

Ontario families fighting massive legal bill from wind-farm companies

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A demand that four Ontario families pay hundreds of thousands of dollars in legal costs to billion-dollar companies is a thinly disguised warning to anyone pondering a challenge to industrial wind farms in Ontario, the families say.

In asking the courts to set the legal bill aside, the citizens say the award would cripple them financially and undermine access to justice, even in important public-interest cases.

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Court documents show the companies – K2 Wind, Armow, and St. Columban – are seeking \$340,000 in costs from the Drennans, Ryans, Dixons and Kroeplins, who lost their bid to scuttle three wind-farm projects.

The families, who worry wind turbines near their homes could harm their health, had challenged the constitutionality of Ontario's approvals process before Divisional Court. They are now hoping the province's top court will hear the case, potentially adding more litigation costs.

Shawn Drennan said his \$240,000 bill was excessive given that he was only looking to protect his rights.

“We will have to go to the bank and beg and ask if we can borrow more money to pay their costs and it will be a significant burden on my wife and I,” Shawn Drennan told The Canadian Press. “My wife already works two jobs.”

Lawyer Julian Falconer, who represents the families, called the wind companies “blood-sucking, intimidating bullies.”

“It’s not just a bar to justice, it’s actually a terror tactic,” Falconer said in an interview.

“This is not about money. The idea is to send a message: ‘We will wipe you out if you challenge us.’”

The companies say the high-stakes court challenge forced them to deploy considerable legal resources to defend projects they say are safe.

“While the appellants were entitled to bring their litigation, their decision to do so had significant consequences,” St. Columban argues in its court filing.

“There must be an appreciation of the real disruption, and real cost, suffered by the adverse party.”

Generally speaking and as a matter of fairness, the losing side in civil proceedings has to pay the legal bills incurred by the winning side.

K2, which is putting up 140 turbines, some of which are about 750 metres from the Drennans’ home near Goderich, Ont., says the families knew the risks of losing.

In addition, the failed bid to halt construction pending outcome of their court battle was unnecessary and should “never have been brought,” K2 says in its submissions.

The families argue they raised an important and novel constitutional issue that is squarely in the public interest given the reasonable prospect of serious harm to the health of citizens. They also say they did not stand to benefit financially.

The companies reject that argument. They maintain the families were indeed fighting a personal battle, do have the means to pay, and say the case was in fact contrary to the public interest because the challenge delayed government-approved green-energy projects.

For the families, it’s become a case of “lose your home to save your home,” they say.

“By simply exercising their right to access to the courts, the appellant families now face the disheartening prospect of financial ruin,” their submission states.

“When, as in this particular case, the consequence of that access becomes crippling financial loss, ‘access to justice’ becomes a meaningless platitude.”

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