



Information and Privacy
Commissioner of Ontario
Commissaire à l'information
et à la protection de la vie privée de l'Ontario

VIA COURIER

PERSONAL & CONFIDENTIAL

December 8, 2009

E. Marshall Green
Graham Wilson & Green
190 Cundles Road East
Suite 107
Barrie ON L4M 4S5

Dear Mr. Green:

RE: Orders MO-2449 & MO-2416
Appeal MA07-365
Institution File Number: A17-5520-07

On August 21, 2009, I issued Order MO-2449 to the County of Simcoe (the County), which contained the following provisions:

1. I order the County to immediately take all steps, including legal proceedings if necessary, to obtain the calibrated hydrogeological model and input data from Jagger Hims.
2. I order the County to issue an access decision to the appellant within 30 days of receipt of the records, in accordance with Part I of the Act, treating the date of receipt of the records as at the date of the request.

Simcoe County Council then passed two resolutions relating to Order MO-2449 and "related matters" at its meeting on August 25, 2009. These resolutions state:

THAT County Council instruct legal counsel to seek a judicial review of the Information and Privacy Commission's Order # MO-2449 and related matters and continue efforts in the interim to persuade Genivar [the owner of Jagger Hims] to release the calibrated model;

THAT the Information and Privacy Commission be approached to determine if a further peer review would satisfy its Order # MO-2449.

Tribunal Services Department
2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

Services de tribunal administratif
2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel: 416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9188
TTY: 416-325-7539
www.ipc.on.ca



On October 29, 2009, we received a letter from Christopher A. Wayland of McCarthy Tétrault which stated that his firm had been retained to bring an application for judicial review of Orders MO-2449 and MO-2416. We have not yet been served with this application, nor have we been served with a stay application.

As noted above, Order MO-2449 required the County to immediately take all steps, including legal proceedings if necessary, to obtain the calibrated hydrogeological model and input data from Jagger Hims, and to then issue an access decision to the appellant. It is my understanding that on November 17, 2009, you presented a proposed settlement agreement to the appellant that was negotiated with Genivar, but the appellant did not accept it. Consequently, Appeal MA07-365 has not been resolved and the compliance issues relating to Order MO-2449 remain outstanding.

Accordingly, I am asking the County to either comply with Order MO-2449 or serve an application for judicial review on this office no later than **December 18, 2009**.

An application for judicial review does not automatically stay the operation of an order issued by this office. However, this office can grant a stay where warranted. If you wish to have the order stayed pending the hearing of the application for judicial review, please serve us with your application to stay the order, together with your application for judicial review.

Yours truly,



Colin Bhattacharjee
Adjudicator

cc: Christopher A. Wayland, McCarthy Tétrault
Juli Abouchar, Willms & Shier
Appellant