

<http://www.madhunt.com/tott-airport-update-20150616.html>

Council to add new condition to Tottenham Airport fill operation to continue

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On the advice of an outside legal opinion, New Tecumseth councillors voted last night to demand Tottenham Airfield Corporation, owned by Toronto businessman John Bailey, to commence with bore hole soil testing at his cost, on a regular basis, to check for contaminated soil, or face the prospect of having to apply for a permit under the 2010 soil alteration bylaw.

[Michael Fleischmann, principal of mf-law](#), addressed council last night on behalf of opponents of the runway expansion at the Tottenham aerodrome (formerly Volk Airport) on Hwy 9 adjacent to Tecumseth Pines, which they believe is a for-profit fill operation accepting soil from subway construction in the GTA, without concern for its contents.

It's an issue New Tecumseth has been dealing with for approximately three years. Attempts to halt its operation has not been successful during that span.

Mr. Fleischmann suggested the Town has the authority to at least force the issue of more stringent soil testing though stopping short of shutting it down completely because the airport expansion itself is federal jurisdiction.

"The present legal status is the airport has no permit, its applied for no permit, it has done no studies required to obtain a permit, and its made no commitments required to obtain a permit," he said. "What it does have is permission from the council dating back to a resolution April 16, 2012, which I'll paraphrase says, 'So long as the airport continues to address matters within the soil alteration bylaw to the satisfaction of the Town, it can continue to operate.' So the ask here today is if you're continuing to operate to our satisfaction you need to go ahead and get those bore hole tests done so we can make sure that you're doing your site alterations in a professional and responsible and green manner. If it fails to voluntarily do the bore hole testing, then council can simply withdraw its permission that it granted on April 16, 2012. So it's basically an either or proposition. Council can say if you want to continue to operate to our satisfaction then go get your bore hole results at your costs. If not go seek a permit under the 2010 bylaw. If permission has to be withdrawn, then the airport is arguably in breach of the bylaw because it no longer has permission, it's not exempt from the bylaw, and does not have a permit."

Once that's revoked, the municipality or any person can apply to the Court to enforce it.

"No one in this crowd is suggesting (Tottenham Airport) can't do its site alteration. It's simply asking that it do so with the permits that respects the Town's bylaw," said Mr. Fleischmann. "As it stands now, the municipality has sort of cloaked the airport in a protective veil because it has given permission and therefore the bylaw is not being breached at the moment, but it's within council's hands to simply withdraw that permission."

He pointed to Section 440 of the Municipal Act, Power to Restrain, which states: If any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened, in addition to any other remedy and to any penalty imposed by the by-law, the contravention may be restrained by application at the instance of a taxpayer or the municipality or local board.

Asked by councillors how the Town would go about implementing such a tactic, Mr. Fleischmann said, "I can only say the power of the municipality continues to respect the fact that runways need to be built."

"Either there's going to be voluntary bore holes that are drilled by Tottenham Airport because it continues to want to work in satisfaction with the Town, and if it doesn't want to drill those boreholes, you withdraw the permission, and if necessary take recourse to the courts under Sec 440... If their activity is restrained by the judge, they'll have to come back, get the permit under the bylaw, and at that time they'll have to come forward and do the appropriate testing."

Council was unanimous in its decision to pursue that avenue, which is to be ratified next Monday night.