

February 9, 2016

The Honourable Kathleen Wynn, Premier of Ontario  
The Honourable Ted McMeekin, Minister of Municipal Affairs and Housing  
The Honourable Glen Murray, Minister of Environment and Climate Change

**Re: MOECC Environmental Compliance Approval (ECA) #SI HL AH 15 001 (Sept. 15, 2015)**

Honourable Premier and Ministers,

The purpose of this letter is to bring your attention to and request your intervention in a circumstance of the greatest importance, not merely to the membership of the Association and allied rate-payer groups in our municipality but, ultimately, all Ontarians who live in smaller communities; As a result of a lack of clarity of jurisdictions, regulation and legislation at the Provincial level, the health, rights to reasonably expected enjoyment of property and, ultimately, the property values of a number of our members are being threatened. We believe that this situation merits direct intervention by the Government of Ontario and, more specifically, the Ministers addressed.

The ECA referenced above was granted to a septic waste hauler for a “field spreading of hauled sewage site” without regard to properly constituted Municipal zoning bylaws in the Township of Algonquin Highlands, County of Haliburton. The Applicant immediately began operations on lands not zoned for the specific purpose of waste disposal and the Municipality has tried, so far without success, to convince the operator to comply with zoning provisions.

We are aware that our Reeve and Deputy Reeve will be attending the ROMA-OGRA Conference this month and will be meeting with the Minister of MOECC to present the details of this situation, requesting actions to improve the MOECC process and clarification of the spheres of responsibility for the future. We are certain that the presentation will provide sufficient detail of this situation and the actions taken to date to serve as supplementary information to this request.

**We urge the Minister MOECC to brief the Minister MAH and the Office of the Premier on this matter as soon as practicable after receiving the presentation from Algonquin Highlands, as any solution will require the involvement of these, and perhaps other, Ministries for any effective change to take place.**

Our Association and allied groups fully support the efforts of our Municipal representatives and it is our hope that the MOECC will take steps to improve the process for application and approval of ECA’s for Waste Disposal facilities / sites, providing opportunities for Municipal and public notification and consultation and clearly recognizing the authority of Municipalities to apply and enforce Zoning Bylaws as laid-out in the Municipal and Planning Acts.

- The MOECC has, through the EPA and other legislation, the responsibility to assess and regulate waste disposal **sites** based on established scientific criteria – but do not have a mandate to judge or approve proposed site locations based on development plans, zoning provisions, detrimental effects on the use and value of neighbouring properties.
- Municipalities have, through the Municipal Act and the Planning Act, the responsibility to control the **location** of waste disposal sites based on their Official Plans and Zoning Bylaws, to assure that incompatible uses are not allowed to impact development plans, existing uses, enjoyment or value of other property owners.

Municipalities have neither the mandate nor the capacity to make scientific assessments to approve or disapprove sites.

An ECA granted by the MOECC contains among its' General Terms and Conditions the statement, "*Issuance of Ministry approvals does not exclude the proponent from complying with other Municipal bylaws or zoning requirements. The applicant is responsible for ensuring that all other legislative obligations are met.*" The MOECC has no system in place or authority to ensure the Applicants' adherence to this condition; In essence, compliance with this Condition is left to the discretion of the Applicant, who has no obligation even to *inform* the Municipality of his application and whose best interest lies in not consulting or making efforts to comply with zoning Bylaws.

Some review of similar cases before the courts or tribunals, (OMB, etc.) and legal advice indicates that efforts to enforce Bylaws result in processes that place the presumed scientific validity of an Approval in direct conflict with Zoning Bylaws, often to the detriment of the Municipal Authority. This leads to complex efforts and actions, at the cost of Municipalities, groups and / or individuals, which should not be subject to such dispute or adjudication.

**We believe** that it is the responsibility of the Province to clarify and assure the adherence to Legislation and regulations in effect.

**We believe**, and can find no reference in legislation, regulation or Provincial Policy Statements which indicates otherwise, that these two areas of control are intended to work together; that Municipalities are not required to prove "superior scientific cause" in order to exercise their *provincially mandated powers* to impose restrictive zoning policies, but to take reasonable action to protect the integrity of their Official Plans and Bylaws, and the interests of their citizens and, where possible, to find accommodation with other regulatory or Approving bodies.

**We believe** that no reasonable person, reviewing the various relevant Acts, regulations and Provincial Policy Statements would conclude that a properly constituted Bylaw under the Municipal and Planning Acts would be "over-ridden" by an MOECC approval. Statements by the MOECC and conditions within the ECA clearly recognize the authority of Municipal regulation; Municipalities regularly enforce Restrictive Zoning Bylaws which have rationales beyond "scientific evidence"

**We respectfully urge The Government of Ontario**, through its' Ministers and administration, not only to expedite changes to the MOECC processes and regulations which would clearly implicate Municipal Authorities at an early stage in applications, but to intervene directly in the present case to uphold the clear intent of the Municipal Act and the Planning Act by suspending the referenced ECA until such time as all of its' terms and conditions are met and by making a clear statement of the validity and enforceability of Municipal Official Plans and Comprehensive Zoning Bylaws in this and similar cases.

We look forward to your response(s) and comment(s), as we look forward to being of whatever help we can in changing this process for the future.

Sincerely,

Andy Muirhead

President - Maple, Beech and Cameron Lakes Area Property Owners' Association (MBC)

Email: [pres@mbclakes.ca](mailto:pres@mbclakes.ca) – Tel: (604) 551-2788