

FOR IMMEDIATE RELEASE

Judicial review hearing on the legality of the Ford government's decision to build a prison on Kemptville prison set to begin tomorrow

February 7, 2024 (Ottawa) – A precedent-setting case to review the Ford government's decision to destroy prime agricultural land in Kemptville to build a 235-bed prison will be heard tomorrow, February 8, 2024. The judicial review was initiated by two public interest litigants from Kemptville to determine whether the Ministry of the Solicitor General abided by their legal obligations prior to making its decision.

Three and a half years since the Ford government announced its decision to pave over prime agricultural land in Kemptville to build a 235-bed prison without any prior consultation with local residents or the Municipality of North Grenville, and a year and half since Kemptville residents Kirk Albert and Victor Lachance filed an application for a judicial review of that decision, the Ontario Divisional Court will be hearing the case **tomorrow starting at 10:00am via Zoom (link: <https://ca01web.zoom.us/j/64843351573>)**.

“There's never been a case like this before, where the Divisional Court has been asked to look at the legal obligations of any ministry of the Ontario government with respect to the Provincial Policy Statements dealing with prime agricultural land and their obligations under the *Planning Act*, and the manner in which these obligations must be fulfilled”, says the applicants' lawyer Stéphane Énard-Chabot of Sicotte-Guilbault. “If we're successful, this precedent-setting case will help grassroots groups and coalitions push back on the Ford government's troubling plans for development on environmentally sensitive lands across Ontario”, he adds.

The Court will be asked to determine if SolGen contravened its statutory obligations under the *Planning Act* in deciding to build a prison on the grounds of the former Kemptville Agricultural College. More specifically:

- (a) Is the decision to build the Eastern Ontario Correctional Complex (EOCC) on farmland in Kemptville consistent with the Provincial Policy Statements, as required by section 3(5) of the *Planning Act*?
- (b) Does the decision to authorize the construction of the EOCC have regard for the local planning policies of the municipality of North Grenville, as required by section 6(2) of the *Planning Act*?
- (c) Was the decision to authorize construction of the EOCC made without prior consultation with North Grenville, as required by section 6(2) of the *Planning Act*?
- (d) The exercise of administrative discretion in fulfilling these statutory obligations is bound by common law principles of administrative law. In this light, is the reasoning process SolGen relied on and the outcome of its reasoning flawed, thereby rendering its exercise of administrative discretion unreasonable and contrary to law?

Kirk Albert, recognized by the court as a public interest litigant acting in the interests of many Kemptville residents, states: “When Premier Ford, then Solicitor General and now Deputy Premier Sylvia Jones, and then cabinet minister and our local MPP Steve Clark made the Kemptville prison announcement, the province presented this project as a done deal. It became clear shortly thereafter and ever since that announcement that this was a rushed decision based on information that can only be defined as conjecture. We've continued to ask the province two simple questions: did you follow established processes and did you meet your legal obligations?” Victor Lachance, also a Kemptville resident and public interest litigant adds: “It's been a long road. We're of the view that the province broke its own planning laws on this file and we look forward to the court putting this issue to bed so that our community can move forward on how to best use the Kemptville Agricultural College farmside lands in a time of food insecurity, climate catastrophe, and agricultural land loss”.

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BACKGROUNDER

The three and a half years that have passed since the August 27, 2020 announcement of the Ford government's decision to build a 235-bed prison in Kemptville, Ontario have been characterized by:

- The Ministry of the Solicitor General's (SolGen) broken promises of transparency and public accountability before and following the announcement.
- SolGen making claims of economic benefits to the community without evidence.
- SolGen's failure to keep its promise of covering all the costs that the prison project will impose on the Municipality of North Grenville.
- The Premier of Ontario and SolGen justifying their selection of the prison site in Kemptville because it is owned by the province, then arguing in the judicial review process that they had to purchase the property from another ministry and that stopping the project at this stage would cause the government undue hardship.
- SolGen claiming that the August 27, 2020 media conference, organized in Brockville during year one of the COVID-19 pandemic – assembling 15 VIPs including the Premier, the then Solicitor General, the then Minister of Municipal Affairs and Housing Steve Clark, two other cabinet ministers and four mayors – was “just a press release” and not an announcement of the decision to build, expand and renovate prisons in eastern Ontario.
- SolGen stating that the judicial review is about whether the prison site is farmland when it is about whether SolGen abided by the Provincial Policy Statements and *Planning Act*. In any event, the question of whether the site is farmland already has an answer. The Canada Land Inventory classifies the land as Class 2 and 3 prime agricultural land, as does the province's own land classification system.
- SolGen's failure to establish the committees they promised to deal with areas of concern to stakeholder organizations and residents of the community.
- SolGen's failure to hold regular public information sessions for the Kemptville community.
- SolGen's failure to respond to residents' questions that the Ministry itself solicited from the residents of Kemptville.
- SolGen not answering all the questions and addressing all the concerns of the Municipality of North Grenville.
- Then Minister of Municipal Affairs and Housing Steve Clark's failed attempt to silence his own constituents through an Elections Ontario complaint.
- SolGen's attempt to have the Divisional Court dismiss the case rather than defending the way it made its decision to build a prison on agricultural land in Kemptville.
- SolGen and Infrastructure Ontario's stonewalling of over 20 Freedom of Information requests by the residents of Kemptville and their allies.
- MPP Steve Clark's failure to fulfill a commitment made during the November 2021 public engagement session, which he also repeated in the Legislature, to meet with his constituents about their questions and concerns regarding the Ford government's prison project.
- All the opposition parties taking a public position against the way the decision was made.
- SolGen's agent, Infrastructure Ontario, pressuring or “bullying” municipal officials to provide the Ministry's desired interpretation of the local by-law governing the selected site.
- SolGen falsely claiming that Kirk Albert and Victor Lachance “coined” the term “site selection”, calling it a vague and overly broad term for judicial review, when the term originated from their own slide decks presented during the few stakeholder and public information sessions they have held since the August 2020 decision.
- SolGen filing a Motion to Dismiss the judicial review application based on the August 2020 date that decision was announced, then claiming before the Divisional Court that there was no decision, but rather a plan, to build a prison in Kemptville announced by the Premier of Ontario and the Solicitor General in August of 2020.
- SolGen succeeding in keeping records and information related to the selection of the Kemptville site a secret and away from the Divisional Court.
- SolGen's attempt to have the two public interest litigants who launched the judicial review, Kirk Albert and Victor Lachance, pay the province's \$15,000 legal costs for their efforts to obtain records and information concerning the Kemptville prison decision they believe should be before the judges of the Divisional Court.

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