

Caledonia man cries foul over massive new development

By Jim Windle

CALEDONIA – A Caledonia man is challenging Haldimand County over claims that a large housing project known as the Empire Communities/McClung Road development and other development projects, including the former Douglas Creek Estates project, may have been illegal.

Hubert has filed an appeal through the Ontario Municipal Board to the Empire Communities' McClung Road project, which was to have begun grading this past fall.

"What I have been told is that the GRCA wanted more studies done before construction begins," Haldimand Mayor Ken Hewitt told the TRT. But Hubert's appeal no doubt has more than a little to do with the delay.

The proposed McClung Road project would almost double the population of Caledonia and see some 3,500 residential homes built in Northeast Caledonia. Hubert argues that the development was

processed incorrectly, and that the policies put in place to protect and preserve farmland and the general public were knowingly and willfully bypassed by Haldimand Council, who approved the project prematurely.

"I appealed that (McClung Road project) through the Ontario Municipal Board on the grounds that it was premature, that they didn't have a secondary plan in place," says Hubert. "It went straight from agricultural land to residential development without following the provincial guidelines to preserve farmland."

Hubert alleges that the developers, Empire Communities, did not complete the application required before Haldimand Council gave the project its stamp of approval, which Hubert maintains is illegal but has been standard practice for certain developers.

"I went to Haldimand to request a copy of the application, which

is standard procedure," says Hubert. "But they refused to provide it to me. That is a public document that should have been made available upon request."

He also says that there were many undisclosed mortgages on that land.

"To enter into any kind of agreement, you have to have the person who holds title to the land, which is the mortgagee. You have to disclose them, because they legally have to be party to any agreement thereafter," says Hubert.

"I went to the registry office and looked it up and I thought, what are these assignment of rents? It says it is multi-residential development worth close to \$30 million. There are a number of seller take-back clause mortgages on the project as well, where the person they buy the land from holds the mortgages for them. So they all have a say when you sign any kind of agreement. But on the application, the problem was, none of

that was filled out," he explains.

"I notified Haldimand back in May and asked them why there was no signature of the mortgagee. I also kept asking, what about the Native land claim? Has there been consultations with Six Nations for this development? I was told they were notified, but there was no consultation on the project itself."

Haldimand mayor Ken Hewitt told TRT that a simple notification through the Grand River Notification Agreement, is all the municipality is required to do, stating that any negotiations or consultation have to be done by the Province or the Federal government, but not at the municipal level.

A letter addressed to Haldimand Council, signed by Six Nations Elected Council lawyer Lonny Bomberry on Band Council letterhead supports Hubert's claim of lack of consultation, even alluding to possible legal action should the

project begin without proper consultation and accommodation with Six Nations.

Although Hubert's appeal was registered in early September, after four months there has been no date set for that hearing. However, Haldimand County has recently filed a motion to dismiss Mr. Hubert's appeal. This motion was given a hearing date of January 15th, 2015 at 10:30 am, at the Haldimand Municipal Building.

There are many other legal issues which are listed in Hubert's appeal which he says were ignored by Haldimand Council regarding the Empire McClung lands.

"The applications were never stamped 'received' by the County, yet were processed anyhow," says Hubert who has made Haldimand Council well aware of his concerns but to no avail.

Around \$45 million has already been invested in the Empire Communities McClung Road development project to

date, \$30 million of that through a large firm known as ROI Capital. They hold several mortgages on the lands, and have assignments of rents registered with the mortgages. This implies that the rent will be collected as additional security if necessary. However, according to a Haldimand County planners report, the McClung project is "vacant greenfield land."

"There are a lot of reasons why this appeal has to be thrown out by the OMB, both financial and professional," says Hubert. "People involved in this back-door scheme include some people in very high places and it has been going on for a very long time."

None of the allegations Hubert is making have been proven in court of law to date, but they are included in the appeal to the OMB which Haldimand Country is trying to have thrown out before the appeal is actually heard.