

File No. CA 011-03

L. Kamerman )  
Mining and Lands Commissioner )

Tuesday, the 17th day  
of August, 2004.

**THE CONSERVATION AUTHORITIES ACT**

**IN THE MATTER OF**

An appeal to the Minister pursuant to subsection 28(15) of the **Conservation Authorities Act** concerning the granting of permission with conditions for development through re-grading within the Fill Regulated Area within a well defined valley of the Don River, in order to construct a detached single family residential dwelling, described as 119R Glen Road, City of Toronto;

**AND IN THE MATTER OF**

R.R.O. 1990, Regulation 158, Toronto and Region Conservation Authority, Application #029/03/Tor and Resolution B154/03.

**B E T W E E N:**

JOHN McFADYEN, NANCY McFADYEN, ELAINE TRIGGS,  
DAVID TRIGGS, SEAN SHANAHAN, CATHERINE  
SHANAHAN, DAVID ROFFEY AND KAREN WALSH  
Appellants

- and -

DEREK RUSSELL

Respondent

- and -

TORONTO AND REGION CONSERVATION AUTHORITY  
Party of the Third Part

**ORDER OF RESCISSION**

**WHEREAS** the tribunal issued a Declaratory Order on the 25th day of June, 2004, wherein in paragraph 2 it ordered the parties, John McFadyen, Nancy McFadyen, Elaine Triggs, David Triggs, Sean Shanahan, Catherine Shanahan, David Roffey and Karen Walsh, the appellants, Derek Russell, the respondent and the Toronto and Region Conservation Authority, party of the third part, to make written submissions in respect of costs, to which Derek Russell submitted materials dated the 23rd day of July, 2004, in addition to those filed on the earlier motion;

**AND WHEREAS** in a letter received by the tribunal on the 27th day of July, 2004, from Ms. Jane Pepino, it was urged that the Order did not provide Derek Russell to provide additional submissions to those preliminary costs submissions of Mr. John Inglis, counsel for Derek Russell, found at page 8 of the submissions on behalf of his client, dated the 5th day of March, 2004 and marked as Exhibit 7 to the motion, and of his submission on costs dated the 17th day of March, 2004 and marked as Exhibit 9 to the motion;

**AND WHEREAS** Ms. Pepino and Mr. Inglis provided further correspondence disputing the intent of the Tribunal's Order;

**AND WHEREAS** the tribunal, by its Registrar, Mr. Daniel Pascoe, advised the parties in writing on the 27th day of July, 2004, that owing to the appeal of the decision in connection with the motion and the absence of the Commissioner, that paragraph 3 of its Order dated June 25, 2004, was rescinded and the matter of costs has been adjourned pending the outcome of the appeal;

**UPON** consideration of the various correspondence and filings in this matter;

**1. THIS TRIBUNAL ORDERS** that paragraph 3 of its Declaratory Order dated the 25th day of June, 2004, be and is hereby rescinded.

**2. THIS TRIBUNAL ADVISES** that John McFadyen, Nancy McFadyen, Elaine Triggs, David Triggs, Sean Shanahan, Catherine Shanahan, David Roffey and Karen Walsh, will be permitted to make further written submissions on the issue of whether costs should be awarded and if so, in what amount, to Derek Russell, in compliance with paragraph 2 of its Declaratory Order of the 25th day of June, 2004, as may be further ordered and within the time frame further specified, when the matter of costs, which has been placed in abeyance pending the outcome of the appeal to the Superior Court of Justice, Divisional Court, may be reinstated and depending on the outcome of that appeal, and as the Tribunal may further advise.

**DATED** this 17th day of August, 2004.

Original signed by L. Kamerman

L. Kamerman  
MINING AND LANDS COMMISSIONER