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News Re: Burlington Airpark Court Case

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Judge says jurisdiction over fill at core of airport dispute



AIRPARK

Riziero Vertolli, File photo

Barbara Sheldon at her home next to the airpark. An Ontario Superior Court justice has indicated he will have a decision soon on the landfill dispute between the City of Burlington and the Burlington Executive Airport.

MILTON An Ontario Superior Court justice has indicated he will have a decision soon on the landfill dispute between the City of Burlington and the Burlington Executive Airport.

Justice John Murray heard three hours of arguments between the two sides Friday and told court the issue seemed clear-cut.

"The very issue in this case here is whether someone can regulate the fill," the judge told a courtroom filled to capacity with city staff, airport representatives and residents.

City officials told the Burlington Post the case could be drawn out for months, with a series of court dates.

The dispute centres on who has jurisdiction over the filling work, which airport owner Vince Rossi has been conducting since 2008 and says is related to its expansion. He's arguing the work at his 51-year-old Bell School Line business falls under federal government jurisdiction. The business is also known as the Burlington Airpark.

The city and Halton Region say they should have oversight because the truck traffic and the work are disrupting the lives of residents in the northeast rural corner of Burlington.

The city estimates 50,000 truckloads of fill have been dumped at the airport, or about 500,000 cubic metres.

Burlington passed a topsoil preservation and site alteration bylaw in 2003. The city issued the airport an order to comply under that bylaw on May 3.

Rossi, in a July 18 notice of application, wants the order declared null and void and the courts to prevent the city from interfering any further. The city filed a court injunction July 22.

Both sides agreed at the end of July the airport will halt landfill operations at the property until the court makes a ruling on the July 18 application.

Peter Wells, the lawyer representing the airport, told Justice Murray the business is under federal jurisdiction, which includes construction and fill for expansion.

"The municipality has no business regulating any aspect of building an airport," he said.

Wells said the fill is the core of what will be used, in part, for a runway.

The Toronto lawyer also argued that from the way the city's bylaw is worded, it could potentially force the airport to remove the fill after years of work.

"Imagine what that means. It means ripping up a runway, taking out a hangar and the like."

Ian Blue, representing the City of Burlington, told Justice Murray the bylaw is minimally intrusive and would not affect activity at the airport.

The Toronto lawyer, who specializes in environmental and energy law, said the city's primary concern is whether the fill is clean, noting the surrounding areas rely on wells for their drinking water.

Blue also questioned whether the airport would actually develop the area where the fill has been unloaded.

"On the new fill, they've built one hangar, one taxiway, one apron. They say there's a plan for a terminal, hangars and heliport. They've been saying that since 2007, but the fill keeps coming."

Murray said he would not comment on the legitimacy of the fill operation in his decision.

"If it's a fill business, go regulate it. Why should we have that fight here? I'm not interested in a bunch of hooley."

The Hamilton Spectator

with files from Burlington Post