



Concerned Residents Coalition
Working to Protect Your Community and Environment

Newsletter October 13, 2016

BIG NEWS!

OMB decision is to Adjourn Hearing on Hidden Quarry until JDCL re-applies to GET for a zoning amendment under the new GET zoning bylaw!

Just this morning we received the attached decision from the OMB, written by Vice-Chair Steven Stefanko, stating: “It is ordered that this Hearing be adjourned *sine die*, to be reconvened at a date to be determined following receipt by the Board of the requisite appeals related to the Subject Property...and those appeals will then be heard along with the Licence Application.”

Clearly our lawyers had not only correctly flagged the crucial issue of the repealed GET bylaw, but they had also presented the most appropriate and strongest legal arguments for the adjournment, backed by Halton Region and Guelph Eramosa Township lawyers. They found that the **OMB Act does not give the Board jurisdiction to make a decision on an appeal of a bylaw which no longer exists/has been repealed and replaced**. JDCL’s lawyer tried, without success, to argue that there was room in the Act for the OMB representative to shift an appeal from an old to a current by-law.

It was also made clear during the legal discussion by GET lawyers that the **Township had met all requirements of the Planning Act in providing public notice that the bylaw was under review**. The fact that JDCL did not appeal the revised bylaw by the September 1, 2016 deadline could not be attributed to any procedural errors on the part of GET Township.

Finally, knowing how much investment all Parties had made into this case so far, Mr. Stefanko states: “Although it is arguable as to whether the passage of the New By-law and its repeal of the Former By-law have resulted in unintended consequences, such consequences...cannot, in law, override the express language of the Planning Act and the specific powers conferred therein.”

We fully expect that JDCL will apply again to GET under the new bylaw for re-zoning. What is new, and to the benefit of the environment which CRC is working to protect, is that any re-zoning approved by Township will have to be approved by Wellington County and included in the new **Official Plan (approved in 2014) which has much more stringent environmental requirements for land use changes** and which has designated the proposed site lands as ‘Greenlands’, ‘Core Greenlands’ and ‘Prime Agricultural’ with a ‘Significant Woodland’. In addition, the new Official Plan applies policies protecting the Paris Moraine and its ground and surface water functions – the proposed quarry site is in the Paris Moraine.

It is hard to predict, but **it could take quite a long time before we find ourselves once again at an OMB Hearing on the Hidden Quarry** – months, maybe years depending on schedules at all levels of the process.

Clearly this will give CRC time to bolster its arguments and we have lots of irons in the arguments fire. It will also mean that we must continue to broaden our supporter base, to raise the profile of the case and to keep all our elected representatives (including Wellington County now!) alert and onside. It will no doubt mean that we will have to raise more funds.

Now, however, is the moment to reflect on our success to date and on the high quality of our lawyers and of the good attention paid by our expert witnesses who were in attendance in the last two weeks as well. CRC is ready for the next stages of this process, especially because, in parallel, the provincial **review of the OMB** is ongoing; the **review of the Greenbelt** and provincial water resources is high on the public agenda these days; and because the **new Official Plan** sees the Hidden Quarry site through much more green-tinted glasses – recognizing its place in the environmental mosaic that is our neighbourhood!

Let’s all take a deep breath together! We are closer to our goal!! We will win!!