

STEPHEN GARROD BARRISTERS & SOLICITORS

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DELIVERED BY COURIER

October 22, 1987

The Honourable Ian G. Scott
Attorney General
18 King Street East
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Toronto, Ontario
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COPY

Dear Sir:

Re: Intervenor Funding, Halton Landfill Hearing,
File No. CH-86-02

We are the solicitors for the Milton Area Citizens' Coalition and for nine landowners who would be expropriated if proposed Site D, in the Town of Milton, is approved as the next landfill site in the Region of Halton.

The Region of Halton is seeking approval for one of two alternative sites at the Consolidated Hearing which is presently underway. This hearing commenced May 5, 1987 and is now expected to extend to at least June, 1988. In total, it is expected to last in excess of 125 days.

The Region's applications before the Board are structured so that the Board can approve either Site D, in the Town of Milton, or Site F, in the City of Burlington. The Burlington site is opposed by both the City of Burlington and ratepayers in the City of Burlington. The landowners at the Burlington site support the approval of that site for landfilling. The Milton site is opposed by the Town of Milton and by our clients. The Milton Area Citizens' Coalition is comprised of ratepayer groups and other interest groups in the vicinity of Site D. The nine individual landowners whom we represent are the only landowners at either Site D or Site F who could be expropriated against their will as a result of this hearing.

Prior to this hearing commencing, the Provincial Cabinet authorized the Minister of the Environment to make available funding in the amount of \$30,000.00 to assist intervenor groups to participate in this decision-making process. It has been the recent practice of the Ministry of the Environment to make the sum of \$30,000.00 available to intervenors at such environmental hearings. In this circumstance, however, this sum of money is simply not sufficient to allow for adequate participation by the affected intervenors in this hearing.

Firstly, this is the first hearing in Ontario at which a proponent has applied for approval of one of two alternative sites. The decision by the proponent to structure its undertaking in this way has necessitated the participation of intervenor groups around both sites. Normally, intervenor groups have a common objective and can reasonably be expected to consolidate their efforts and share available funding. This is obviously impossible in the Halton situation.

Secondly, this hearing will extend far longer than any previous environmental hearing for which funding has been made available.

The funding panel of the Environmental Assessment Board divided the \$30,000.00 made available by the Ministry of the Environment equally between the intervenors opposed to the Burlington site and the intervenors opposed to the Milton site. Consequently, our clients received only \$15,000.00 to assist them in their intervention at this hearing.

Considerable efforts have been made by our clients to raise funds from their community. Over \$25,000.00 of community funds have been raised and committed for legal and expert costs related to this hearing. In addition, a Legal Aid Certificate for one half of legal fees and disbursements was obtained on behalf of the Milton Area Citizens' Coalition and a loan of \$20,000.00 was obtained from the Town of Milton. At the conclusion of this hearing, we intend to ask the Board to make an order awarding our clients their costs of participating in this process. We hope that a sufficient amount will be received to completely repay the Town of Milton, the Legal Aid Plan and all funds received from the Ministry of the Environment.

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Notwithstanding these efforts, the protracted nature of this hearing and the high costs of participating in an effective manner have all but depleted these reserves. To put these costs in perspective, the Region of Halton has budgeted almost \$2,000,000.00 for legal and expert fees and disbursements for this hearing. That is over and above the costs of having its experts prepare the reports which form the basis for their evidence at this hearing. In addition, the City of Burlington initially budgeted \$800,000.00 for this hearing and the Town of Milton initially budgeted \$500,000.00. We understand that the Town of Milton has recently approved a budget increase of \$250,000.00, making its total budget for this hearing \$750,000.00. In contrast, our clients' total budget for legal and expert fees and disbursements is presently in the order of \$140,000.00, based on attending 100 days of the hearing.

Even though I believe our clients' fundraising efforts have been exceptionally successful, a very large deficit is projected if full participation throughout this hearing is continued. Although we intend to ask the Board to award costs to our clients at the end of the hearing, there is no guarantee that a cost award will be made, or that it will be sufficient, if it is made. This makes it impossible to make commitments to expert witnesses for their fees and expenses and therefore limits the ability of our clients to present their case as thoroughly as we believe it should be presented. It also makes their continued representation by our firm at the hearing an extremely difficult proposition for both our clients and ourselves.

I am therefore writing to ask you to please consider urging your Cabinet colleagues to take the unusual step of authorizing further intervenor funding for this particular hearing. Even if it was not a hearing of unusual length, intervenor funding of \$60,000.00, rather than the normal \$30,000.00, would have been appropriate in our view, given the dualistic nature of the Region's application and the obviously divergent positions of the two main intervenor groups.

We would very much appreciate your urgent consideration of this matter. The hearing is continuing and we expect to have to call evidence on behalf of our clients in January,

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1988. If they are to be able to continue to be properly represented throughout this hearing, it is urgent that additional intervenor funding be approved as soon as possible.

Thank you for your consideration.

Yours truly,

STEPHEN GARROD

SG/ld/871026

cc: The Honourable David Peterson,
Premier of Ontario

cc: The Honourable Jim Bradley,
Minister of the Environment