

The Township of Algonquin Highlands has reached a settlement agreement with the Middleton family over the lands which lie north of the Haliburton-Stanhope Airport at the corner of Airport Road and Barry Line. This settlement closes the Ontario Municipal Board File No. L090003.

The land in question was deemed necessary by the Township for the expansion of the Haliburton-Stanhope Airport. By way of an Agreement pursuant to the Expropriations Act, the land was transferred to the Township on October 31, 2007 for the sum of \$200,000. Pursuant to the Agreement, the Middleton family retained the right to pursue further compensation for the land.

As part of their claim, the Middletons asserted that the 100 acres would be severable into 10 rural residential building lots thereby increasing the value of the land, and also that they were entitled to more money for injurious affection.

Therefore, the proceedings of the OMB were intended to address and determine if the Middleton family was, indeed, entitled to any additional compensation for the land over and above the \$200,000 paid for the 100 acres, and also to determine if the Middletons were entitled to compensation for injurious affection and disturbance to their cottage property on the other side of Barry Line.

The Township asserted that further severances beyond the existing four building lots on the 100 acres would not be permitted under current policy, and also that the situation did not warrant an award for injurious affection.

As part of the pre-hearing mediation process, various experts and professionals were required by each side to assert their respective claims in an attempt to narrow the issues, and discuss the possibility for settlement. The Expropriations Act provides for the OMB to award payment of a claimant's legal, professional and consulting fees, and accordingly the issue of costs is also a critical factor in any settlement discussion. During the mediation process, it became apparent that the cost of proceeding forward to a full hearing, even if successful, would have been far greater than to reach a negotiated settlement – particularly given the Middletons' right to claim for their costs of the proceedings from the Township. After weighing all of its options, the Township chose to settle.

The Township appreciates the ongoing concern expressed by taxpayers with the pursuit of this long and trying process. Upon the advice of the Township's legal counsel, details of the process itself may not be disclosed however, Council knows and believes that the public has the right to know the ultimate result.

The terms of the settlement require a payment from the Township to the Middleton family of \$765,830.01 representing:

- a) A further \$200,000 for the 100 acres, \$200,000 having already been paid pursuant to the previous agreement;
- b) \$150,000 for injurious affection and disturbance damages;
- c) \$53,334.25 for interest on the aforementioned \$350,000; and
- d) \$362,495.75 for professional fees including lawyers, planners, appraisers and other professionals;

A further amount not to exceed \$5,000 will be paid at a later date to cover outstanding legal fees incurred by the Middleton's legal counsel from the date of the agreement to its completion and closure.

In addition to the above, the costs incurred by the Township for this particular process include:

- a) Approximately \$85,000.00 for legal fees and associated disbursements; and
- b) \$27,033.50 for other professionals such as planners, appraisers and other professionals.

Although the Township is extremely disappointed with the outcome of this process and had hoped for a more cost effective result, the closure of this dispute means the lands are now owned by the Township and protected for the future.