

Judge issues injunction against protesters

By Donna Durie
Writer

A Brantford judge has granted an injunction to a development company barring the Mohawk Workers and anyone else from protesting at the Tutela Heights lands.

Justice Harrison Arrell granted the injunction last Friday against Jason Bowman, a Toronto man, Ruby and Floyd Montour, two Six Nations elders, a Terry Squire and Bill Squire and John and Jane Doe.

Walton Group International lawyers argued a group calling themselves the Mohawk Workers had broken the law by stopping archeological work there in September.

The Mohawk Workers say they stopped archeological work because the property is home to a sacred Tutelo burial.

Neal Smitheman, Walton-

lawyer, accused the group of using threats and intimidation when they shut down archaeological work on Sept. 19. He said workers believed they were threatened when land rights activist Ruby Montour told them "we are here to shut you down."

Smitheman said, "This was reasonably interpreted by the parties on the property as a threat to impede access to the property using violence."

Smitheman said any delay in archeological work would cause irreparable harm to his clients who need to get the it done before the ground freezes.

Walton plans to build a 200-home subdivision on the Tutela Heights land called Riverbend Estates.

Smitheman asked the judge to grant an injunction demanding the defendants stop "interfering and ob-

structing access to private property or activities of archaeologists on that property".

He said archaeologists were there legally and that if people objected to it, they should have dealt with it according to the law. "Self-help remedies are no answer in disputes such as this," said Smitheman. "If one has a concern with what may or may not be taking place on private property, there are remedies in the law."

Smitheman said the people who shut down work do not represent Six Nations, but are simply a "splinter group".

He also argued that assertions of a burial ground on the property were "irrelevant."

"There is no doubt that if there were human graves at the site, they would have been discovered through

the excavation process by the licensed archaeologists."

He said archaeologists found only one human tooth, which, he said, was not part of a burial and "almost certainly not aboriginal."

Jason Bowman, special assistant to Mohawk Worker spokesman Bill Squire, denied the group had used intimidation or threats. "We were the ones that were harassed and blocked. There's no intent to destroy anybody's property and there's no intent to commit any assaults."

He argued the group's intent upon visiting the site was to investigate whether or not a burial was disturbed.

"Part of our contention here is that the Mohawks take great exception to their lands being disturbed and developed without their consultation," said Bowman. "This pattern of conduct has caused us to communicate directly with the United Nations."



Bill Squire

He said the knowledge of a sacred burial there is "very widely and well-known in these areas" and he provided Justice Arrell with a map pointing to burial sites on the Tutela Heights property.

"Forging ahead and developing these sacred burial sites while these land claims remain unresolved is something that's going to have to stop, your honour," said Bowman. "We respectfully submit that this court has the duty to stay these proceedings if not dismissed outright."

Bowman also argued that the provincial court had no jurisdiction over the Mo-

hawk people and that the matter should be heard before a federal court.

Squire said he had had a faint glimmer of hope the judge might not have granted the injunction. He said the Mohawk Workers will continue to fight the Walton development at Tutela Heights.

"I was very optimistic that some justice might have come out if it (the hearing) but we couldn't do too much more," said Squire.

He couldn't say if he and the Mohawk Workers would heed the injunction or continue to stop archaeological work on the property.