

Press release: FACT-MB Inc. Won against Miller Group at OMB

FACT-MB Inc. is ecstatic! The Ontario Municipal Board decision by Marc Denhez has come out clearly on the side of the Community.

There will be **NO Permanent Asphalt Plant** in the Braeside Quarry! Proper setbacks to residents' property lines must be kept as the quarry expands. The Township Noise By-Law will be upheld. The Wildlife Corridor will be included with the Wildlife Protection Area and a new zoning classification will be made to protect them both. This 58 page decision contains much careful detail to protect this community, but still allow the quarry to expand.

Protecting the environment has been an enormous effort by the community over the last almost ten years. But it must be said that it would not have happened without the tremendous dedication and *pro bono* help of Ecojustice's Linda McCaffrey. And because of her we were able to get the Canadian Environmental Law Association (CELA) to take our case to the OMB. We simply could not have been represented by a better legal team. They were incredible!

One of the key issues in this case had been the installation of a temporary asphalt plant in the Braeside Quarry in September 2009. After suffering adverse effects, nine neighbours took Miller to Small Claims Court and won a decision of nuisance, trespass and negligence, thanks to the legal team of Linda McCaffrey and Ottawa University Professor Lynda Collins. The decision of nuisance stood up on appeal at the superior court. Neighbours are still taking Miller to Court for the adverse effects suffered in 2010 and 2011.

This court action verified and emphasized the residential nature of the community and influenced the Board's decision.

At the OMB hearing, during March 2015, Miller had more than 12 expert witnesses compared to our three experts. Miller had three quarters of the time at the hearing. But our experts were top notch and our lay witnesses and participants had powerful testimony; Board Chair listened.

FACT-MB atmospheric scientist Dr. Henry S. Cole made it clear that asphalt plant emissions were just too dangerous to the health of this residential community; FACT-MB hydrogeologist Wilf Ruland called the permanent asphalt plant the "crunch issue"; the risk of water contamination was just too great.

FACT-MB blasting engineer, Dr. Sam Kiger, stated that structural damage to neighbouring homes was just a matter of time if proper setbacks from the quarry were not in place. The court decision after the blasting accident of 2007 emphasized this fact.

FACT-MB and the neighbours in this community stood with the Township against Miller to achieve what is so clearly a win for everyone. Miller will still be able to expand the quarry, but the residents will not be unduly affected by heavy Class III industrialization and the Significant Wildlife Habitat will be protected.

It is not common for a small community organization to win against a large multinational company at OMB. So FACT-MB and their supporters could not be happier with this outcome.