

Legal advice over King cell phone tower cost over \$9,000

By Brock Weir

Previous reports said trying to fight the cell phone tower looming over a stretch of west Aurora from its perch on the King side of Bathurst Street was an exercise in futility.

Last month, Councillors received a report stating just that with the provision that the cost to obtain that legal position would be made public ? and now the numbers are in.

According to a report released last week by Warren Mar, Solicitor for the Town of Aurora, it cost \$9,041.70 to obtain a legal opinion from Bruce Engell of WeirFoulds LLP to provide the Town with advice.

?[He] provided the Town with two legal opinions, the first related to the feasibility of commencing an interlocutory injunction to halt Bell's use of the Cell Tower and the second related to the feasibility of commencing a judicial review regarding the construction and operation of the cell tower,? said Mr. Mar in his report to Council.

?The total cost to the Town for obtaining both of these legal opinions was \$9,041.70, which includes HST and disbursements.?

The costs for both pieces of legal advice were in line with what was previously estimated to Council by Mr. Mar. Over the summer, he estimated consultation over a possible judicial review could run up to \$5,000. However, he said, it was likely a judicial review would be ?very limited? in scope due to clear Industry Canada policies in place. Industry Canada is the regulatory body for telecommunications towers and their placement in Canada.

A judicial review, he cautioned, could simply state issues with communication between the company and residents, leaving all concerned in the same place they are right now.

In his findings back to Mr. Mar, Mr. Engell advised there was ?no realistic option? in the cell tower dispute.

?We do not see that the Town can raise any substantive concerns with the locating of the cell phone tower, as there is no evidence of visual or health impact rising to the level that would be seriously considered by a judge on judicial review,? said Mr. Engell.

?Meanwhile, the procedural irregularities do not appear to rise to the level of seriousness which is required by the courts on judicial review...Given how challenging mounting even a credible case would be, the Town would incur significant legal expenses to bring one. It would also be exposed to costs awarded against it if the court dismissed the application.?