old at the start of the pandemic) were required to attend virtual school on a set schedule and be occupied for the remainder of the day. The youngest (9 months old at the start of the pandemic) needed constant attention. At the same time, I continued to work in a highly demanding job (which was even busier due to COVID) that had me working around the clock, and from home where I was sharing the space with my children. I live/work in Toronto, which suffered through the longest/strictest lockdowns within Canada. Putting it all together, the COVID pandemic created serious emotional and mental distress over multiple years as I had to be both a primary caregiver to my children 24-hours a day, while juggling a demanding full-time job which became even more demanding with COVID. It's clear that this application would have been filed on time without the serious mental and emotional stress that COVID brought.

(i) COVID clearly delayed my ability to collect the 134 separate receipts needed to make this filing, as I had to do everything virtually.

Understandably, it takes a lot longer to get a receipt via multiple emails to various parties than getting a paper receipt directly from the physical location itself. All of this would have been done a lot quicker without COVID.

- (j) My entire family contracted COVID on a staggered basis through June/July of 2021, which held up the final submission of the rebate application.
 - (k) COVID had a once in a generational impact on society that the spirit of this rule was designed to account for.
 - (l) Given these facts and the rules in place, it is clear that my application should have been approved given the presence of these extraordinary circumstances.
3. The Applicant relies on the following statutes and rules:
- (a) *Federal Courts Act*, R.S.C., 1985.
 - (b) *Excise Tax Act* R.S.C. 1985 (section 256).
 - (c) *GST/HST New Housing Rebate handbook* (RC4028(E) Rev. 22)
4. This Application will be supported by the following material:
- (a) Original GST/HST New Housing Rebate application submission dated 18 August 2021.
 - (b) CRA GST/HST New Housing Rebate application rejection letter dated 11 February 2022.
 - (c) CRA GST/HST New Housing Rebate application rejection letter dated 28 September 2023.
 - (d) Impact statement from Barbara and Ronald Goldthorpe dated 8 August 2023.
5. The Applicant request that the CRA send a certified copy of the record that is not in the possession of the Applicant but is in the possession of the CRA in relation to this matter.

October 26, 2023



Thomas Goldthorpe
1351 Mount Pleasant Rd.
Toronto ON M4N 2T4
Tel: (416) 432-2995
Email: tgoldthorpe@hotmail.com