

FOR IMMEDIATE RELEASE

Court battle to determine legality of building a prison on farmland in Kemptville set to move ahead as province fails to convince judge to dismiss the Judicial Review Application of two town residents

2 May 2023 (Kemptville, Ontario) – A judicial review application by Kemptville residents Victor Lachance and Kirk Albert seeking to stop the Ford government’s controversial plan to build a prison on the former Kemptville Agricultural College farmlands is set to go ahead after Ontario Superior Court Justice Robert Smith rejected the province’s bid to quash the case. In his decision issued on 28 April 2023, Judge Smith concluded that the province failed to demonstrate undue prejudice and hardship associated with the timing of the judicial review application and the purported financial losses that would be incurred should the province be forced to abandon the project at this early stage. He also noted that Lachance and Albert had also “identified several arguable grounds” which are the basis for their judicial review application. This suggests that the province fell short of its obligations to consult with the local municipality and preserve designated agricultural land as required by the Provincial Policy Statement, a set of regulations issued by the Minister of Municipal Affairs and Housing, Steve Clark, who claims to represent Kemptville residents in the Ontario Legislature as their local Member of Provincial Parliament.

Victor Lachance, one of the judicial review applicants and a member of the Coalition Against the Proposed Prison (CAPP), reacted to the decision noting: “From selling off the rights to Ontario Place to construction in the greenbelt, to building highways in environmental sensitive areas, and planning a prison on arable farmland with a floodplain, a creek, and heritage farm buildings on unceded and unsurrendered Algonquin Territory, Premier Ford wants to be able to build what he wants, where he wants, when he wants, without meaningful consultation or regard for the long-term implications of his government’s decisions. With our own money and the financial contributions of our supporters, we’re drawing a line in the sand and standing up to the bullies at Queen’s Park who ignore their own Provincial Policy Statements and the *Planning Act* as they run roughshod over the democratic process. We’re pleased that the judge’s decision will allow the Divisional Court to determine whether the secret process through which the Ford government evaluated and selected the Kemptville site for the so-called Eastern Ontario Correctional Complex was illegal as claimed in our judicial review application”.

Kirk Albert, the other judicial review applicant and a member of the Jail Opposition Group (JOG), added: “It’s certainly rewarding to have Justice Smith recognize, in his decision, the challenges we’ve endured over the past two and half years simply trying to access information that the province should have made readily available regarding the site selection in Kemptville. The Superior Court decision is a step in the right direction and I’m pleased that our case will be heard before the Divisional Court in the coming months. While the province continues to blame our judicial review application for causing undue delays and costs to their proposed plan, should they again decide to side-step the judicial review process and appeal the Superior Court Justice’s decision they’ll create another significant delay. Had they not filed a motion to dismiss the case in the first place, the Court would likely have already had the opportunity to hear the province present their claims that nothing nefarious has occurred and that they’ve followed established processes. A decision would likely have already been rendered as to the legality of the province’s plan to place the facility on farmland in Kemptville. The irony in the province’s comments and actions about delays, is yet again, unmistakable”.

Stéphane Émard-Chabot, lawyer for Lachance and Albert, was also pleased with Judge Smith’s decision to allow the judicial review application to proceed, again noting the crux of the matter: “In our legal research conducted after the Ford government was re-elected and confirmed its desire to move forward

with the Kemptville prison, the legal team was astounded to find that the province failed to abide by its own Provincial Policy Statement, including the protection of prime farmland. We were also shocked to find that they failed to abide by the *Planning Act*'s requirement to have regard to the municipality's Official Plan and to consult with the municipality prior to making its decision. Instead of using procedures to try to avoid the judicial review of a bad decision, the province needs to face the music once and for all for their failure to abide by their own planning laws and policies”.

CAPP and JOG welcome Justice Smith's decision since it is high time to determine whether the province's plan to build a prison on farmland is illegal. Reflecting on the Ford government's behaviour concerning the Kemptville prison, CAPP member Colleen Lynas remarked: “While the province claimed the timing of the judicial review application constitutes undue hardship, it's clear that it would be Kemptville residents, along with imprisoned people mostly from Ottawa caged and displaced quite a distance from their loved ones and community, that are set to endure real hardship should this ill-conceived project move forward. If the province decides to appeal Justice Smith's ruling, it'll be once again clear that they're responsible for dragging out the legal process at the taxpayer's expense hoping for a get out a jail free card for their bungled attempt to build cages instead of communities. Meanwhile, opportunities for much needed community investments to prevent violence, and supports for people being diverted and decarcerated from custody to enhance safety, are being lost”.

To make matters worse, the province is also dragging out and stonewalling the release the information that Eastern Ontario residents have been asking for through Freedom of Information (FOI) requests. CAPP member Lisette Major provides one such example, explaining: “In February 2022, I filed an FOI request for the planning, site servicing and transportation report that an Infrastructure Ontario official testified was completed as part of the province's due diligence activities for the proposed prison. But in response to my FOI request, the province claims the report can't be disclosed because the project is in its “early stages” and that it'd be “premature” to release these records, yet in their recent motion to dismiss the province claimed the project was well underway. They're trying to have it both ways. And apparently the anticipated number of parking spots and cars coming in-and-out of the facility every day is currently a state secret until further notice. They're behaving this way for other due diligence activities like the environmental assessment as well. So, what are they hiding?”

Victor Lachance concluded: “To this day, the province refuses to release all of the information related to the site selection and the due diligence studies that court records indicate they've completed, but refuse to share with the public. Enough with the secrecy. Enough with the delays. Release the records. Let's move forward with the judicial review as Justice Smith has decided”.

**TO ACCESS THE JUDGE'S DECISION AND OTHER DOCUMENTS
ASSOCIATED WITH THE JUDICIAL REVIEW VISIT:**

www.coalitionagainstproposedprison.ca/judicial-review

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