



Bob Aaron bob@aaron.ca

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## Whoever forms next government must protect property rights

As I see it, the real issue in this provincial election should be whether the Ontario government is able and willing to act decisively and promptly to maintain the rule of law and protect the citizens of the province and their homes from lawbreakers.

On any scale of measurement, upholding the right of Ontario residents to be safe and secure in our own homes must rank at the top of government priorities, even ahead of health care, the economy, job subsidies and power plants. Sadly, over the last five years, that has not always been the case.

I'm referring, of course, to the events in and around Caledonia which gave rise to a class action against the Ontario government and the Ontario Provincial Police. The plaintiffs sued for damages resulting from the alleged failure to provide policing to the town during a First Nations land dispute in 2006.

At the time, native protesters seized the Douglas Creek Estates subdivision which would have brought as many as 1,000 new homes to the area. They established roadblocks and barricaded the main road into the subdivision with a jackknifed transport truck and a downed hydro tower.

During the Victoria Day weekend, Caledonia lost its electricity supply when a local transformer station was destroyed.

Four classes of plaintiffs, including 800 local businesses and residential property owners, participated in the litigation.

Writing about the litigation in a recent issue of *Law Times*, Toronto real estate lawyer Jeffrey Lem noted that what was ultimately at the root of the class action litigation was the apparent unwillingness of the police to do anything over a prolonged period of time to prevent the lawlessness.

Almost every mainstream media source concluded that the OPP stood idly by observing the lawlessness but refused to act even when they were otherwise in a position to protect citizens and property and assert the rule of law.

In July, just three months short of next week's provincial election, the Ontario government announced it had settled the litigation with a payment of \$20 million of taxpayer monies. After deducting legal fees and expenses, the 442 participating homeowners will share 20 per cent of what is left over.

A similar case was settled in late 2009 when Dave Brown and Dana Chatwell, who owned a house and business on Argyle St. in Caledonia, sued the Ontario government and OPP for \$7 million and an apology. The settlement amount has not been disclosed.

Would the government and OPP have refused to act in 2006 if the disputed Crown grant in 1784 had been for an area of 10 km on each side of Toronto's Don River instead of the Grand River in Caledonia, and if a group of protesters blockaded the Don Valley Parkway in violation of a court order? I doubt that blockade would have lasted longer than a few minutes.

The fact is that a huge portion of the City of Toronto is subject to a valid native land claim which affects millions of Toronto homes and businesses. [See <http://aaron.ca/columns/2006-06-10.htm>]

In 1998, the Mississaugas of the New Credit First Nation filed a land claim against the Crown. They allege that a 1787 surrender of all land in Toronto east of the Don River was invalid. In exchange for 10 shillings, the native chiefs at the time signed what amounted to a blank deed of land with the intention that the dimensions would be inserted at a later time when the land was surveyed.

The Canadian government has accepted that an attempt by the British in 1805 to rectify the original surrender was invalid and that the natives have a valid claim to compensation, but not ownership of the land. Negotiations have been underway for the last eight years.

Neither the Toronto land claim nor the Caledonia claim has yet been resolved.

Whoever forms the Ontario government after this election will need to assure its citizens that it will protect our constitutionally guaranteed property rights and the rule of law. The Caledonia blockade was not our government's finest hour.

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*Bob Aaron is a Toronto real estate lawyer. [www.aaron.ca](http://www.aaron.ca) ©Aaron & Aaron. All Rights Reserved.*