

Subject: Re: FW: Toronto - Supreme Court rejects pesticide by-law appeal

Date: Fri, 18 Nov 2005 07:58:34 -0800

From: Corrie Kost <corrie@kost.ca>

To: Ernie Crist <ernie_crist@dnv.org>

CC: fonvca@fonvca.org, Mayor and Council - DNV <Council@dnv.org>, Senior Management Committee <managecomm@dnv.org>, James Ridge <James_Ridge@dnv.org>, Brian Platts <bplatts@shaw.ca>

Dear Councillor Crist,

There was never any doubt on my part that Municipalities can regulate pesticide use. This decision bodes well for Municipal control in other (and much more important) areas that affect our health. With limited funds we should prioritize our goals - and on that basis - ie. health - spending money on recreation centres for example, is at least a hundred fold more cost effective. I stand by the view that education is the best course of action on this issue.

Corrie Kost

Ernie Crist wrote:

-----Original Message-----

From: Mike Christie [<mailto:mikechristie@rogers.com>]

Sent: Thursday, November 17, 2005 6:22 PM

To: Recipient List Suppressed

Subject: Toronto - Supreme Court rejects pesticide by-law appeal

Importance: High

November 17, 2005

Supreme Court rejects pesticide by-law appeal

Dr. David McKeown, Toronto's Medical Officer of Health, is pleased that the Supreme Court of Canada has dismissed a challenge to the City's by-law restricting the use of pesticides.

Crop Life Canada, a trade association that includes pesticide producers, had sought to appeal a unanimous Ontario Court of Appeal decision upholding the City's authority to adopt a by-law restricting pesticide use. The Supreme Court today denied Crop Life's application for leave to appeal, ending legal challenges to the by-law.

"The courts have consistently supported the right of municipalities to pass laws protecting the health and safety of residents. The Supreme Court's decision refusing to hear the appeal has affirmed the City's program to minimize the non-essential use of pesticides," said Dr. McKeown.

Toronto Public Health launched a "Go Natural" education campaign last spring promoting tips for pesticide-free lawn and garden care. The campaign continued this fall and will be promoted again in the spring of 2006.

The phase-in of the by-law enforcement began this year. For commercial pesticide applicators and commercial property owners, warnings are issued for first-time non-compliance. Following this, a ticket or summons may be issued. Homeowners and renters may be fined for non-compliance starting in September 2007.

The "Go Natural" campaign and other by-law information materials are available on the City's Web site at

<http://www.toronto.ca/health>.

Residents can call 416-338-7600 for gardening tips.

Media contact:

Gil Hardy

Toronto Public Health

416-338-7873

<http://wx.to>

onto.ca/inter/it/newsrel.nsf/82f55f14f8d6b46285256ef500408475/FA908C2E283B2819852570BC006F61AB?opendocument

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MEDIA RELEASE

Canada's top court rejects final pesticide industry challenge Groups ecstatic as City of Toronto pesticide by-law withstands final legal assault

November 17, 2005

TORONTO - The Supreme Court of Canada announced today that it has rejected the pesticide industry's last gasp effort to challenge the City of Toronto's pesticide by-law. The bylaw was passed in order to reduce the non-essential use of pesticides within the city and was appealed by Croplife Canada, an industry association that represents the manufacturers and applicators of pesticide products. Croplife lost in the lower court and at the Ontario Court of Appeal, and today the Supreme Court announced that it will not hear Croplife's appeal, thus ending the challenge.

Sierra Legal Defence Fund and Canadian Environmental Law Association (CELA) represented a broad coalition of interveners in the case, including the Toronto Environmental Alliance, Federation of Canadian Municipalities, World Wildlife Fund Canada, Canadian Association of Physicians for the Environment, Sierra Club of Canada, Environmental Defence, and Ontario College of Family Physicians.

"Canada's top court has once again confirmed that communities have the right to pass bylaws to protect the health of their citizens and their environment," said Justin Duncan, lawyer with Sierra Legal Defence Fund. "Other Ontario municipalities now have a clear green light to consider passing similar by-laws."

The Toronto pesticide by-law was closely patterned after a similar by-law passed by the Town of Hudson, Quebec fourteen years ago. That by-law was upheld by the Supreme Court of Canada in 2001 in a landmark decision that strongly endorsed the power of municipal governments to restrict the use of pesticides within their communities.

"This is another great victory for the environment and public health, and the ability for municipalities to act in a precautionary way," said Paul Muldoon, Executive Director of CELA. "This is a truly great day for municipalities in Ontario."

"Lawns, gardens and parks can be maintained without chemical pesticides," said Julia Langer of WWF Canada, who is also a Director of the Organic Landscape Alliance. "Municipalities are simply responding to peoples' concerns for the environment and their health.

Instead of using the legal system to filibuster legitimate local bylaws, the lawn-care sector should wake up, smell the pesticide-free roses and go organic."

"It has been a long road, but the pesticide industry has played their last card and lost," observed Katrina Miller, campaigner for the Toronto Environmental Alliance (TEA). "A local community's right to protect children's health and the environment has prevailed once again."

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For further information please contact:

Theresa McClenaghan, CELA: 519.755.7579 (cell) Justin Duncan, Sierra Legal: 416.368.7533 ext. 22 Julia Langer, WWF Canada: 416.484.7709 Katrina Miller, TEA: 416.596.0660

Sierra Legal (www.sierralegal.org) is a national non-profit organization dedicated to environmental justice

http://www.sierralegal.org/m_archive/pr05_11_17.html

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Canadian Association of Physicians for the Environment

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Tel: 416-306-2273 Fax: 416-960-9392 www.cape.ca

Doctors Applaud Supreme Court Pesticide Decision

November 17, 2005

TORONTO-The Supreme Court of Canada's refusal to hear a challenge to Toronto's pesticide bylaw is a victory for public health right across the country, says the Canadian Association of Physicians for the Environment (CAPE).

CAPE says the Court's decision - which means the bylaw's legal validity can no longer be questioned - should empower other municipalities to pass similar legislation.

"This is a great day for people's health and a great day for our drinking water, rivers, and aquatic life," said CAPE's Executive Director Gideon Forman. "Lawn pesticides are a significant threat to human safety, particularly the safety of children. The Supreme Court's decision means the residents of Toronto will continue to enjoy protection from these poisons."

CAPE provided expert testimony to city committees when council was debating the bylaw.

The bylaw -- which forbids pesticide use except in certain limited situations -- was previously upheld by the Ontario Superior Court and the Ontario Court of Appeal.

"The doctors are urging cities which have not passed a pesticide bylaw to take strength from today's decision and pass one as quickly as possible," said Forman. "Otherwise, come Spring their residents will again be exposed to chemicals linked to birth defects, neurological disease, and leukemia. There are so many non-toxic lawn products now available, pesticides simply aren't needed."

CAPE is a national organization representing hundreds of medical doctors from coast to coast. It takes a rigorous, science-based approach in its educational and public advocacy work.

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For more information

Gideon Forman, Executive Director
(416) 306-2273
gideon@cape.ca

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www.healthyottawa.ca
For immediate release:
November 17, 2005

OTTAWA COALITION CONGRATULATES CITY OF TORONTO - Supreme Court denies chemical industry leave to appeal City's pesticide bylaw

(OTTAWA) The Coalition for a Healthy Ottawa (CHO) congratulated Toronto on its victory for public health. The Supreme Court denied Croplife Canada leave to appeal Toronto's pesticide bylaw and ordered costs against the industry group. The decision dismisses the final legal challenge to Toronto's pesticide bylaw.

Toronto's victory comes one week after the Ottawa City Council failed to pass measures to curtail pesticide use for landscaping. Council was split on issues including how to address differences between urban and rural areas, and was leery of a court challenge by the chemical industry.

"The Supreme Court dismissal represents yet another in a string of losses for industry on the pesticide bylaw issue, and being ordered to pay the City of Toronto costs just adds insult to injury," said Angela Rickman, Senior Policy Advisor with the Sierra Club of Canada.

"Of the seventy seven bylaws in force across Canada, not one has been revoked because of a court challenge in spite of the chemical companies' best efforts and deep pockets. Other cities can feel confident that they needn't fear the expense of resisting a nuisance lawsuit from the chemical manufacturers."

CHEO and leaders in Ottawa's medical community have warned that landscaping pesticides are linked to myriad serious, pervasive problems with the nervous, reproductive and immune systems. Doctors recommend not using synthetic pesticides for landscaping, hoping to reduce asthma, allergies, autism, cancers, Parkinson's Disease, and many other conditions.

CHO Science Advisor Meg Sears explained why doctors are so concerned about federally registered products. "Toxicology (animal studies of single chemicals) and epidemiology (human disease in the real world) are supposed to be complementary. However, the federal Pest Management Regulatory Agency (PMRA) is constrained by legislation and international agreements to examining

toxicology. For instance, the PMRA's Science Advisory Panel recommended that child cancer be examined in relation to the herbicide 2,4-D, but this was not done because children are not exposed to only one chemical at a time! The PMRA cannot and does not consider the epidemiological studies that our doctors find extremely worrisome. PMRA studies are confidential, and cannot be verified by independent scientists."

More than 70 municipalities across Canada have restricted cosmetic pesticide use, since the Supreme Court of Canada affirmed the right of municipalities to pass anti-pesticide bylaws in 2001. Over 12 million Canadians are protected from landscaping pesticides, with local bylaws and Québec's Pesticide Code.

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For further information, please contact:

Angela Rickman (613) 241-1839 or 859-5701

Meg Sears (M.Eng., Ph.D.) (613)

832-2806 or 297-6042

<http://www.flora.org/healthyottawa/news-flash.htm>

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Thursday, November 17, 2005

Supreme Court refuses to hear challenge of pesticide ban by producers

Mike Oliveira
Canadian Press

TORONTO (CP) - Environmental and health groups applauded a Supreme Court decision Wednesday upholding a Toronto pesticide ban they say allows cities across the country to stop the use of controversial lawn chemicals.

The court refused to hear an appeal of the Toronto ban by Croplife Canada, a trade association that includes pesticide producers.

It's a final blow to Croplife, which had asked the high court to hear the case after the ban was upheld by the Ontario Court of Appeal in May.

"It's been three courts now that have looked at this case and six judges have all said now that Croplife Canada doesn't have a case," said Justin Duncan of the Sierra Legal Defence Fund.

"Municipalities have the jurisdiction to enact pesticide reduction bylaws."

Toronto passed a bylaw in 2003 that essentially bans the use of pesticides on private property with few exceptions. Croplife challenged the ban, saying it was the domain of the federal and provincial governments to regulate pesticides and therefore up to them to enforce laws on how they're used.

The Canadian Association of Physicians for the Environment says some 70 communities across Canada have similar laws in place but municipalities often face tough battles getting them passed - the city of Ottawa failed just last month to bring in a pesticide ban.

Duncan said he thinks other jurisdictions will follow Toronto's lead now that they have the Supreme Court of Canada on their side.

"I think a lot of municipalities were just waiting to see what happened with this case, I think we'll be seeing a flood of these type of bylaws now that it's clear that municipalities have jurisdiction to enact them," Duncan said.

Pesticide use has been linked to a rise in childhood cancers, among other diseases. A 2004 study found widespread evidence of pesticides in Quebec children.

But Julia Langer of the World Wildlife Foundation said pesticides are unnecessary, particularly with the growth of organic farming.

She said lawns also do not need pesticides to grow.

"It really is time for a new industry, an organic industry," Langer said. "It can be done without pesticides. There are companies that do this and it's really just time to move on."

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<http://www.canada.com/components/printstory/printstory4.aspx?id=2b1ab42c-7652-4336-b8cc-3b4591825f0d>

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Thu. Nov. 17, 2005.

Toronto Star

Top court upholds pesticide ban

CURTIS RUSH
STAFF REPORTER THESTAR.COM

In a decision hailed as a victory for the environment and public health, Toronto's pesticide ban has been upheld by Canada's highest court.

The Supreme Court of Canada announced today that it has rejected the pesticide industry's challenge to Toronto's bylaw that was passed in order to reduce the non-essential use of pesticides.

The challenge was appealed by industry association Croplife Canada. Croplife also lost in the lower court and at the Ontario Court of Appeal.

The Sierra Legal Defence Fund and Canadian Environmental Law Association (CELA) represented a broad coalition of interveners in the case, including the Toronto Environmental Alliance, Federation of Canadian Municipalities, World Wildlife Fund Canada, Canadian Association of Physicians for the Environment, Sierra Club of Canada, Environmental Defence and Ontario College of Family Physicians.

"Canada's top court has once again confirmed that communities have the right to pass bylaws to protect the health of their citizens and their environment," Justin Duncan, lawyer with Sierra Legal Defence Fund, said in a release.

"Other Ontario municipalities now have a clear green light to consider passing similar bylaws."

http://www.thestar.com/NASApp/cs/ContentServer?pagename=thestar/Layout/Article_Type1&c=Article&id=1132225530605&call_pageid=968332188492&col=968793972154&t=TS_Home&DPL=IvsNDS%2f7ChAX&tacodologin=yes

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November 17, 2005

Lang Michener Supreme Court of Canada L@wLetter 60/2005

MUNICIPAL LAW: PESTICIDE BYLAW

The Applicant is a trade association representing manufacturers, distributors and developers of pesticides for use in, inter alia, agriculture and in urban settings in Canada. The city had unsuccessfully applied to the Ministry for approval to enact a by-law dealing with pesticides without success as the Ministry did not want to proceed on a patchwork basis, hoping to develop a uniform scheme throughout the province. The Ministry took no alternate steps, however, and the city followed up by passing By-law No. 456-2003 pursuant to s. 130 of the provincial Municipal Act, claiming its authority to do so under the general power to regulate the health, welfare, morals and safety. The By-law purported to regulate the use of pesticides within the city boundaries. Croplife Canada sought to have the By-law quashed on the grounds that it was ultra vires the city. Croplife's application was dismissed, as was its appeal from that decision.

Croplife Canada v. City of Toronto (Ont. C.A., May 13, 2005) (31036) "with costs"

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SUPREME COURT OF CANADA -- JUDGMENTS IN APPEALS AND LEAVE APPLICATIONS

OTTAWA, 2005-11-17. THE SUPREME COURT OF CANADA HAS TODAY DEPOSITED WITH THE REGISTRAR JUDGMENTS IN THE FOLLOWING APPEALS AND APPLICATIONS FOR LEAVE TO APPEAL.

FROM: SUPREME COURT OF CANADA (613) 995-4330

<http://www.lexum.umontreal.ca/csc-scc/en/com/2005/html/05-11-17.3.wpd.html>

COMMENTS/COMMENTAIRES: comments@scc-csc.gc.ca

APPEALS / APPELS:

(Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:

<http://www.lexum.umontreal.ca/csc-scc/en/rec/html/2005scc065.wpd.html>

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The Laws of Ecology: "All things are interconnected. Everything goes somewhere. There's no such thing as a free lunch. Nature bats last."

by Ernest Callenbach

Name: winmail.dat
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Download Status: Not downloaded with message

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