

Flesherton
Advance

Injunction refused, but "Protecting Talisman" says it's continuing to fight land sale

Wed
3/23/22

A decision last week said a definite "no" to an emergency motion asking the court to stop any further action on the Talisman land sale until after a legal objection was heard.

Grey Highlands CAO Karen Govan welcomed the decision. Points made by the judge included that the Municipality has the right to sell the lands.

The injunction followed on an original application filed last November by a not-for-profit formed by a group of people who don't want the land to be further developed. The group is called Protecting Talisman Lands Association.

At that time, many details were unknown because the sale was conditional, and only discussed in closed session. No supporting affidavit was filed.

An update newsletter from Protecting Talisman Lands last week said that the group would continue with its original application.

The court decision released last week said that there was no need for the emergency motion or injunction because there will be enough time before the deal closes this July to deal with the application.

If the two parties could not agree on costs for the injunction, Grey Highlands was to submit its costs within 15 days, and Protecting Talisman Lands to respond with 15 days after that.

TEST FOR INJUNCTION

There is a recognized three-fold test on whether an injunction should be granted:

1. Whether there is a serious issue to be tried;
2. Whether there is irreparable harm to the moving party; and
3. The overall balance of convenience.

The court decision dated Mar. 14 by Justice G.D. Lemons aid that even if "Protecting Talisman" updated its application, there was little material presented before him showing there is a serious issue to be tried.

"I acknowledge there is a low threshold to persuade a court of a serious issue to be tried but here there are many allegations with little evidence to support them," he wrote.

Neither could he find irreparable harm: the decision noted that there would be "layers of supervision" on any use allowed on the land.

"I am confident that the public interest and concern relating to the property can be dealt with in other forums."

And because the sale will not close before the application is dealt with, "the balance of convenience favours Grey Highlands."

The sale closing date can be up to 180 days after the bylaw - making it July this year.

The motion was granted "without prejudice" to the application.
ISSUES AROUND THE SALE

The Municipality of Grey Highlands sold the Upper and Lower Talisman parcels to an investment firm called Westway for a total of \$2.5 million.

Protecting Talisman Lands has amassed hundreds of signatures on a petition and is raising money for the next stage of its court case.

Members object to putting land into the hands of a developer which has come into public hands (through foreclosure) and could be kept accessible for all to use. A second offer was brought forward by a coalition of environmental groups after the Westway offer was accepted.

The conservation-minded coalition had presented its vision to Grey Highlands in public session basically at the same time as Westway.

Grey Highlands CAO said of the properties - one of which contains a golf course - "we're not taking raw land and starting to change the zoning."

"There will be lots of protected land and Crown land (in the Valley) that will never be developed," she said.

Westway has retained Planning Partnership for a public consultation on future use after the closing, she said.

Since the offer was accepted, the company has consulted with the Niagara Escarpment Commission, Saugeen Conservation Authority and the Bruce Trail, CAO Govan said.

The municipality expects the land will be used for a mix of residential, hospitality and recreation, she said.

"The community will have a say as Westway brings forward their plans and we look forward to future community engagement as we embark on this exciting new stage," said Mayor Paul McQueen.

Thanks
Paul
GAM