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October 9, 1987

Environmental Assessment Board
1 St. Clair Avenue West
5th Floor
Toronto, Ontario
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Attention: N. Davidovic, Assistant Board Secretary

Dear Sirs:

Re: Intervenor Funding
Region of Halton - Proposed Landfill Site

Thank you for your letter of October 5, 1987. As we discussed in our telephone conversation on October 6, 1987 I believe that my clients should be entitled to a reasonable degree of privacy with respect to this matter, so long as that is consistent with proper accountability.

Under the circumstances, I believe that the affidavit which was provided to you by our letter dated September 17, 1987 should be sufficient evidence that the Coalition has spent \$10,000.00 of its own money, without copies of the invoices from the consultants having to be submitted.

This is based on a belief that funding provided by the Ministry of the Environment to intervenors should be as free from "strings" as possible. An intervenor group must be able to determine a strategy with its solicitor that can be kept confidential. That strategy should be able to include retaining and obtaining advice from expert consultants which it may wish to keep confidential.

Although I recognize that the Environmental Assessment Board has established a procedure of separating the funding function from the hearing function by having different panels of the Board deal with these two functions in any particular case, I still believe that it is objectionable in principle for a client and its solicitor to have to disclose this type of information to a funding panel.

Nevertheless, I recognize that the Board is doing its best to administer a funding policy which, in my submission, is inadequate and should be replaced as soon as possible with a more comprehensive and confidential scheme. As a compromise to your request for submission of "the supporting documents from the consultants" I would like to propose that I submit these to the funding panel only at the conclusion of the hearing which is presently underway. This would enable my clients to be certain that this information is 100% within their control for the duration of the hearing.

I also consider that your proposal that we must submit copies of future invoices to the funding panel for its approval before they will be paid to be objectionable for the same reasons. Our letter of September 17, 1987 proposed that the \$15,000.00 be paid to me in trust and that I would administer those funds in accordance with the Board's Order and in accordance with the requirements of the Law Society of Upper Canada. It is my submission that this mechanism should provide the Board with all of the accountability that it should require in these types of situations. I am prepared to make a full report to the Board at the conclusion of the hearing indicating how these funds were disbursed and providing copies of any invoices which were paid from this money. Any excess, which is not contemplated in the present case, would be refunded to the Ministry of the Environment through the Board.

The suggestion that invoices must be submitted and approved prior to payment implies that the Board retains some right to disapprove of certain expenditures. In my view this is a completely unwarranted and unacceptable intrusion into the confidential relationship that must exist between a solicitor and his client and their consultants.

With respect to your request for an up-dated budget, I can inform you that our budget for expert witnesses is \$25,000.00. Of that amount, \$10,000.00 has been paid by my client and the remaining \$15,000.00 is anticipated to be covered by the funding from the Ministry of the Environment. Any excess that is required will be the responsibility of the client and can hopefully be recovered by an award of costs from the Joint Board. Our budget for legal fees and disbursements is substantially higher than it was at the time that the application for funding was made. This hearing is now projected to last substantially longer than was originally anticipated and costs have escalated accordingly. Since the funding order

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makes it clear that the funding was not made available for legal fees and disbursements, it is my position that our budget in that regard is not relevant to your consideration.

Please let me know if my proposed mechanism for reporting to you is acceptable. I believe that it strikes the appropriate balance between confidentiality and accountability. I look forward to hearing from you.

Yours truly,

STEPHEN GARROD
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