

August 21, 2009

Mr. Christopher A. Wayland
McCarthy Tetrault LLP
Suite 4700
Toronto Dominion Bank Tower
Toronto, Ontario
M4K 1E6

Dear Mr. Wayland:

Re: Site 41, Simcoe County

I write as counsel to Ms. Barlow and the Council of Canadians.

Our clients have forwarded a copy of the letter Ms. Barlow received today from Warden Tony Guergis. I have also had an opportunity to review the agenda for the Council Meeting scheduled for Aug. 25 that is posted to the County's website.

Both the letter and the agenda raise concerns. These relate to matters which we understand Council is to debate and vote upon at this upcoming meeting, but which are not referred to by the Warden's letter or the Council Agenda.

Of particular concern is the absence of any specific reference to debate on a motion to declare a moratorium on any further construction at Site 41. As your client will know, at least one member of Council has advised of her intention to bring forward a motion substantially similar to the one Ms. Barlow attaches to her letter of July 28, 2009 - for debate and resolution at the Aug. 25th meeting. As the Warden's letter acknowledges, Ms. Barlow has explicitly requested the right to address Council on such a motion, and has done so on behalf of Mr. Stephen Ogden as well.

The Warden suggests that instead of appearing as a delegation before Council, Mr. Barlow, and we presume Mr. Ogden as well, participate in an information session that is being scheduled for next Tuesday morning from 9:00 to 11:00 AM. While Ms. Barlow welcomes the opportunity to participate in that session, it is not a substitute for the opportunity to appear before Council as a

delegation on a motion similar to the one she has proposed. Accordingly, we are asking for your client's assurance that he will permit her to do so under the County's procedural bylaw.

This brings us to the motion for a moratorium on site construction itself. It is our understanding that you indicated to the Court, during proceedings before Mr. Justice Lauwers on August 14, 2009 that if such a motion was brought forward at the Council meeting on August 25, 2009, it would be accepted and voted upon. It is also our understanding that a similar representation was made to the Court by Mr. Green, who also appeared on behalf of the County. Would you please confirm that in fact this is your client's position, namely that if such a motion is brought forward for debate and a vote on Aug. 25, 2009, it will be read and declared by the Warden to be in order under section 14.1 of the County's procedural bylaw.

Furthermore, we understand that the Clerk has raised a concern that such a motion might not comply with the requirements of s. 14.5 of the County's procedural bylaw. In our view this view is incorrect. First, a moratorium on site construction is entirely consistent with previous motions relating to construction at site 41, and in particular with the stipulation by Council at meetings in January and June 2007, that its specific direction be sought for cell construction at Site 41. As you know, we believe that direction was never properly given.

However, even if one takes the view that budget approvals for 2008 and 2009 were sufficient to satisfy Council's motions, which we do not, nothing in those budgetary approvals committed staff to proceed with site development according to a specific schedule, or to do so notwithstanding significant outstanding concerns about the suitability and safety of Site 41.

Accordingly we are asking for your client's assurance that he is of the view, and will so represent, that a motion along the lines discussed would be properly before Council for debate on Aug. 25, and would be in accordance with the rules of Council.

We have related concerns about two other matters also relating to Site 41. These regard the legal actions that have been brought against certain local residents, and the response the County will make to the demands and a recent order by the Information and Privacy Commissioner (IPC) for Ontario. Would you please confirm that in accordance with similar representations made to the Court, that both of these matters as well will be considered by your client to be properly before Council for debate on Aug. 25.

Finally, we understand that an in camera session of Council is scheduled for the Aug. 25th meeting in regard to the IPC matter. Would you please confirm that no such session is contemplated, or will be held, in relation to the motion for a moratorium or the other matter discussed before Mr. Justice Lauwers. We know you will appreciate the great concern that our clients and others would have with any lack of transparency associated with Council decision making concerning these matters.

Given the time constraints, may we please have your response by 10:00 AM Monday morning.

We trust that your client appreciates the need to facilitate a substantive and meaningful debate before Council about the future of site 41, and will do nothing to impede or frustrate such a debate.

Sincerely,

Steven Shrybman
SS:lr/cope 343

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