

May 18 2013

To: Members of Havelock Belmont Methuen Council and Staff

Re: Jurisdiction to Regulate Shoreline Structures

A year ago this weekend, the Toronto Star Saturday edition featured a major news article regarding the boathouse issues in the Apsley area including Jack Lake within Havelock Belmont Methuen. The article included the background issue related to the filed legal claim regarding the position that North Kawartha (NK) Council and staff were taking that Municipalities do not have jurisdiction to regulate in water development. The Star article also identified that the municipalities of North Kawartha and Havelock Belmont Methuen were unique in Ontario in taking this “**no jurisdiction position**” resulting from in water boathouses being constructed without municipal building permits.

I attended the **Cottage Country Spring Planning Seminar** held in Haliburton on May 8th 2013 arranged by Stephen Fahner of Northern Vision Planning. Many seminar participants were anxious to hear the presentation by highly respected municipal Lawyer Harold Elston. His topic was **Shoreline Structure Jurisdiction in Ontario**.

The current legal claim By Barry Gaspell against MMAH , MNR and North Kawartha has caught the interest of the Planning and Legal Communities in Ontario. A large number of cottage country municipalities from Haliburton and Muskoka, were in attendance to get legal clarification on this important issue affecting lake development. Four Apsley area cottagers attended. No municipal township representative from either Havelock Belmont Methuen or North Kawartha attended.

I am proving a copy of the slide presentation by Harold Eston in which I have added some highlights directed to the jurisdictional issue. Mr Elston did indicate in his talk that he understood that North Kawartha was apparently relying on a legal opinion to support their no jurisdiction position.

Havelock Belmont Methuen is also on record indicating they have taken their no jurisdiction position based on legal advice. **I hereby request a copy of the legal opinion which has previously been referred to by Council and Staff.**

I also recommend to Council that they take immediate steps to obtain another legal opinion on the matter of whether municipalities have jurisdiction to regulate development of in water structure located on the beds of lakes within the boundaries of HBM.

At the seminar, Lawyer Harold Elston discussed the Galway Cavendish case and others in the contexts of the legal claim by Gaspell against North Kawartha Township and others. Mr Elston concluded his presentation with the following statement:

Many layers of legislation to consider, but there is currently no authority to suggest that municipalities cannot and should not regulate shoreline structures.

Certainly in talking to many of the participant at the planning seminar, there are a lot of questions being asked as to why a municipality would abdicate their responsibility and authority in land use planning. It is particularly significant that HBM's professional planner employed to develop comprehensive waterfront planning policies recommended to Council that both on land and in water boathouse be regulated in the new zoning bylaw which was passed in November 2012. HBM ignored their planning consultant recommendation and did passed a new zoning bylaw leaving all lakes within their municipal boundaries exposed to unregulated in water development. The Havelock Belmont Methuen '**no jurisdiction**' position is inconsistent with long established Municipal practices in Ontario and in direct conflict with numerous previous court ruling on this issue.



Ambrose Moran

