

Ontario Municipal Board Set to Mediate Airport Land Acquisitions

By Liz Danielsen

Pull quote: “Compensation offered for our expropriated land was completely inadequate.” (Bill Middleton)

All is not exactly as it seems when it comes to the Stanhope Airport and the Algonquin Highlands Council’s proposed expansion of the airport. Although there has been little to report over the last few months, and construction of any sort remains on hold during the winter, disputes continue to simmer under a surface of apparent civility.

Last week, the County Voice inadvertently discovered that the Ontario Municipal Board has been considering arguments put forward by the Middleton family, three brothers whose property was purchased, or virtually expropriated early in 2007, to make way for a new crosswind runway.

It is somewhat unsettling to discover that, several years after passing a by-law to expropriate lands, the Council continues to spend undisclosed sums on lawyers and consultants to finalize the acquisition of a key piece of land required to build the new runway.

That the family was forced into selling their property has been one of the strongest factors fuelling the considerable and ongoing outrage over a project that many area residents feel is being shoved down their throats with an iron rod. After generations of enjoyment, the Middleton family has been left with only a small percentage of their land, but putting all that aside, they hold the opinion that the \$200,000 in compensation, just doesn’t cut the mustard.

Bill Middleton, speaking on behalf of the family, said that immediately after the Council gave itself the power to expropriate 100 acres of their land north of the airport property, they consulted with a lawyer, only to discover that there was no reasonable prospect of preventing the expropriation.

“We could have asked for a hearing, but the report arising out of the hearing would likely have been nothing more than a recommendation to Council that it would simply ignore. Rather than forcing the Township to go through all of the formal legal procedures required by the Expropriation Act, and adding unnecessary additional costs to the process, we agreed to an alternate procedure under the Act which permits the taking of the property under an Agreement of Purchase and Sale.”

According to Middleton the agreement was finalized late in September of 2007 and the transfer of the expropriated land was concluded irrevocably by the end of October that same year for \$200,000; the price offered by the municipality earlier in the year when the family initially refused the deal out of hand.

“After 70 years on Cameron Lake and having owned and enjoyed the 100 acres for 55 years, they have expropriated 95% of our property,” Middleton said.

While the money was paid up front and without prejudice and Middleton has confirmed that the cheque was cashed in accordance with the rules of the Expropriation Act, he also said that the amount paid did not necessarily coincide with appraisals that were provided for the land or allow for injurious affection or take into consideration ongoing impacts to the family from future development of the airport by noise, additional air traffic or simply for reduced enjoyment of the property that they still hold.

But the Act also sets out a process that can be followed subsequent to the land transaction and Middleton says the family is working its way through that process.

The matter of compensation has been taken to the OMB for consideration. One meeting was held in November with the Middleton brothers and a legal representative for the Municipality in attendance and a ‘mediation’ date has been set for January 19th in Toronto to see if things can be resolved amicably between the parties without moving into a full public hearing.

Middleton has said, “My brothers and I believe very strongly that the compensation offered for our expropriated land is completely inadequate. The claim we are making reflects the opinions of well-qualified professional advisors that we have been obliged to consult. As well, in addition to seizing 95% of our land to build a huge airport expansion, the Township has offered us absolutely nothing to compensate for the damages to our remaining land.”

The Middleton’s land is not the only property that has been purchased. Over and above the \$200,000 paid to the Middleton Family, an additional \$275,000 appears to have been spent by the municipality for land adjacent to the Middleton land, to enable construction of the new runway. In addition, the cost to negotiate easements for necessary tree topping on an as yet unknown number of properties in the area remains to be seen.

Reeve Eleanor Harrison says it’s a very complicated issue, and of that no one has any doubts. “They accepted the \$200,000 payment when they realized the land would be expropriated. While I don’t fully understand the process, I believe they are claiming for injurious affection, which is a rather ambiguous thing. If the mediation is successful, then there will be no need for a hearing. In the meantime we still have some matters to resolve.”

When asked why the OMB’s involvement had not been made public, Harrison said that they had only received confirmation late in the fall. “Other than that, there is little that can be discussed in an open meeting. If the mediation works, there may be open discussion about this, but nothing will become public until this is resolved.”

Harrison confirmed that the airport remained a rough road at the present, but added that it would resolve itself over time.

Maple Beech and Cameron Lakes Area Property Owners Association President Paul MacInnes has suggested that the total amount of funds, some as yet undisclosed, invested in consultants and lawyers is likely considerable and possibly shocking if broken out carefully and reported to the public.

“It is obvious that this process is ongoing which speaks to the fact that the municipality will have to go through the same process with rest of the affected properties. It may not be as bad as expropriation, but forced easements are a form of expropriation and require many of the same steps

In the meantime, nothing has been heard from the Canadian Environmental Assessment Agency on where the environmental review process stands. Requests by the Voice for clarification submitted to the ‘responsible authority’ remain unanswered and even the Municipality has been unable to garner any information on whether or not further study will be required of them.

While every assurance was given to the public by the CEAA that strict time lines would be followed, it is likely little surprise that the agency has not responded. Given that the volume of applications for stimulus and Building Canada funding that have been submitted for their review is likely out of this world and without someone hounding them on a regular basis, prodding for updates, it is hard to say where the Algonquin Highlands submission stands on the CEAA’s priority list.

One thing is certain. Despite the fact that things have been fairly quiet when it comes to any airport expansion work, opposition to the project is not about to go away and will likely heat up considerably as the year goes on.

This is an election year, and when considering that the project may not be completed or even get underway before a new Council takes office, MBC Vice President Andy Muirhead said, “It is quite possible that, by driving forward regardless of cost or the wishes of the electorate, this Council could succeed in chaining Algonquin Highlands to an elephant and be far from their chambers before the feed bills start to arrive.”