



PRESS RELEASE

MORLOCK ISLAND ONTARIO LAND TRIBUNAL (OLT) UPDATE

Over the past couple weeks the Township of Carling was presented with a settlement offer from the applicant. Carling Township Council after much deliberation, careful review and extensive discussions with the Township Solicitor as well as the Solicitor's internal planning staff have come to the decision that it was in the Township's best interest to enter to a settlement agreement with the owner of Morlock Island. After a great deal of negotiation over the past few days the applicant agreed to the counter offer and minutes of settlement was executed late on Monday November 7th, 2022.

Key reasons for entering into a settlement agreement:

1. All other structures on the property are legal;
2. No negative environmental impact has occurred as a result of construction of the new main dwelling;
3. It is the opinion from the Township's legal firm that a site specific Official Plan Amendment is not required;
4. Applicant's Property is frozen and all other as of right building permissions have been removed moving forward;
5. All Township expenses including internal staff time, legal, planning, Council meetings etc. incurred during enforcement, planning process and OLT are reimbursed by the applicant;
6. The as-of-right options afforded to the applicant to build a new main dwelling were arguably equally or more impactful;
7. Likelihood of a successful decision at the OLT and exposure to other risks.

Analysis:

After further investigations into the existing structures on the property, including surveying the existing buildings and high-water mark around the perimeter of the island, it was determined that all buildings save and except the newly partially constructing main building were legal as they were built prior to the demolition of the main dwelling that enjoyed a 9 metre setback. This means as of right, the owner built these structures legally with proper approvals. It was further determined that no impact was done to the environment or species at risk when placing and constructing the illegal main dwelling.

The issue was the illegally constructed main dwelling that encroached into the 20 metre front yard setback which is what the applicant sought relief of in the rezoning application. The front southeast corner of the structure is approximately 4 meters from the high-water mark with a large centre portion of the front of the building having over a 12 metre setback and the southwest corner having approximately 9 metre setback. The Township Solicitor reviewed with Council the various previous approvals granted and found the Township has historically approved a number of applications with significantly reduced setback, none of which required a site specific Official Plan Amendment.

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In further reviewing the as of right options available to the land owner, the location of the newly illegally constructed main dwelling built without an approved building permit (although one was applied for by the owner), was arguably placed in one of the least environmentally impactful locations. One of the key Official Plan Policies is the protection of the natural landscape of the shoreline. The as-of-right options may likely of had more impact to the overall natural landscape that would have involved removal of trees and a much more visible and intrusive structure.

How did this happen?

In late fall of 2020 the applicant began construction of the new main dwelling without a valid building permit. The owner had applied for and obtain a building permit for an addition to the former main dwelling but abandon that plan and subsequently started to construct a new dwelling above the high-water mark on the opposite side of the island but failed to get a permit before commencing construction.

In late December of 2020 the owner applied for a building permit to construct a new main dwelling. Unknown to the Township, the Owner had already started construction and may have continued with construction over the winter. The Township started the review process and requested more detail. After receiving more information in February of 2021 it was determine that setback was likely an issue and a survey would be needed to confirm if the building permit could be issued. Within weeks the Township started to receive calls about a new cottage built on Morlock Island too close to the water. It was then the Township became aware that construction had already commenced. The CBO of the Township of Carling immediately ordered all work to stop on the new main building. By that point the main dwelling was framed with a roof installed.

The Owner indicated that an application to rezone the property was going to be sought and everything froze at that point until the planning process could be completed.

It became apparent that the planning process would extend over the winter of 2021/2022 and the owner applied to the Township with the request to allow the siding to be placed on the structure. After consulting with the Township Solicitor it was determined that it should be allowed with the full understanding the owner did so at their own risk so as to not create liability to the Township.

In February of 2022 the first meeting was held. A decision was deferred to get an opinion from an external Planner. In June of 2022 Council received the planning report from the external planner and voted to deny the application largely based on the details of the report.

The Applicant filed an appeal with the OLT and recently requested a Case Management Conference to the OLT

On October 21st 2022 the Township Solicitor received a settlement offer from the applicant and subsequently Council held two meetings (October 31st and November 2nd) with the Township's Legal team to understand the options, and provide direction to the solicitor and staff.

The end result is the minutes of settlement that was executed November 7th, 2022.