

Canada
March 8, 2015 1:59 pm
Updated: March 8, 2015 2:20 pm

Ontario court slashes \$340K legal bill for wind farm opponents to \$67K

By Colin Perkel
The Canadian Press



A wind turbine is seen in Melancthon Township, Ont., on Sunday, Nov. 16, 2014.

Colin Perkel / THE CANADIAN PRESS

TORONTO – Four rural families who lost their fight against the construction of wind farms near their homes will have to pay a total of \$67,000 to the companies they took to court.

The costs award is far less than the \$340,000 the three wind companies were demanding because, as Ontario's Divisional Court ruled, the families' battle was more than a personal crusade.



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Shawn Drennan, whose home near Goderich, Ont., is a short distance from a 140-turbine project, said he was pleased the ruling has cut his bill to \$25,000 from more than \$200,000.

"I'm feeling relieved," Drennan said in a weekend interview. "\$25,000 is not a small number but it's manageable."

In a decision released late Friday, Divisional Court rejected arguments from the Drennans, Ryans, Dixons and Kroepfins that they should have to pay none of the companies' legal bills.

But the court also rejected the companies' contention that the families had been purely selfish in launching the turbine challenge.

"Although the appellants obviously had a private interest in the litigation, their appeals contained a strong public-interest component – raising, as they did, the constitutionality of part of the legislative regime governing the construction and operation of wind farms in this province," the court said.

"Any award of costs must reflect that strong public-interest component."

At any rate, the court found, the amount demanded by K2 Wind, Armow, and St. Columban was unreasonably high. It also took the companies to task for failing to explain exactly how they had arrived at the amount they were asking for.

The families had argued Ontario's turbine-approvals process was unconstitutional because it exposes citizens to a reasonable prospect of serious harm to their health. In December, Divisional Court rejected that challenge.

In asking for \$340,000 in costs, the companies said the families knew the risks of losing. They also said the high-stakes fight had forced them to deploy considerable legal resources to defend projects they say are safe and properly approved.

The families' lawyer Julian Falconer, who had denounced the companies' initial bill as intimidation aimed at discouraging legal challenges, said the costs award captured the larger issues in play.

"The court ruling is very important because of the recognition that these cases are not all about money," Falconer said on the weekend.

"What these families have on the line went well beyond protecting their backyards."

The families are hoping Ontario's top court will hear an appeal of the December ruling that upheld the constitutionality of the provincial rules and allowed the three wind projects to proceed.

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