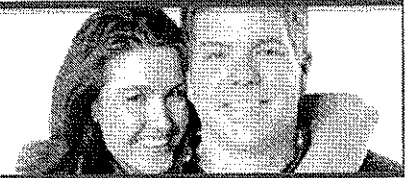


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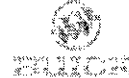
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## City and district

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# OMB rejects appeal of bylaw that allows Wheels A Churnin'

Posted By Nick Gardiner, Staff Writer

Posted 7 hours ago

The mud can continue to fly at the Augusta Motorsport Park after an Ontario Municipal Board decision rejected an appeal against an Augusta Township zoning bylaw to legalize the 12-year-old Wheels A Churnin' event.

The decision to allow the mud drags was welcomed happily by Onne Van Hoek, who holds the twice-annual event on his Dixon Road property, and his solicitor Luc Barrick.

"We're mostly relieved," Barrick told The Recorder and Times after speaking with Van Hoek about the favourable decision released by the OMB on Monday.

"It was tough to have been involved in a process that shouldn't have occurred in the first place," said Barrick.

He said Van Hoek invested his own money as well as "a lot of his blood, sweat and tears into the event" only to see his reputation publicly challenged for no good reason.

"He certainly has suffered quite a bit of grief over this appeal," said Barrick.

He said he is intending to proceed with a motion to seek \$96,000 from Kerr to cover Van Hoek's bill for legal fees and

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noise and environmental reports prepared by experts.

"Our contention since Day One was this is an appeal without any merit," said Barrick.

That argument finds its way into the 16-page decision by OMB board member Norman Jackson, who sat through a week of testimony about the appeal at the Maynard council chambers in September.

Jackson cited Kerr's previous involvement with the mud drags, which included a personal loan to Van Hoek to support the event prior to an acrimonious end to their friendship.

"The undenied change in status from being involved in the motorsport event to (appealing for its end) does cause concern," Jackson stated.

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He said the board has considered the combative relationship between Kerr and Van Hoek, but bases its findings on the Planning Act.

Jackson said the bylaw is consistent with provincial policy, conforms with the township's official plan, is in the public interest and represents good planning.

In addition, he gave more credence to expert witness called on behalf of Van Hoek who testified noise levels fall within provincial standards and environmental concerns have been adequately addressed.

"The board finds the development has been properly evaluated in terms of the ecological function of the subject lands and the adjacent provincially significant (Charleville) wetland and there will be no negative impact on the natural features or their ecological functions."

Kerr's lawyer Neville Johnston said he will review the decision with his client before determining whether to appeal to the divisional court.

"It's too early to say," Johnston said during a telephone interview.

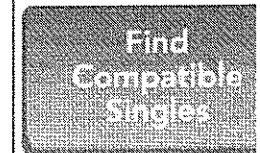
"It's disappointing. We had felt we presented a good case and had good evidence."

Johnston cited what he considers to be a flaw in Jackson's decision supporting the township's decision to repeal a temporary zoning bylaw for the property last summer and replacing it with a permanent bylaw - both appealed by Kerr - without providing proper notice to the public.

Jackson states the initial public meeting for the temporary bylaw was sufficient notice for the permanent bylaw because only six months passed from one to the next. But Johnston has a different view.

"That's where I feel it was critical. They should have issued a new notice and held another public meeting," said Johnston.

He said he will continue with his motion for costs "in the five-figure range" to be awarded to Kerr, despite the decision.



Cancee Klifx Adv

The motions for cost will be heard separately at a date to be determined.

Meanwhile, Jackson's order won't be final until a review of supporting legislation recently approved by the township council.

Township Reeve Mel Campbell said he's pleased the decision will allow the mud drags to continue - and grow to a maximum of five per year - and said council is co-operating with the OMB process.

"We're doing everything the board suggested," said Campbell.

He said a site-plan agreement and licensing bylaw specific to Wheels A Churnin' were passed by council last month in accordance with OMB orders.

The reeve was pleased as well with the board's recognition of steps taken previously by the township, including a 2004 Official Plan amendment allowing for the mud drags to be held, and efforts by Augusta planner Glenn Tunnock to address environmental and noise concerns.

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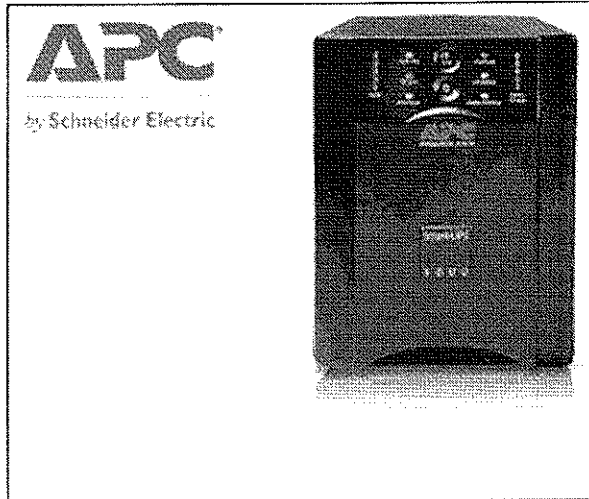
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