

# The ROCKWOOD Miller



## LPAT Chair to Hidden Quarry Hearing: 'Decision made on merit, not theatrics'

By: Vivien Fleisher

After 26 days, 41 witnesses, 30 experts, and 171 exhibits, LPAT Chair Scott Tousaw concluded the hearing into the Hidden Quarry application by James Dick Construction Ltd. (JDCL) on the heels of two solid days of final arguments.

JDCL lawyer David White went first, defining his client as a "family-owned private company" in contrast to other "vertically integrated multinationals" in the GTA that own most of the amabel operations, going on to cite aggregate employment figures, the importance of aggregate, and the desirability of the dolomite stone found many meters below the water table. He followed up with a scathing characterization of the CRC as a "ratepayer group" that formed early, raised funds and collectively suffered from "confirmation bias". This opening salvo set the tone; all arguments that followed were attempts to discredit the CRC's experts and members. His main focus was hydrogeology; CRC expert Gary Hunter was in his crosshairs for most of the morning, and he asserted that the absence of groundwater modelling expert Dr. Emil Frind from the hearing was somehow a sign of defeat. New to the hearing was JDCL's plan to construct another hydraulic barrier on the northeast corner. CRC lawyer Chris Barnett later commented that JDCL's pattern throughout has been to

change things "on the fly" to make their application more palatable. Halton Region lawyer David Germain wryly noted "a hearing is not a design charette", going on to itemize incomplete work by the applicant that only compounded uncertainty around the proposal that Guelph/Eramosa council turned down. White asserted the town chose to ignore peer reviews without any solid reason, going on to claim quarry processes would improve things like the environment and species habitat, and that proposed blasting methods are "the way of the future", downplaying any danger.

David Germain was next and although Halton Hills' primary concern is the significant increase in truck traffic through Acton's downtown, he was comprehensive in his criticism of the application given JDCL's history of errors. Even worse, he added, was that none of the agencies caught them, further eroding the community's confidence in the application and boding poorly for post-approval practices.

GET lawyer Eileen Costello gave only a brief summary, since the town was officially opposed to but not fighting the quarry at the hearing. However, she took exception to White's characterization of the town as having no rationale for turning it down and "ignoring the peer review". Rather, Costello said they were entitled to make that determination based on community consultation, in what she called

good planning, while recognizing the authority of the tribunal. She added that hearings had to be re-scheduled because JDCL failed to notice the town's two-year comprehensive process to replace their entire set of bylaws, refuting an earlier inference by White that this was somehow an underhanded move to scuttle the application at "huge cost" to JDCL. Rather than acknowledge their error, White maligned the township.

Finally, CRC lawyer Chris Barnett took the stand, saving his most powerful words for the end that the least attention paid by the applicant was to the community in which they hoped to profit.

The complete absence of dialogue with neighboring landowners, farmers, businesses and residents only served to deepen community distrust. CRC's last expert, planner Mark Dorfman, made this the central theme of his testimony, and Barnett galvanized it in his summary by putting front and centre the people that live and work there. The applicant's total lack of consultation with those most impacted was reason enough in his mind to reject the application.

Chair Tousaw had the last word. "This decision will not be made quickly" he said, going out of his way to thank the public and CRC for their calm, considerate demeanor throughout the weeks-long process. A decision could take up to six months to reach.