



August 26, 1999

Mr. Gary Nichols  
President, Nichols Gravel Limited  
P.O. Box 172  
Delhi, Ontario  
N4B 2W9

Dear Mr. Nichols:


Your letter dated July 13, 1999 has been referred to me. I have also reviewed letters you have sent to the Law Society of Upper Canada and the Ontario Provincial Police, copies of which you also forwarded to the Chief Justice.

You have raised a number of concerns and have asked the Chief Justice to order a stay of proceedings pending an investigation and for a declaration of mistrial. The Chief Justice does not have the jurisdiction to do so. These remedies can only be granted through the normal appeal process. Moreover, it would not be appropriate for the Chief Justice to comment upon the decision of Mr. Justice Cavarzan or of the Divisional Court. Again, this is a function reserved to the Court of Appeal.

You have stated that the transcripts of proceedings before Mr. Justice Cavarzan were not provided to the Divisional Court. I have been advised by Ms Mercer, with whom you have also spoken, that the transcripts were filed but were not provided to the justices. I have not been able to determine why this occurred. It may be that they were misplaced. You have expressed surprise that the Divisional Court decided to proceed with the hearing in the absence of the transcripts. As I have indicated above, the Chief Justice cannot interfere in the decision of another judge or panel of judges. Accordingly, it would not be appropriate for the Chief Justice to comment.

I regret that I am not able to assist you further.

Sincerely,

  
Joe De Filippis  
Executive Legal Officer  
JDF:eo