

Arguments made in court over allegations against mayor



By Bill Rea

Judgment has been reserved in the case involving conflict of interest allegations against mayor Allan Thompson.

Mr. Justice Peter Daley of the Superior court of Justice spent a day and a half last week hearing submissions from lawyers for Thompson, and Kelly Darnley, who commenced the action against him.

Lawyer Kevin Sherkin, representing Darnley, told Daley the application had been made under the Municipal Conflict of Interest Act, stating that Thompson had voted on matters in which he had a pecuniary interest a number of times.

He added Thompson had obtained a loan from a developer, stipulating the note was collectable on 90-days notice. The developer was involved with other corporations that did appear before council at the time, and Sherkin argued Thompson would have been voting on matters affecting people who could have called in that loan.

"We don't know that," Daley remarked. "There's a void of evidence. I can't make determinations in the absence of evidence."

Sherkin said the question was would such a debt have influenced a vote at council. He also told Daley the debt has been paid in full, with interest.

He also commented on the planning issues, pointing out the province brought in the Places to Grow Act, which was aimed at creating new areas for development. He said a stipulation is these areas for growth have to touch existing development, and Thompson voted to expand the development in Mayfield West to the west, which would have been about five kilometres from his property. Sherkin said that proposed development would have influenced the value of his property.

Another issue he raised was over the sale of Thompson's farm. Sherkin said it was sold in September 2014, and the deal was closed the following April.

In a vote at Peel Regional council Sept. 11, 2014, Sherkin said Thompson voted to expand Mayfield West by adding agricultural lands to the west, but he didn't disclose that he had property within five kilometres

He also cited evidence from Thompson himself, who agreed the faster Mayfield West is filled, the quicker the value of his property would increase.

Sherkin said Thompson sold his property to Primont Homes, and Thompson, he said, had maintained he knew he sold to a developer, but didn't know which one. He also said the purchase price was about \$9.4 million, and there was an agreement that Thompson could continue to live there, rent-free for up to 15 years.

He added a politician and member of council has a duty to inform himself in cases such as someone buying his property.

"At a minimum, it's willful blindness," Sherkin remarked.

In an effort to connect these matters to actual votes Thompson took part in, Sherkin said Thompson chaired a meeting at the Town in June 2014, at which he asked staff to expedite a development in which Primont was likely to be the builder.

He also said there was a vote at council Sept. 16 to approve the subdivision.

Sherkin asked if a reasonable elector would think such a vote was affected by a financial interest. He added the public would have expected Thompson to show due diligence and make some inquiries.

Sherkin also commented on the \$600,000 loan which Thompson received in 2007, arguing it came from a company that was run by people who were principals in other development corporations.

"Mr. Thompson doesn't have any credibility," Sherkin told the judge.

He also mentioned that around the time of the closing, Thompson was having financial trouble. The Ministry of National Revenue had registered a tax lean on his property because he owed about \$40,000. Sherkin argued Thompson was subject to influence because he was in financial need.

Sherkin cited an example from Jan. 21, 2014, when Thompson moved a zoning bylaw that allowed a sales pavilion for a subdivision that he voted in favour of the previous September.

Lawyer Alan Lenczner, representing Thompson, commented on the structure of the Act, as it deals with direct and indirect interests, as exceptions. He said it's possible for a councillor to have a direct interest that's in common with other people.

Lenczner cited Darnley as stating about 80 per cent of the land in Caledon is within the provincial Greenbelt, meaning any development in town would have to take place in the remaining 20 per cent, including the Whitebelt, in which Thompson lives.

He also stressed that Thompson still has to be able to do his job. He stated that Darnley has argued that if Thompson on anything regarding the Whitebelt that could have the potential to increase the value of his property, then there's a potential conflict. But Lenczner argued that wouldn't be the case because that interest would be in common with electors in general. Any development in Caledon has the potential of raising the value of any property in Caledon, he maintained.

He also commented on the timeliness of Darnley's application. Lenczner cited her affidavit that she was very familiar with planning matters, as she was in charge of the Caledon Chamber of Commerce from 1998 until 2011. She had also maintained that she acted in the best interests of the business community and was very familiar with the planning process related to growth in Caledon. As well, he said Darnley was disappointed that the Chamber's view of planning was not supported by council. In addition, he said Darnley was aware that Thompson was a councillor since 2003 and elected mayor in 2014. And since Darnley said she attended council meetings, she would have known that Thompson voted on matters at the council table. And she knew he was a resident, property owner and farmer in Caledon.

Lenczner said Darnley read a Toronto Star article in June, 2015 stating that Thompson had sold his property for \$9.4 million , suggesting that was the hook that led to her action, prompting her to do more investigating.

Addressing growth issues, Lenczner said Darnley, in her affidavit, stated she was aware the Town's Official Plan called for growth in Mayfield West, she never saw the need for it and opposed it often.

?I don't like what the elected officials have done,? was the way Lenczner characterized Darnley's opposition, even if what they were doing was called for in the Official Plan.

Lenczner also addressed the June 2014 meeting, observing no vote would have been taken because it was a public information meeting.

He added her affidavit mischaracterizes most of the votes she cited.

Lenczner commented that Thompson gave evidence that development on any lands he sold would be at least 50 years in the future, adding that was never challenged.

Earlier this month, Caledon resident Charles Bristoll launched an action of his own against Thompson regarding conflict of interests. Lenczner wasn't impressed with that, and he didn't think Daley should be either. He said Bristoll have become disgusted with the planning process in Caledon, and was aware of conflict of interest allegations. Darnley sent him a copy of a newspaper article on the matter, and he got involved.

Lenczner said Bristoll never read Darnley's affidavit.

He added Bristoll had been involved with the Chamber of Commerce from 2003 to 2010, but walked away because development was being pushed toward Mayfield West rather than Bolton. Lenczner said Bristoll cancelled his subscriptions to local newspapers because he didn't want to know what council was doing.

Darnley showed Bristoll the article, and Lenczner said Bristoll contacted Sherkin.

?This is not a true, independent application,? Lenczner said.

Lenczner also addressed the Alloa Landowners' Group, which owns thousands of acres between the second phase of Mayfield West and the Thompson lands.

?Mr. Thompson has nothing to do with these people,? he said, adding there have been no applications from the group.