

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

KRP ENTERPRISES INC., 1643078)
ONTARIO INC., KEVIN CLARK, ESTA) John W. Findlay and Margaret
CLARK, CHRISTINA ACCIACCAFERRO,) McCarthy, counsel on behalf
JEFFREY ACCIACCAFERRO, STEVE) of the Plaintiffs/Applicants
TONG, LORI TONG,)
RUSSELLKAVANAGH, MICHELLE)
KAVANAGH, PAUL DURCEK, STEFANY)
DURCEK, QUINTON CHAUSSE, DONNA)
CHAUSSE, ANNE MARIE VANSICLE,)
JAMES PUAL VANSICKLE, J.P.)
WOOLLEY SURVEYING LTD. and)
MARGARET COOK)

Plaintiffs/Respondents)

- and -)

THE CORPORATION OF HALDIMAND) Steven Stieber, and Murray
COUNTY, ONTARIO PROVINCIAL) Stieber, counsel on behalf of
POLICE COMMISSONER GWEN M.) the Defendant/Applicant, The
BONIFACE, ONTARIO PROVINCIAL) Corporation of Haldimand
POLICE INSPECTOR BRIAN HAGGITH) County
and HER MAJESTY THE QUEEN IN)
RIGHT OF ONTARIO)

Defendants/Applicants) No One Appearing for the
other Defendants/Respondents,
although duly served with
this motion)

) HEARD: June 20, 2007
) and Reserved for
) Decision
) (at Hamilton)
)

CRANE J.

[1] The Amended Statement of Claim proposes a class proceeding and asserts on behalf of the proposed Caledonia business class and the property owners class, a claim in nuisance against the applicant/defendant, Corporation of Haldimand County, based upon the closure of Argyle Street by a group of protestors, not parties to this action, who blockaded themselves behind barricades, effectively closing a portion of the main street of the Town of Caledonia, namely Argyle Street, in the period from April 20, 2006 to May 24, 2006.

[2] The Amended Statement of Claim frames the action as against the applicant/defendant, the Corporation of Haldimand County, hereinafter Haldimand, in nuisance. The applicant concedes, for the purposes of the motion, that as pleaded, the aforesaid blockade did constitute a nuisance. It is central to this motion and not controversial, that Haldimand took no positive step with regard to the closing of Argyle Street. It is accepted that the protestors barricaded themselves on Argyle Street and thereby blocked the use of the thorough fare to others. There is no evidence that Haldimand permitted or, indeed, acquiesced in any blockage of the street.