

Court File No.:

ONTARIO  
SUPERIOR COURT OF JUSTICE

B E T W E E N:

**ANNE RITCHIE NAHUIS**

Applicant

– and –

**THE CORPORATION OF THE COUNTY OF SIMCOE**

Respondent

**APPLICATION UNDER** Rule 14.05(3)(d) and (h) of the *Rules of Civil Procedure*

**NOTICE OF APPLICATION**

TO THE RESPONDENT:

**A LEGAL PROCEEDING** has been commenced by the applicant. The claim made by the applicant appears on the following pages.

**THIS APPLICATION** will come on for a hearing on Wednesday, July 29, 2009 at 10:00 a.m. or as soon after that time as the matter can be heard at the Barrie Court House, 114 Worsley Street, Barrie.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

If you wish to present affidavit or other documentary evidence to the court or to examine or cross-examine witnesses on the application, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer, or where the applicant does not have a lawyer, serve it on the

applicant and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least two days before the hearing.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

July 27, 2009

Issued by: \_\_\_\_\_  
Registrar

Address of Court Office:

114 Worsley Street  
Barrie, ON  
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Solicitors for the Respondent

APPLICATION

1. The applicant makes application for:
  - (a) a declaration that:
    - (i) the construction or development of waste cells at or on the respondent's property consisting of the west half of Lot 10 and the southeast corner of Lot 11, Township of Tiny, County of Simcoe, known as Site 41 ("Site 41");
    - (ii) any and all expenditure of public funds ancillary to such construction; and
    - (iii) any construction or development of Site 41 beyond that which was approved by the Council for the County of Simcoe at its meeting on June 26, 2007, in Council's resolution number 2007-178, and any enacting by-law in respect of such resolution;

(collectively, the "impugned activities") have not been validly or duly authorized by the Council of the County of Simcoe, pursuant to section 5 of the *Municipal Act, 2001*, or otherwise
  - (b) the costs of this application;
  - (c) such further and other relief as the circumstances of the case may require and this Honourable Court deem to be just.

2. The grounds for the application are:
  - (a) the applicant is a ratepayer in the County of Simcoe;
  - (b) the impugned activities have not been properly authorized by Council for the County of Simcoe, or otherwise;
  - (c) section 5 of the *Municipal Act, 2001* and Rules 14.05(3)(d) and (h) of the *Rules of Civil Procedure*.
  
3. The following documentary evidence will be used at the hearing of the motion:
  - (a) the affidavit of Robert McCullough sworn July 21, 2009 and filed by the respondent in action number 09-961 (the "related proceeding")
  - (b) the affidavit of Glen Knox sworn July 22, 2009 and filed by the respondent in the related proceeding;
  - (c) the affidavit of Carleen Pickard sworn July 21, 2009 and filed by the applicant in the related proceeding;
  - (d) the affidavit of Glen Knox sworn July 29, and filed by applicant in the related proceeding;
  - (e) such further and other material as counsel may advise and the court permit.

July 27, 2009

**SACK GOLDBLATT MITCHELL**

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Solicitors for the Applicant