

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

B E T W E E N:

AWARE SIMCOE; ENVIRONMENTAL AND SOCIAL SOLUTIONS INC.
Applicant

and

CORPORATION OF THE COUNTY OF SIMCOE
and TECUMSETH ESTATES INC.
Respondents

COSTS OUTLINE

The Respondent, Tecumseth Estates Inc. provides the following outline in support of the costs the party will seek if successful:

Fees (as detailed below on a substantial indemnity basis)	\$	27,850.00
Disbursements (as detailed below)	\$	1763.07
H.S.T. (except on court filing fees)	\$	213.86
TOTAL	\$	<u>29,826.93</u>

The following points are made in support of the costs sought with reference to the factors set out in subrule 57.01(1):

- the amount claimed and the amount recovered in the proceeding

Although no specific monetary amount was at issue, the injunction application raised significant issues of importance to all of the parties involved. The permit to remove the trees would have expired prior to the matter being determined in its substance before the Divisional Court.
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- the complexity of the proceeding
Every interim injunction motion is inherently complex. This motion involved voluminous material and significant issues of law.

- the importance of the issues
the applicant certainly argued that the relief claimed is of great public significance. Tecumseth had at risk the loss of a permit which had taken it almost 2 years to obtain, required the retention of expert consultants, review by appropriate provincial and conservation authority officials and had been defended before the County Council.

- the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding
N/A

- whether any step in the proceeding was improper, vexatious or unnecessary or taken through negligence, mistake or excessive caution
The applicant proceeded relying on technical but not substantive issues attacking a permit, the application for which the been prepared with the assistance of appropriate experts, have been reviewed by appropriate Ministry and Conservation Authority experts in have been approved by County Council after an appeal in which the applicant and its members had every opportunity to participate and had participated. The applicant had no expertise with which to dispute the conclusions of the appropriate authorities, retained no expert consultants and offered no expert evidence to contradict the evidence of Tecumseth’s consultants nor the approvals of the appropriate agencies.

- a party’s denial of or refusal to admit anything that should have been admitted
N/A

- the experience of the party’s lawyer
The lead counsel in this matter (Rowe) is a Senior counsel with over 35 years practicing in the applicable area of Municipal Law. Associate counsel have respectively 4 years (Dylan Scott) and 3 years (Aynsley Anderson). The rates charged are reasonable and work allocated appropriately to staff.

- the hours spent, the rates sought for costs and the rate actually charged by the party’s lawyer

FEE ITEM	PERSONS	HOURS	PARTIAL INDEMNITY RATE	SUBSTANTIAL INDEMNITY RATE	ACTUAL RATE	TOTAL
Review of applicant’s material, correspondence with consultants,	Ian Rowe (1978 call)	64.1	300	350	420	Partial – \$19,230.00 Subst – \$22,435.00 Full - \$26,922.00

FEE ITEM	PERSONS	HOURS	PARTIAL INDEMNITY RATE	SUBSTANTIAL INDEMNITY RATE	ACTUAL RATE	TOTAL
preparation of responding affidavit, correspondence with client and counsel, review in preparation of factum, for preparation for and attendance on cross examinations and reviewing transcripts, reviewing legal research and preparation of argument, attendance on motion						
Legal research, preparation of factum	Dylan Scott (2011 call)	21.4	\$200	\$225	\$250	Partial – \$4280.00 Subst – \$4815.00 Full - \$5350.00
Legal research	Aynsley Anderson (2012 call)	3	\$180	\$200	\$225	Partial-\$540.00 Subst-\$600.00 Full-\$675.00
TOTAL						Partial – \$24,050.00 Subst-27,850.00 Full - \$32,947.00

DISBURSEMENTS

1. Courier costs	\$ 20.74
2. Court reporting	\$ 598.00
3. Cyberbahn Taxable	\$ 12.00
4. Cyberbahn Non-Taxable	\$ 8.00
5. Teraview Taxable	\$ 10.00
6. Teraview Non-Taxable	\$ 8.00
7. Transaction Levy	\$ 50.00
8. Photocopies	\$ 394.25
9. Mileage and Postage	\$ 2.77
10. File Notice of Appearance	\$ 102.00
11. Agency fee for title search	\$ 557.31

Total \$ 1763.07
H.S.T. \$ 213.86

- any other matter relevant to the question of costs

LAWYER'S CERTIFICATE

I CERTIFY that the hours claimed have been spent, that the rates shown are correct and that each disbursement has been incurred as claimed.

Date: October 5, 2015



Ian J Rowe

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AND TO

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AWARE SIMCOE: ENVIRONMENTAL AND SOCIAL SOLUTIONS INC.
Applicant

-and- CORPORATION OF THE COUNTY OF SIMCOE and TECUMSETH ESTATES INC.
Respondents

Court File No. 15-0922-DC

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DIVISIONAL COURT
Proceeding commenced at
BARRIE

COSTS OUTLINE

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