

## Publisher's Note

An Update has Arrived in Your Library for:

<b>Please circulate this notice to anyone in your office who may be interested in this publication.</b> <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

<b>LIMITED PARTNERSHIPS</b> <b>Lyle R. Hepburn</b>  <b>Release 2024-3● April 2024</b>
--

This text is a thorough guide to the law of limited partnerships in Canada. It contains relevant legislation and jurisprudence from each province and the territories. It also provides valuable forms and precedents as well as tax valuations. This publication offers an index for selected legal literature on limited partnerships, which includes citations to secondary legal literature from both the United States and the Canadian legal community. The materials indexed are useful both for theoretical studies and as an aid to the practice of law.

### What's New in this Update:

This release features the addition of an updated version of National Instrument 51-102 (on or after January 1, 2011) — Continuous Disclosure Obligations in Chapter 15. Canada with was amended on June 9, 2023. This release also features updates to Chapter 20. Ontario including updates to the case law annotations under the Limited Partnerships Act, and updates to the case law Annotations to the Partnerships Act. This release also

---

THOMSON REUTERS®

#### Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

features updates to the procedural summary concerning Registration of Limited Partnerships and Extra-Provincial Partnerships in Appendix. PS. Procedural Summaries.

## **Highlights**

**Ontario - Limited Partnerships Act – Section 10 – Rights of Limited Partner** – Justice Kimmel agreed that was, in and of itself, a breach of the General Partners’ duties. The General Partners owed a general duty of honesty and good faith under Article 8.4 which required them to respect the rights of the Limited Partners under both the Limited Partnership Agreements and the Act. Those include the rights to inspection and production of documents and information about the Limited Partnerships under s. 10(a) and (b) of the Act and to examine the state and progress of the Limited Partnerships’ business under s. 12(2)(a) of the Act. This would include access to general ledgers, bank statements and financial records. The obligation of the Original General Partners to prepare and produce Semi-Annual and Annual Reports and financial statements for the Limited Partners pursuant to Articles 7.2 and 7.3 of the Limited Partnership Agreements did not supplant the basic rights of the Limited Partners to information and documents. Disclosure of records and documents is a fundamental right of an investor. The Tridelta Funds should not have had to go through the efforts that they did to obtain what was eventually produced, nor should they have been denied access to basic financial records of the Limited Partnerships, including general ledgers and bank statements. The Original General Partners had, as of April 8, 2021, failed to facilitate access to and disclosure of the books and records of the Limited Partnerships in breach of Article 7.1 of the Limited Partnership Agreements and ss. 10 and 12(2) of the Act. This was default by the Original General Partners sufficient to support the validity of the Special Resolutions pursuant to Article 8.10 of the Limited Partnership Agreements. Accordingly, the Original General Partners were removed effective May 10, 2021 by virtue of the April 8, 2021 Special Resolutions and the May 12, 2021 Appointing Resolutions, by operation of Article 8.10 of the Limited Partnership Agreements: *Tridelta Investment Counsel Inc. v. GTA Mixed-Use Developments GP Inc.*, 2023 CarswellOnt 14870, 2023 ONSC 5099 (Ont. S.C.J.) [Commercial List]

**Ontario - Partnerships Act – Section 2 – Partnership** - Justice Dineen concluded that the project was a partnership between the defendant and the tribe and that Reda was acting as an agent for this partnership when he contracted with the plaintiff. While Justice Dineen believed that the defendant was concerned about the legality of anyone but the tribe having a formal ownership role in the project, he and the tribe did intend to share profits, and he asserted a mutual

right of control or management over the enterprise. Justice Dineen inferred that the concern about legality was likely the explanation for the lack of documentation about the defendant's role and the relative secrecy about his involvement at the time. In Justice Dineen's view, the conversation the defendant had with George was telling evidence that he expected to directly profit from the project. The evidence of all participants was that there was broad excitement about the scope of the project and the potential to reproduce it on other tribal lands. George described the defendant telling him that his involvement in the project and in future such projects that they might undertake together could move George to a completely different level of personal wealth. On George's evidence, the defendant presented himself as someone who was exercising a measure of control over the project, not as merely a passive lender. While Justice Dineen believed the defendant was motivated in part by wanting to provide economic assistance to another Indigenous community, this conversation showed that he also expected the project and subsequent such projects to enrich non-Indigenous businesspeople such as George. Justice Dineen concluded that the defendant was in a partnership with the Tribe where he supplied the funds and some expertise and management through Reda while the Tribe supplied labour, the land, and the legal authority to proceed: *Duninger Corporation v. Montour*, 2023 CarswellOnt 14299, 2023 ONSC 5152 (Ont. S.C.J.).

**Procedural Summaries – Registration of Limited Partnerships and Extra-Provincial Partnerships** - The summary has been revised to reflect the amendments to the Act pursuant to the *Less Red Tape, Stronger Economy Act*, 2023, S.O. 2023, c. 9. The amendments came into force on October 1, 2023 and provide that the record of limited partners may be maintained in any form provided that the record is capable of being reproduced in an accurate and intelligible form within a reasonable time. Amendments have been made to permit the inspection of the records remotely at any time by means of any technology and to permit the making of copies or extracts by such means. The Minister is authorized to make regulations governing the inspection of specified records.

## ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView

- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages