

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT – OTTAWA)**

BETWEEN:

DOUGLAS CARDINAL, ROMOLA V. TREBILCOCK THUMBADOO, DAN GAGNE, LARRY
MCDERMOTT and RICHARD JACKMAN

Appellants (Moving Party)

- and -

WINDMILL GREEN FUND LPV and CITY OF OTTAWA

Respondents (Responding Party)

AFFIDAVIT

I, Douglas Cardinal, a sovereign Anishinaabe Indigenous person, make OATH and say as follows:

1. I am one of the Appellants herein and as such have knowledge of the matters deposed to herein.

Overview:

2. Throughout the proceedings before the Ontario Municipal Board and the Divisional Court leave application, I have been working with a circle of traditional Algonquin Grandmothers who are claiming traditional Algonquin rights expressed in Section 2 of the Charter of Rights and Freedoms as to freedom of conscience and religion. The Grandmothers and myself claim

a right to practice traditional ceremony and ritual on Albert and Chaudière Islands which is considered a sacred site by the Algonquin Peoples and indeed all indigenous peoples.

3. In the indigenous tradition Grandmothers and Grandfathers is the designation used to signify a person (male or female) who is recognized by their people as dedicated to the spiritual path and knowledgeable concerning indigenous laws, traditions and customs. The term Grandmother or Grandfather has a deeper meaning when expressed in indigenous language such as Kokomis (Grandmother) and Mishomis (Grandfather), conveying the understanding that a person referred to in such a way, has attained the status of an Elder in the community, dedicated to the spiritual path.
4. Elders are charged with the responsibility of guiding and protecting the community from the erosion of its identity, in a situation where the dominant society has imposed religion and a form of governance which is foreign to the indigenous mind. The traditional form of governance of the Indigenous Peoples is not one of power and authority, but decisions made by the collective, which arrives at consensus, in order to move forward and make decisions. Decision-making is usually accomplished in a formal circle, where everyone is equal, where all can be heard and a consensus reached by all in the circle. This form of decision-making is not hierarchical and does not depend on power and authority.
5. Despite the fact of the imposition of the Indian Act on native people, traditional form of governance is still practiced by indigenous peoples throughout this territory and is certainly the way which Elders undertake their activities. The traditional Algonquin Grandmothers, who requested that I participate in the Ontario Municipal Board Hearings, the Motion for Leave to Appeal to the Divisional Court and now the motion to vary before the full Divisional Court, meet in circle to discuss their concerns and provide meaningful instructions to me on these matters. I consult with them on these legal undertakings and attempt to move forward always mindful of their concerns.
6. All Indigenous Peoples in Canada live within the consciousness of genocide and apartheid by the dominant society. The level of racism that is expressed as against Indigenous Peoples is overwhelming and ever present. It finds itself in all the institutions dominating Indigenous Peoples and particularly in the legislature, the courts and the bureaucratic systems set up by government. This is a fact of life for all Indigenous Peoples in Canada.
7. The Crimes Against Humanity and War Crimes Act 2000, defines apartheid as: "...means inhumane acts of a character similar to those referred to in paragraph 1, committed in the

context of an institutionalized regime of systemic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime." This oppression and domination is exemplified in the Indian Act and in fact exists for all Indigenous Peoples in Canada. This is a fact of life for all Indigenous Peoples in Canada.

8. The consciousness of genocide and apartheid inform the relationship between Indigenous Peoples and the dominant society. This is an untenable situation for Indigenous Peoples and must become part of the dialogue in conflicts between Indigenous Peoples and the dominant society, before any form of reconciliation can take place. It is within this context that the Courts must be informed in order to properly adjudicate on legal issues affecting Indigenous Peoples in these proceedings.

9. I am a Sweat-Lodge Keeper, a Pipe Carrier and a recognized Anishinaabe Elder. I have a duty to speak this way, in order to educate the public, the courts, the legislators, and the administrators as to the truth of the existence of the Indigenous Peoples. The consciousness of genocide and apartheid can no longer inform the relationship between Indigenous Peoples and the dominant society in Canada. It must be taken into account in all the various relationships between Indigenous Peoples and the dominant society. We are entitled to have the Courts afford us the protection of all the principles expressed in the United Nations Declaration on the Rights of Indigenous Peoples and specifically, the right to be heard.

10. It is my duty as an Elder to express myself in this way, as Elders must express on behalf of the people who have no voice, due to the imposition of the Indian Act and the various mechanisms used by the dominant society to make Indigenous Peoples invisible and kept silent. We can no longer be silent regarding the disadvantaged position we find ourselves in due to the consciousness of genocide and apartheid.

Extension of Time Request

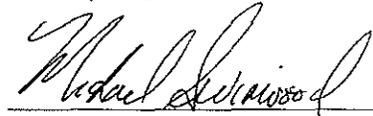
11. After the decision of May 26, 2016 of Justice Hackland, I immediately formed the intention to appeal the ruling, however I was obligated to consult on two fronts. Firstly, I had to consult the traditional Grandmothers I have been working with and the other four Appellants in this matter. I am represented by Michael Swinwood in these proceedings, however the other Appellants are self-represented. Mr. Swinwood agreed to represent the other Appellants in the motion for leave application, and the costs submissions, however I needed to consult with them regarding their intentions on this Notice of Motion before the full Divisional Court panel.

The first date we were able to consult the other Appellants was June 8, 2016, due to the inability of certain Appellants to meet with us. The Notice of Motion to the full Divisional Court panel was filed on June 10th, 2016. I also consulted with the traditional Algonquin Grandmothers, which was accomplished on June 7th, 2016.

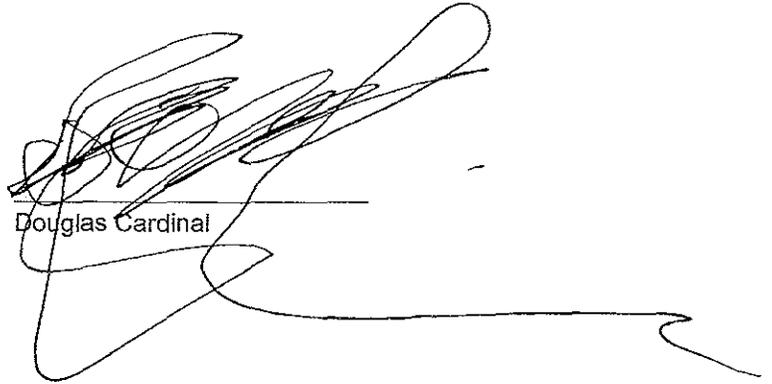
12. We are all of the view that we have legitimate constitutional questions which need to be heard within the context of municipal planning issues and not summarily dismissed without an opportunity to be heard. We particularly are of the opinion that Section 2(a) rights of freedom of conscience and religion of the Charter of Rights and Freedoms, the existence of a sacred site at Albert and Chaudière Island and the applicability of provincial legislation in unceded Algonquin territory are meritorious questions to be decided within the context of municipal planning issues. The Ontario Municipal Board and the Motion Judge of the Divisional Court both declined to hear us.

13. I make the Affidavit in support of a cross-motion to grant an extension of time within which to file the motion before the full panel of the Divisional Court and for no improper purpose.

Sworn before me
This 6th day of September, 2016, at
Ottawa, Ontario.


A Commissioner, etc.

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Douglas Cardinal