



BARRISTERS and SOLICITORS

November 9, 2018

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Supervisor, Construction Permits and Compliance
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor
Welland, ON
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SENT BY EMAIL ONLY TO: dmackenzie@npca.ca

Dear Mr. MacKenzie,

Re: Potential Development within a Regulated Area – 588 Charlotte Street, Town of Niagara-on-the-Lake

URGENT ACTION REQUIRED

We are counsel to Save Our Rand Estate (SORE). We write regarding development works that are ongoing on the property located at 588 Charlotte Street in Niagara-on-the-Lake. As you are aware, a tree clearing contractor commenced work on this property on November 6, 2018, and it is understood that the contractor intends to remove trees and vegetation from the entirety of the parcel. We have concerns that this tree and vegetation removal work will adversely impact the watercourse and adjacent lands.

As you are aware, a watercourse is located along the west boundary of this property and this watercourse has been identified as an area regulated by the NPCA. We can confirm that this watercourse has a clearly defined channel and regularly conveys water, thereby satisfying the Conservation Authorities Act definition of a watercourse. Mapping available on the NPCA Watershed Explorer clearly confirms that this watercourse is included in the NPCA Permit Screening Layer. Please see the enclosed photo taken just this week.

Despite this watercourse being mapped as a regulated area, it is our understanding that the NPCA's current position is that it will not require a permit for any tree and vegetation removal works to be conducted adjacent to the watercourse, despite the NPCA's legislated review responsibilities to do just that.

William E. Heelis

H.A. Patrick Little

James D. Almas

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Ross A. Wilson Q.C.
(1911 - 2011)

Specifically, section 3(1) of Ontario Regulation 155/06 states that the Authority may grant permission for development in or on the areas described in subsection 2(1) if, in its opinion, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development. For the purposes of administering Ontario Regulation 155/06, it is understood that the NPCA has interpreted conservation of land to mean the protection, management, or restoration of lands within the watershed

maintaining or enhancing the natural features and hydrological and ecological functions within the watershed.

The decision of the NPCA to allow vegetation removal and site alteration (development) adjacent to this watercourse, without the need for a permit or adequate supporting information, is in direct conflict with the intent of Ontario Regulation 155/06. Furthermore, prior to issuance of a permit for these works, the NPCA must be satisfied that the development (in this case vegetation removal and site alteration adjacent to a watercourse) will not affect the five tests outlined above, including conservation of land. It is abundantly clear that vegetation removal in no way satisfies the NPCA interpretation of conservation of land, and therefore development of this nature should not be permitted.

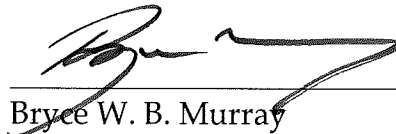
In light of the above, we are optimistic that the NPCA will issue a notice to the contractor that any vegetation adjacent to this watercourse shall not be altered or removed. As this matter is of upmost importance and is very time sensitive, this notice should be issued no later than 5:00 pm today. If the NPCA will not issue such a Notice, then, considering its legislative responsibilities, we hereby formally request a written explanation of the NPCA's refusal.

Thank you in advance for your prompt attention to this matter.

Yours very truly,

HEELIS, LITTLE, ALMAS & MURRAY, LLP

Per:



Bryce W. B. Murray

Cc Mark Brickell (mbrickell@npca.ca)

SORE

Craig Larmour, NOTL (CLarmour@notl.org)

