
MEMORANDUM

CL-C 80-2018

Subject: A Better Niagara Court Application re NPCA Board

Date: December 28, 2018

To: Regional Council

From: Mickey Cruickshank, Legal Counsel

This court application was before Justice Ramsay in the Superior Court of Justice on December 21, 2018 at 10 a.m. In attendance were Erin Pleet (counsel for A Better Niagara), Dan Bartley (counsel for Hamilton), Dave Barrick (permitted to speak on behalf of NPCA) and I.

I advised the court that I did not presently have instructions. I further indicated that Council does not have its regularly scheduled meeting until January 17, 2019. Justice Ramsay indicated that he would not allow the matter to be adjourned for that length of time. He voiced the opinion that Niagara Region would be unlikely to take a position opposed to the Application, and I agreed that one could reasonably draw that conclusion, but that I simply did not have instructions.

With regard to Hamilton, the Applicant's lawyer consented to Hamilton being added as a party to the matter, and Justice Ramsay orally accepted that Hamilton is now a party. Hamilton's lawyer indicated that their next council meeting is also not until late January, 2019, and thus they required an adjournment to receive instructions.

Counsel for the Applicant indicated that NPCA had not responded to the Application or any correspondence regarding this matter. After a brief recess during which time David Barrick came forward to speak for the NPCA, Justice Ramsay allowed Mr. Barrick to speak on behalf of the NPCA. Mr. Barrick indicated that the NPCA had not been able to secure representation yet and also needed time to do so.

Justice Ramsay made an interim order (copy of his typed endorsement attached) effectively upholding Council's December 6, 2018 resolution, thus appointing the named members to the NPCA Board effective December 6, 2018, and replacing the previous board members. He made this order based on his assessment of some urgency and the need for clarity as to who was running the NPCA, and also based on his interpretation of the legislation.

Justice Ramsay then adjourned all remaining issues on the Application to **January 2, 2019**.

Given the very tight timeline of a January 2, 2019 return date, I recommend that Council make best efforts to conduct a special meeting to provide direction and instructions to staff on the issues included in this Application.

Ideally, once instructions are given by Council, staff will be able to file a formal response (which may also include applicable case-law and legal argument) for the January 2, 2019 hearing.

Respectfully submitted and signed by,

Mickey Cruickshank
Legal Counsel

Appendix 1: Court endorsement