

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) **MONDAY, THE 21ST**
)
JUSTICE D. CRANE) **DAY OF DECEMBER, 2007**

B E T W E E N:

**KRP ENTERPRISES INC. and
1643078 ONTARIO INC.**

Plaintiffs

- and -

**THE CORPORATION OF HALDIMAND COUNTY,
ONTARIO PROVINCIAL POLICE COMMISSIONER GWEN M. BONIFACE,
and ONTARIO PROVINCIAL POLICE INSPECTOR BRIAN HAGGITH**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

O R D E R

THIS MOTION, made by the Defendants, Ontario Provincial Police Commissioner Gwen M. Boniface, Ontario Provincial Police Inspector Brian Haggith and Her Majesty the Queen in right of Ontario (the "Crown Defendants") to strike out the Plaintiff's Amended Statement of Claim dated July 9, 2007, pursuant to Rule 21 of the Rules of Civil Procedure without leave to amend, and for its costs of the motion and for further and other relief was heard on September 25 and 26, 2007 at Hamilton and reserved to this date.

ON READING the Motion Record, Factum and Brief of Authorities filed on behalf of the Crown Defendants and the Motion Record, Factum, Brief of Authorities and

draft Amended Statement of Claim dated September 25, 2007, filed by the Plaintiffs, and on hearing the submissions of counsel for the Crown Defendants and the Plaintiff, no one appearing for The Corporation of Haldimand County which had been dismissed from the action;

1. **THIS COURT ORDERS** that the Crown Defendants' motion to strike the Amended Statement of Claim with respect to the claims of the Property Owners Class, as that class is defined in the Amended Statement of Claim, is granted with leave to the Plaintiff to amend the pleadings to redefine the class to pursue a claim in nuisance.
2. **THIS COURT ORDERS** that the Crown Defendants' motion to strike the Plaintiffs' Amended Statement of Claim with respect to all other classes is dismissed.
3. **THIS COURT RESERVES** its right on deciding in the oncoming certification motion to deny certification, if appropriate, under s. 5 of the *Class Proceedings Act, 1992*.
4. **THIS COURT ORDERS** that the costs of this motion are reserved for submissions, unless otherwise agreed by the parties.
5. **THIS COURT ORDERS** that this proceeding is hereby transferred from Cayuga to Hamilton for the purpose of case management of all matters up to trial and without prejudice to the proceeding being tried in Cayuga.

ENTERED AT HAMILTON
IN Book No.
as Document No.
on MAR 14 2008
by:

Mr. Justice D.S. Crane
ENTERED AT CAYUGA
in Book No. 2008
as Document No. 22
on Mar 17 2008
by

KRP ENTERPRISES INC. et al.

v.

THE CORPORATION OF HALDIMAND COUNTY et al.

Plaintiffs

Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE
Action Commenced at Cayuga

ORDER

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