

Citizen's group asks court to put brakes on Sutton bylaws



MATTHEW MCCULLY

Former Sutton councillor Dominique Parent looks on as lawyer Benoit Galipeau explains the RDDS' lawsuit against the Town of Sutton.

By Matthew McCully
GRANBY

A citizens group known as Regroupement pour un Développement Durable à Sutton (RDDS) is moving forward with legal action against the Town of Sutton regarding proposed bylaws 254 and 256.

Represented by lawyer Benoit Galipeau of the Archer legal group in Granby, the RDDS is filing a motion to initiate proceedings for a declaration of cessation and nullity regarding the bylaws, as well as a request for an interlocutory injunction to halt any attempts by the Town to move forward with the bylaws before a judgment is

reached.

The motion in opposition to the bylaws, which lists 24 Sutton citizens as plaintiffs, will go before the Quebec Supreme Court on Sept. 9, according to Galipeau.

The Record was one of three media outlets invited to a meeting with RDDS members Robert Benoit, Jean Perrault and former Sutton councillor Dominique Parent, where Galipeau explained the main points of the legal motion.

Robert Benoit explained his motivation for participating in the lawsuit. He believes the zoning changes would represent a fundamental change to the quality of life of citizens. No studies

were done to measure the financial or environmental impact the changes would have on the town, Benoit said.

He went on to say that council was offered a way out. "Make the changes that people support," Benoit said, "where there are controversies, do independent studies and come back to them."

Benoit suggested the real estate market in the area is stagnant, and laws paving the way for traditional development projects would not work, in his opinion. He also said the quality of life of Sutton residents and the character of the town are based in nature, culture, agriculture and sport.

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Once we have a consensus, build those changes into the urban plan, Benoit said. "Don't do the opposite. What is the collective benefit?"

"This is a last resort. No one wants to go to court," Benoit said. "Council closed all doors. There was no opportunity to be heard," he added.

Galipeau explained that the basis for the suit against the Town of Sutton lies in the nature of the proposed bylaws. "These are not modifications, they are changes," he claimed.

While amendments and some level of modification to municipal bylaws are allowed, a complete reform, like the changes included in bylaws 254 and 256, must be done in the context of a revision of the urban plan, and must be done at the same time.

The lawyer said the lawsuit will also challenge the legality of the consultation process. Municipalities have an obligation to explain and identify any modifications, and the people involved must be made aware of the modifications.

Galipeau said that following the consultation process there were still unanswered questions.

The public notice informing citizens who objected to the bylaws of the process to follow was also insufficient, according to Galipeau.

He referred to Paragraph 80 in the 48-page document that will be submitted in court. The section explained that a citizen in opposition to a measure in the bylaws must first determine the zone in which they live, and then refer to a 172-page document outlining the zoning bylaw changes, followed by a 22-page document explaining the proposed new subdivision regulations, before filing the appropriate form, naming each measure contested, while assuring they have the legal right to do so.

The process should be repeated in the event that citizens should find themselves contiguous to a zone affected by other contentious bylaws.

"The process is extraordinarily complex," Galipeau said, adding the notices did not adequately summarize the course of action for citizens to follow.

To put it simply, a section that affects 12 zones opens up the possibility of 12 referendums, Galipeau said.

Benoit said that he went through the exercise, intending to fill out the required paperwork and open a register. Describing himself as an educated man, Benoit said the proposed bylaw changes, combined with the annexes and additional supplemental information, was around 700 pages of material to filter through in order to properly articulate a legal objection to a measure in the bylaws in

his zone, and it was beyond him.

Playing devil's advocate, one reporter asked if the process in place regarding the bylaws could be considered an opportunity to get involved with the specifics of the changes affecting them directly, rather than a "take it or leave it" scenario presented with an urban plan.

Galipeau said that if it were an issue of slight modifications, that could be the case, but he did not consider so many changes and such a convoluted opposition process to be democratic.

Because the Town has the right to withdraw any contested bylaw measures rather than go to a referendum, *The Record* asked if there were a possibility that the town could simply remove contested measures and then approve the balance of the proposed bylaws 254 and 256 before the challenge even reaches court on Sept. 9.

Galipeau said that even though that were a possibility, the motion could be amended to reflect the change in status of the bylaws, but the legal basis behind the RDDS challenge stands.

Sutton Mayor Louis Dandenault, meanwhile, said that the town received the challenge on Friday, and that the town's legal department is looking at it.

"It's a democratic way of expressing themselves," Dandenault said. "If they want to do

it, it's their choice."

Dandenault did not comment on the specifics of the challenge, deferring to his legal department and Réal Girard, director of urban planning, to assess the situation.

When asked, legalities aside, how he felt about a citizens group taking legal action against council because they felt there was no other recourse, Dandenault replied, "Certain groups will never accept other people's thinking."

Dandenault explained that the omnibus bylaws currently under scrutiny were developed while he and Girard were going through the different zoning rules and regulations upheld by the town. Amounting to over 400 pages, he and Girard thought "now that we're into it, let's change this, let's change that," Dandenault said, referring to some measures as protectionist.

While the town's urban plan is due for renewal on March 8, 2016, Dandenault suggested the time for change should be now.

"Waiting another year, we didn't feel we should do that."

In the same conversation, Dandenault denied that bylaws 254 and 256 were a back-door attempt to ratify the urban plan without having to consult the entire town regarding dramatic changes.

Dandenault laid out the struggles faced by small towns. He referred to the elementary

school population, currently at 202, which was 319 students 20 years ago, to explain the decision to propose the pro-development bylaws.

"To find that balance, we have to change a few rules."

Dandenault claimed to have the support of the silent majority, insisting the opposition is coming from a small group of people.

"I'm going with the law," he said, comfortable with the process required by the average citizen to voice opposition to the bylaws.

"If you're not happy with the law, change the law; that's not my job."

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