

Not just one 'legitimate voice' on indigenous issues in Zibi project, judge says

Jon Willing (Ottawa Sun)

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The Zibi project is being developed on the former Domtar lands between Ottawa and Gatineau. (Julie Oliver, Postmedia)

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Justice Charles Hackland ruled a group led by architect Douglas Cardinal doesn't have to cover the legal costs of the City of Ottawa and Windmill Development Group related to a failed land-use appeal of the Zibi project.

Cardinal and the group lost their appeal of Windmill's development at the Ontario Municipal Board. They asked the divisional court if they could appeal the OMB decision, but the judge found no reason to allow it.

The city was claiming about \$35,411 in legal fees and Windmill claimed \$31,137.

The judge found the costs reasonable but ultimately ruled that the appellants don't have to pay the money because they are public interest litigants. The city and Windmill are able to cover their own legal costs, the judge said in a written decision released this week.

"The appellants are concerned individuals attempting to address indigenous issues of broad concern which may impact the public generally," the judge wrote.

Indigenous religious sites are "important issues of public interest" that go beyond the interests of anyone involved in the OMB case, the judge wrote, noting that sacred site litigation is a "developing aspect of indigenous law."

The judge said there is not just one group to speak for the Algonquin people when it comes to the issue of development on the islands between Ottawa and Gatineau.

Ten Algonquin communities are part of the Algonquins of Ontario, which has been negotiating a land claim with the provincial and federal governments. Windmill signed a letter of intent with the organization to promote Algonquin culture in the Zibi development.

Not all Algonquin communities, however, are represented by the Algonquins of Ontario.

"Accordingly, while it might be argued that the Algonquins of Ontario organization has the sole legitimate right to address the indigenous concerns relevant to this development, I would not see that as necessarily being the case," the judge wrote. "That organization should not be viewed as having the only legitimate voice so as to exclude other persons from advancing a legal position that can be characterized as in the public interest."

Windmill is working with Dream Unlimited Corp. on the \$1.2-billion mixed-use development to transform old industrial land formerly occupied by Domtar. The area, especially around the Chaudière Falls, is considered sacred by the Algonquin people.

jwilling@postmedia.com

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