

Judicial review eyed in cell tower fight

By Brock Weir

Lawyers are exploring the possibility of applying for a judicial review over the King Township cell phone tower looking over a swath of southwest Aurora.

Council approved a motion last week tasking Town Solicitor Warren Mar with retaining an external lawyer to explore the possibilities of getting a judicial review off the ground.

While he cautioned the results of a judicial review could be limited, residents in the area have one objective in mind: having the tower dismantled and carted off elsewhere.

"An apology does not remove the Town's obligation to have justice done," said resident John Cunningham, one of the leading voices against the tower, citing the previous week's apology from municipal staff over how the tower was handled.

The Town, he said, should clearly look at launching a judicial review, looking into processes and protocols which lead to the construction, just over the Town's boundary with King Township on Bathurst Street.

"A win in favour of the Town and the residents would be the requirement of a do-over of the whole process of the tower by Bell," he said. "As the Mayor seeks to meet with senior leadership of Bell, capable of making the decision to move the Tower, it is important for all stakeholders to know how serious the community feels about moving the Tower and that the Town is engaged and ready to continue the escalation."

Not so fast, said Mr. Mar. A judicial review could be "very limited" in scope due to the involvement of Industry Canada which has a "clear" policy in place. A judicial review could simply state issues with communications between the company and residents, leaving all concerned in the same place they are right now.

Councillors approved 7-2 going ahead with getting advice about a possible judicial review. Consultation over a potential judicial review could run up to \$5,000 with advice coming forward to Council on either July 16 or August 13, added Mr. Mar.

Voting against the proposal were Councillors Paul Pirri and Evelyn Buck, the latter of whom questioned whether issuing an apology over the process Aurora followed with regards to the tower, was the right move.

"A judicial review [is for] if there has been any indication of wrongdoing or corruption," she said. "I don't believe there has been any indication whatsoever in this municipality of wrongdoing or corruption. I believe the apology given by [Aurora CAO] Neil Garbe with the best of intentions at the last meeting may have created a misunderstanding.

"You have no justification requesting a judicial review unless you are positive something underhanded happened. We have no such indication in this Town that something corrupt or inappropriate happened in our Town planning department. Absolutely no reason at all for putting the taxpayers to the expense of a judicial review. It is a totally outrageous suggestion."

Others, however, saw this as a tentative measure simply seeking advice, and a final decision on whether to proceed further would be in order on a later date.

"I think the request is reasonable to explore every option and that is all [residents] are asking for," said Councillor Michael Thompson.

Added Councillor Chris Ballard: "All we're asking tonight is staff, perhaps in consultation with external legal advisors, to tell us whether or not they think we have the grounds for review and some pricing and some background information. That is all I am

voting on tonight.?

Mr. Garbe's apology the previous week stemmed from a response a staffer in the Town's planning department sent to consultants hired by Bell Canada seeking comment on the tower proposal just over the Aurora-King border. The staffer replied the Town had no comment, but the reply did not come from Planning Director Marco Ramunno, something they said was not in order.

They recommended a number of changes to the protocols, including having all cell phone tower applications come directly to Council for approval in the future.

?It is said the Town would not have had any influence anyway,? said Councillor Wendy Gaertner on earlier comments that Bell was simply not interested in Aurora's position. ?We never put up a fight on behalf of our residents. As far as I am concerned, we haven't done right by our residents to this point and anything we can do to change that I am in favour of.

?You don't know until you try. The people do have power and we should have tried.?