

Ontario telling developers to consult with band council not HCCC

By Donna Duric
Writer

Band Council representatives spent six months meeting with Caledonia and Brantford developers last year behind closed doors where discussions took place offering Six Nations \$1,000 per home in return for keeping community members from protesting the developments.

The revelation comes from a document obtained by Turtle Island News and drafted by a Hamilton lawyer representing investor Emilio Mascia who wants to build an 1,100 home subdivision on Mackenzie Road in Caledonia.

Mascia, the 81-year-old founder of the specialty Latin T.V. station Teletatino, had bought the land in 2003 with the intention of building a subdivision catering mostly to retirees. He said his company, Mascia Enterprises Ltd., was ready to put the shovel into the ground before Six Nations reclaimed the lands at the former Douglas Creek Estates housing development in Caledonia in 2006. That put the work on hold indefinitely, he said.

The document provides a chronology of meetings between council's lands and resources department, Caledonia and Brantford developers, Brantford city officials, and aboriginal affairs trying to negotiate a development template for lands within the Haldimand Tract. In December 2010, the document states, Mascia and his business partner Michael Corrado met with Band Council's Lands and Resources Director Lonny Bomberry and lands consultant Phil Monture on the advice of Aboriginal Affairs Minister Doug Carr.

It says on Dec. 23, 2010 that: "As per Doug Carr's suggestion, Mascia and Corrado met with Lonny Bomberry and Phil Monture. A cordial and promising conversation took place and an agreement of how to lawfully develop our land was discussed. In order to achieve that, certain benefits that

would flow back to Six Nations were talked about."

The next time the parties met was Dec. 29, 2010: "Mascia and Corrado meet with Phil Monture. It was stated by us that we would be willing to commit approximately \$1,000 per unit, for a total of \$1 million, after our one thousand units were fully developed in Caledonia." In February 2011, the document states, "Bomberry informs Mascia and Corrado that Brantford's Solicitor, Larry Tansley, has drafted an M.O.U. for a new deal to resolve land claims with Six Nations and once this M.O.U. was signed, we would continue separate negotiations for our own development in Caledonia."

Haudenosaunee Development Institute Interim Director Hazel Hill believes those meetings with Brantford indicate that the draft M.O.U. would have acted as a template (\$1,000 per home being the template) to determine how to deal with developments both in Brantford and Caledonia and along the entire Haldimand Tract.

"It's saying that the Brantford negotiations between the elected band council and the City of Brantford...they're creating an M.O.U. that would be used as a draft

template that they'll use with other developments, including the development in Caledonia and all up and down the Grand River," she said. That's the intent of this February 2011 M.O.U."

The document states that in March 2011, Six Nations and some city councillors rejected the M.O.U. and that, "the Six Nations were not only requesting 'a special development charge' from developers, but also a share in the past, present, and future municipal tax assessments throughout the entire Haldimand Tract."

Brantford City Council then put the negotiations on hold indefinitely.

HDI lawyer Aaron Detlor told Confederacy Council there was an "indication" that band council was considering surrendering some lands in the Tract at a price of \$1,000 per home.

"It says right there they're (Bomberry and Monture) meeting with Brantford developers," said Detlor. "The band council put forward to Brantford developers and to Caledonia developers \$1,000 per unit and they also want a share in taxes. They were trying to get this deal to let development go ahead for \$1,000 per unit." Hill said Mascia has never

met with the HDI and the first correspondence between him and the HDI was through a letter from his lawyer this past spring.

Ontario's Ministry of Aboriginal Affairs would not answer why it directed Mascia to only consult with band council.

"We cannot comment on the specifics of the Mackenzie Road property, but it is provincial practice to recommend that project proponents try to engage, in appropriate circumstances, with both the Six Nations Elected Council and the Haudenosaunee Confederacy Chiefs' Council," said Ministry Spokesperson Flavia Mussio.

Mascia said he was willing to meet with the Confederacy and HDI but said he didn't acknowledge the duty to consult with them.

"We were directed by the Ministry of Aboriginal Affairs to negotiate with the elected council," said Mascia.

He said he went to Ottawa to search the land title on the property and claims his research shows Six Nations relinquished title to the Crown. He said he does not want to see another Douglas Creek Estates happen but said, "We understand if the Aboriginals have claims but what do we have to do with it? You don't repay wrong with wrong. We bought the land in good faith."

Mascia still owes about \$2.5 million on the property, he said.

In an e-mail to The Turtle Island News, Elected Chief Bill Montour said band council's request for municipal taxes from developers and Brantford City officials was actually a request for land transfer taxes, and was tied in with the \$1,000 per home offer discussed during the meetings.

"The question was put to the developers to gauge their reaction to honouring the Crown's obligation to con-

sult and accommodate Six Nations land rights," said Montour.

"In 2009, we had done a study to look at what Ontario gleans from Haldimand Tract lands each year. In land transfer taxes levied by Ontario this figure is about \$68,000,000 per year," said Montour.

"The Six Nations proposed levy would have been on the Ontario land transfer tax alone and not municipal taxes. We believe our land rights compensation for surface use must come from Ontario's land transfer tax as representing the Crown in the Right of Ontario," he said.

"I believe that some developers were willing to consider this extra cost added on to each house constructed but did not go further as I would submit that the Ministry of Municipal Affairs would not allow this to happen. Consequently all of these talks did not go further."