

Brantford accepts \$125,000 injunction deal

By Jim Windle

BRANTFORD – According to documents obtained by the Two Row Times, on March 3rd, 2014, a group of Six Nations land defenders charged in the Brantford injunction case have made the City of Brantford a settlement offer of \$175,000 in connection with the Brantford Injunction case. That case stemmed from construction site closures through protests by Six Nations land protectors in 2008-2009 and a subsequent injunction order.

Superior Court of Ontario Judge Harrison Arrell ruled that Ruby and Floyd Montour, Clive Garrow, Charlie Green, David Martin, Hazel Hill and the HDI, John Doe, Jane Doe, persons unknown, along with HDI lawyer Aaron Detlor were to pay the city costs of \$375,000, including interest to date.

Ruby and Floyd Montour, Hazel Hill and Aaron Detlor initiated court proceedings in an attempt to have two municipal by-laws, upon which the injunction was based, set aside. The court dismissed that defense and the by-laws and subsequent injunction were upheld.

Monday night, in an in-camera meeting with city solicitors, Brantford



Council was advised to accept the offer. The offer was significantly higher than the amount city solicitors realistically expected to get, given the fact that all of the named persons in the court order, except Aaron Detlor, live on reserve and do not have holdings off reserve that would be available to them to recoup these costs under the Indian Act.

Both Brantford's lawyers and staff admitted Monday that they held out "faint hope" that Brantford would be in a position to recover very little if any of the costs awarded by the court.

"The Appellants' offer comes as a surprise," lead solicitor Kimberly Farrington told city council.

Hill was being investigated to determine if she had any off-reserve

holdings or if she was willed any after her husband, Dick Hill's recent death. A judgement-debtor examination of Detlor was undertaken in which Detlor claimed that "all of his assets are situated on reserve and, thus, are 'untouchable.'" A house he owned in Toronto was sold in 2013 and the assets from that were now on reserve as well.

Monday night, Brantford Council considered three possible courses of action to retrieve at least some of the legal expenses incurred to date. One was to accept the offer to settle. Two was to present them with a counter offer to try and get the settlement amount increased. And the third was to consider continuing with Brantford's efforts to collect the full \$375,000 from Detlor and/or Hill.

City Solicitors advised Council that by making a counter offer the appellants might take their \$175,000 offer off the table, forcing the City to continue paying for legal costs and collection efforts.

The City was also advised that collection would be difficult at best, citing section 89 of the Indian Act which states, "the real and personal property of an Indian or a Band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than an Indian or a Band."

They were also advised that an Indian's salary is personal property and may be protected. Chasing the appellants real ability to pay the

amount ordered by the courts may have also been a futile, and costly venture.

It is not known at this time who will pay the \$175,000, the appellants as a whole, Detlor or Hill personally, or the HDI from funds collected through their negotiating efforts with developers made on behalf of the people of Six Nations, who, according to the Indian Act, are untouchable anyhow.

The City has accepted the offer and will be requesting full payment within 30 days. However, questions remain.

When the Two Row Times contacted Ruby and Floyd Montour about the deal, they said that they "know nothing of any offer being made." When one considers the leading role that Ruby and Floyd have played in standing up for Six Nations land rights in Brantford, the fact that they have not been kept in the loop is troublesome to say the least.

One of the premises of the HDI is consultation and what is obvious

here is the complete lack of transparency concerning this settlement offer. Brantford's lawyer, Kimberly Farrington, was herself surprised that an offer was made to settle as they had held "faint hope" any monies would be recovered.

Having the City of Brantford able to collect funds from the HDI is not fundamentally different than the City collecting funds from the Haudenosaunee Confederacy Council itself.

How and why is this being allowed to happen?

The precedent set forth here could feasibly cripple Six Nations' efforts to protect its interests on lands across Brantford and the Haldimand Tract if a municipal corporation can pass laws to effectively circumvent treaty rights, the Federal government's Indian Act and our own structures of governance.

The big question that is as yet unanswered, is who really made this offer and under what authority?