

# Orangeville Citizen

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Thursday, June 11, 2009

Subscription Rate: \$48.30 per year (\$46.00 plus GST) in advance

Member of: Ontario Community Newspaper Association  
Canadian Community Newspaper Association  
Ontario Press Council, 80 Gould St., Toronto  
M5B 1E9 (416) 340-1981

Printed by McLaren Press, 1 Langford Drive., Gravenhurst, ON  
PIP 1R1 (705) 687-6691

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The humblest Citizen of all the land, when clad in armour of a righteous cause,  
is stronger than all the hosts of Error. - WILLIAM JENNINGS BRYAN

## Ontario's legal aid impasse requires compromises

SURELY NO ONE IS BEING well served by the current impasse between the Ontario government and the province's best criminal lawyers, which has seen most of the latter withdrawing their services because of the low hourly rates provided by Legal Aid Ontario (LAO).

The boycott of Ontario's legal aid plan by seasoned criminal lawyers doubled last week when virtually every experienced defence counsel in Toronto vowed to stop taking serious cases until there is a fee hike.

By mid-week, 140 lawyers had signed onto a boycott of future homicide and guns-and-gangs cases in protest of legal-aid rates that have steadily fallen further behind the cost of living, said Frank Addario, president of the Toronto-based Criminal Lawyers Association.

"Homicide and gun-and-gangs are obviously the most high-profile examples of how the criminal justice system does or doesn't work," Mr. Addario said. "We wanted to pull back the curtain on those cases because we have been holding it in place and hiding the problem for the government for two decades."

Marlys Edwardh, a prominent Toronto defence lawyer, said the boycott "will underscore, in the strongest possible way, that there is a need to bring senior, experienced people back into the complex cases. I think this is a very loud statement."

However, Ontario Attorney-General Chris Bentley warned in an interview that the boycott "could very well end up being counterproductive."

He refused to elaborate, but said his government cannot be expected to rapidly resolve a problem that was created by previous governments. "We have made some progress over the past

five years with a 15 per cent increase in the fees, but the 15 years before were years of cuts," Mr. Bentley said.

Veteran lawyers who typically charge \$300 to \$500 an hour to private clients make \$98 an hour for a legal-aid case, Mr. Addario said, which results in them ceding the field to inexperienced young lawyers. "The cost is runaway trials, unreliable verdicts that lead to overturned cases, and a terrible expenditure of police and prosecution and judicial resources," he told The Globe and Mail's Kirk Makin.

Mr. Addario said that the justice system must resign itself to sprawling trials that are conducted by fledgling lawyers who lack the experience to make concessions and focus on key legal issues. "It's no slur on our younger members to say that they are being thrown onto cases often because there is no one else to take them," he said.

Ms. Edwardh said wrongful convictions may result from the growing imbalance between the resources available to the Crown and the defence.

"I see this as the straw that breaks the camel's back," she said. "We have not had meaningful legal aid reform. I think there are voices from the Attorney-General's office that perceive adequately funding the defence as being part of a soft-on-crime agenda. This is misconceived and it's misguided, but there is no other explanation."

The boycott is the most dramatic action the defence bar has taken in the past decade. It comes after three major reports into legal aid and systemic problems in the court system concluded that legal aid rates must rise in order to attract senior lawyers back to the program.

Ms. Edwardh said that besides barely covering the cost of law-office overheads, legal aid pays defence expert witnesses half of what they can receive if they are retained by the Crown.

"That is a very skewed and dangerous lack of balance," she said. "I have absolutely no doubt that, when the defence bar is unable to access the experts they need, what's at stake are wrongful convictions."

Without a doubt, the boycott comes at a time when the federal and provincial governments seem to be trying to outdo one another in being tough on crime, while doing little if anything to ensure that those who face criminal charges get fair trials.

But since the boycott is also taking place in the midst of a deep recession when governments are running record deficits, there's little hope for any significant boost in Ontario's current \$350-million budget for legal aid.

As we see it, the existing legal aid rates should be made more flexible, with arbitrators empowered to order higher payments to senior defence lawyers who take on particularly difficult cases, such as those requiring expert psychiatric evidence or where identification is a key issue.

The arbitrators should also have the ability to set the payment rates for such experts and to limit the Crown and defence to one expert each. Juries ought not to be confronted with half a dozen experts supporting the Crown and just one responding for the defence.

It strikes us as patently absurd that we live in a society where the hourly labour rates we are charged for car repairs are roughly as high as the legal aid rates set for senior lawyers who'd normally bill at 10 times the hourly earnings of a mechanic.



## Can there be an Orica compromise?

ORICA CANADA INC. has a strong argument in support of its contention that it should get an injunction extending the temporary zoning for its federally licensed explosives storage in East Luther Grand Valley pending the outcome of its appeal to the Ontario Municipal Board of township council's refusal to extend it.

Although we harbour misgivings with the way the Orica saga has unfolded, we see it as in everyone's best interests to resolve the issues quickly and reach an understanding while the appeal is under way.

Among other things, Orica says its hydrogeological studies have shown there is no scientific substance to concerns that its ammonium nitrate storage poses a risk to Luther Marsh — "the most fundamental concern raised by the community."

It notes that a storage site has been in existence as such for 15 years under temporary zoning "without incident," and asks why there is a sudden concern. In the face of denials by township council, it says it was led to believe there would be no zoning problem before it invested \$2.5 million in construction of a modern storage facility.

The problem now, as we see it, is not so much with the facility as with the public perception of a multinational giant embarking on a major construction program without proper zoning, compounded by a federal bureaucracy that conducted an environmental assessment of sorts and issued a permit without reference to the local government, except that the facility must be in compliance with its regulations.

All of this has placed the "giant" in the unenviable position of facing non-compliance, ergo an invalid permit, as of tomorrow, unless the situation is resolved.

In the circumstances, the township should now grant a stringently conditional extension of zoning.

Its Official Plan includes some of the conditions. Additionally, Orica should agree not to undertake manufacturing at the site and should post funds to ensure payment of the roadway improvements it has already promised to undertake and agree to eventual upgrading of the township road to the site, including an asphalt surface.

On those bases, we would support a limited extension to the "temporary" zoning, and we suspect both the court and Ontario Municipal Board will concur.

## CITIZEN MAILBOX

### The Island Lake residents viewpoint

"Developer sets agenda for Mono development...not Council"

On Tuesday May 12 Mono Council gave approval in principle to add 323 homes to the Island Lake development, thereby increasing the size of this hamlet to over 460 homes.

There was considerable room for Mono Council to choose the size of the development and to influence its design. Unfortunately, our Council has been hands off on both accounts...subsequently the developer has set the agenda.

The initial proposal for 158 homes and a golf course was submitted in 2003. Since then, Mono Council has permitted the developer to submit multiple revisions with each successive plan being for more and more homes. 158 became 302, then 323...and we are now looking at a further increase to 335.

At no point in the process did Council present their preferred plan for the site...it was always about what the developer wanted.

Local residents are requesting the number of homes be

scaled back to a level more in keeping with the surrounding Island Lake & Purple Hill communities.

"We are not against development...we simply want appropriate development that maintains the character of the community and our existing quality of life" stated a delegation from GILCA, the local ratepayers association. "We would like to see the proposed development reduced from 323 homes to 220. Taking 100 homes out of this development would go a long way to addressing local residents concerns and maintaining the country setting that we moved here for"

This reduced number of homes is exactly what we thought we had achieved in 2006 and 2007 when we obtained both written and verbal agreements from the developer to restrict the development area. However, the blatant increases in number of homes reflect maximizing personal gain much more than they reflect appropriate planning and development.

What's even more frustrating is that, to date, Mono Council has done nothing to

### It was just plain ignorance

I am the mother of a three-year-old daughter with autism, and I guess my story brings up a couple issues.

One is that not enough people are aware of autism in general but my issue is the ignorant people who think that just because someone has autism they are automatically severely disabled, etc.

There was a horse show at the Orangeville fairgrounds this past weekend, a schooling show which most people would just do for fun. I have known about my daughter's autism since she was one and she was diagnosed at two, so I have been doing lots of therapy with her at home and she has progressed and is still progressing very well and is very smart academically — at a 6- or 7-year-old level, just to give you an idea.

We work on a rewards system, so a reward for her was to enter in her first horse show on Sunday. It was a walk lead line class, and every child gets a participation ribbon. She was so excited for this horse show she helped bathe, braid, prepare everything for the show. I do not exaggerate when I tell you that she would not leave the barn until everything was done.

So the show day was freezing, the class ran late, but she was so excited to be riding with other kids (this is huge if you know autism), and the judge points to us and asks us to come to the middle of the ring. He says, "this is cute and all, but why do you have some one walking beside her." I said because she is three and she has autism (irrelevant), and then he says it so loud, "Oh well, if she has autism or is disabled, then okay," then ignored my child for the rest of the class.

He talked to every other rider in there and said to his assistant, "Oh, never them," and waved his hands at us. My daughter was freezing and just wanted to get in the ring and ride with the other kids, so I did not do anything then, but this is unacceptable.

There were no participation ribbons to boot. I think they were just forgotten but the judge's behaviour just got me thinking whether people in his position should just not be allowed to get away with that.

My daughter should have been treated just like everyone else. I hope you will shed some light on this, and bring some awareness to autism also.

Christina Caputo

support these agreements and require the developer to make the agreed changes.

Instead, Council has repeatedly stated they are bound by provincial policy and requirements. The recently completed Dufferin County "Growth Management Study" concludes that Mono needs to add approximately 2200 people by the year 2031 (i.e. approx 700 homes over 22 years) in order to meet the provincial "Places to Grow" requirements.

However, this target can be easily met with the current developments of Watermark, Masters Creek, Island Lake Estates Phase # 2, existing "Lots of Record" within Mono and a scaled back 220 home expansion of the Island Lake hamlet...without adversely impacting the rural and agricultural countryside of Mono.

In fact, Mono can continue its historic growth rates of 30 to 35 homes per year and fully comply with these provincial targets.

It's also interesting to note that these growth targets are not cast in stone. All municipalities have the opportunity to discuss growth targets with the provincial Ministry of Energy & Infrastructure (MEI) and obtain concessions related to local specifics.

So, why do we need an additional 330 homes in the Island Lake hamlet...and what if this development continues to grow with successive revisions? At what point (if ever) will our Council say "enough!"

100 fewer homes (and 300 fewer people) in Mono over the next 22 years would make negligible difference to the Town or the Province... but a HUGE difference to the residents of

### Time for some leadership

I am prefacing my comments by stating I am NOT a member of NDACT, but I want to personally thank the NDACT committee members for what they are doing for this community.

It is unfortunate that, so far, we have had no local politician stand up to take a leadership issue in this battle against a proposed open pit mine in Melancton. I have heard repeatedly from my local Council that nothing is known for certain, everything is speculation or rumour and they really aren't in a position to take any action at this time. Further, IF an aggregate application is filed, it will be decid-

ed at the OMB.

This matter may very well go to the OMB, but if local Councils don't start taking proactive measures by doing their own studies, planning reports, research, lobbying and protecting the agricultural land under the provisions available to them they will not be in a position to take any stand at the OMB.

Flamboyant has been fighting a similar threat for the last five years since David Lowndes purchased approximately 300 acres of land. Hamilton City Councillor Margaret McCarthy took a

Submitted jointly by: Greater Island Lake Community Association (GILCA), and Mono Mulmur Citizens Coalition (MC)2

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