

Nichols Gravel Limited

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May 17, 2000

Reasons for Judgement August 23, 1996

Justice Cavarzan questionable comments and perceptions.
Find supplementary information attached as numbered.

Page 4: Quote "Gary Nichols is not a man who accepts loss of business to competitors with equanimity" unquote. This is a biased reflection on my character without basis in fact. I don't have a problem with fair and open competition. I take exception to Public Servants imposing an elimination process upon our company so that they can help our competitors receive contracts that our company would have received had a fair purchasing practice been used.

Page 6: Nichols indicated that he would consider legal proceedings and advised that he had sued the Region in the past over its practices. The story came out twisted again. There was no comment about taking legal proceedings, and the Judge did not tell the whole story. We did advise that we had previous problems with the Region which resulted in litigation, but the Judge failed to reveal that we were successful in 1986 on both counts litigated against the Region. See Newspaper Item #1

Page 12: Nichols in the December 28 letter demanded? A resolution by Council? Justice Cavarzan further misconstrues the facts. See Page 7, Item #3, Letter of December 28, 1993. Requested a resolution of council only on adherence to purchasing policy Item #2

Page 13: Andersons' Fairy Tale about performance problems with surface treatment contracts in the past. False statement See F.O.I. request #. 05-97 and Response April. 8 #3. No record of any problems on file. Item #3

Page 14: Libel and Slander to the press published May 4, 1994. Class 5 aggregate not described on any Aggregate Sources List of M.T.O. See Oostenbrug letter. See 1991 ASL 91.06, Item #4

Page 15 & 43: The Township contracted with Mussells Trucking to transport the sand to its storage facilities. Wrong. Mussells Trucking did not have an exclusive contract to haul the sand. Mussells trucks were hired on an hourly rate basis, as was Ken Gilbert to assist 4 Township trucks hauling the sand.

Gary Nichols met with the Public Works Committee the next day to explain the dispute with Mussells trucking, and requested the Township to reinstate their sand Purchase Order Contract. (See minutes of meeting. Item #5) by Dave Anderson who was careful not to mention that request. The Township declined this request which provoked the litigation for breach of contract. Therefore it was the Township who refused to complete the contract, not Nichols as stated by Mr. Gelinas in his February 7, 1996 report explaining the reason the Township had ceased business dealings with Nichols relating to councils' in camera direction without resolution, which is illegal. This also confirms this report to be a falsified document by Mr. Gelinas. See Report #6 and Transcript of Trial Winter Sand #7.

Page 19: The Judge was careful not to mention the discriminatory direction to cease dealings with Nichols when he describes the criteria in respect to conspiracy and the Competition Act. When Anderson and Gelinas realized that their conspired elimination scheme with the Quality Assurance Aggregate Sources List Policy could no longer eliminate our company, as the December 1993 retesting had upgraded our pits as an approved source as of the March 12, 1994 A.S.L., they then hatched the scheme for the council direction to cease business dealing in order to accomplish their ultimate elimination scheme, which has now been imposed since 1996 while the Township continues to demand business taxes from our company while we are prevented from competing for the work. How about that for a democratic dictatorship? See Distrain for Taxes #8

Page 21: Andersons' Summary of Aggregate Quotation 1994. Confirmed to be a falsified document. See letter of May 16, 1994 to council given as evidence in court. Nichols Approved Source on March 12, 1994 A.S.L. #9

Page 22: HL3 C/A and Class 5 are not comparable. They are 2 entirely different products used for 2 entirely different purposes with different OPSS specifications. Like comparing apples to oranges. Brain dead!

Page 27: Anderson had been employed between 1986 and 1990 as construction manager for the Town of Ajax. Wrong. See F.O.I. from Ajax. Anderson Construction Manager 1988 - 1990 Item #10

Page 31: Policy. Justice Cavarzans' attempts to interpret and place his own meaning on the intent of the Purchasing Policy. This is completely outside of his jurisdictional authority. The Judge states that the policy is an administrative directive by council to Township staff as between employer and employee. If this were in fact true no policy of government would be enforceable in law. No official plans, no zoning by-laws, nothing, and there would be utter chaos. Wrong again. See letter Michael Smither. Item #11

Page 34: I find that Andersons' conduct at the Church St. site in 1995 was not motivated by any animus toward the plaintiff. Reference Alan Jacques' testimony and letter in evidence. Adderson lied again. See Cr. examination and compare to statement F.O.I. Police report. Item #12

Page 37: No duty of care owed in respect to following purchasing policy and fair dealing. No negligence in this respect?

Page 38: Policy not breached in substance, written price lists were solicited and received. More false evidence from Anderson See Testimony Anderson. See F.O.I. response. No record. Item # 13

Page 40: Anderson had bona fide concerns about field performance of aggregates from the plaintiff pits. Websters' dictionary describes bona fide as: true, genuine and bona fides as; good faith.

In respect to no testing of Nichols aggregate in 1994, 1995, 1996 and no geotechnical testing to determine the cause of road failures. There were no bona fide concerns in respect to field performance of aggregates from the plaintiff's pit. There was only speculation and assumption by Anderson. Not true and not in good faith. This is another gross misstatement of fact by Justice Cavarzan. See Cr. Exam. Anderson. No testing. Item # 13A

In summary Justice Cavarzans "reasons" are based on false evidence, speculation and assumption without basis in truth and fact. A most pathetic performance by this Ontario Court Justice.

Sincerely,



Gary Nichols