

COURT OF APPEAL FOR ONTARIO

CITATION: Angus v. Port Hope (Municipality), 2017 ONCA 637
DATE: 20170803
DOCKET: C62496

Strathy C.J.O., Gillese and Pardu JJ.A.

BETWEEN

Ian Angus and Dean Ross

Applicants
(Respondent)

and

Municipality of Port Hope

Respondent
(Appellant)

Chris G. Paliare, Richard P. Stephenson and Lindsay Scott, for the appellant

Alan J. Lenczner, Q.C. and Paul-Erik Veel, for the respondent

Heard: April 18, 2017

On appeal from the judgment of Justice John R. McCarthy of the Superior Court of Justice, dated June 30, 2016, with reasons reported at 2016 ONSC 4343.

COSTS ENDORSEMENT

[1] The Municipality of Port Hope was wholly successful on the appeal and cross-appeal (the “appeal”). In the ordinary course, it would be entitled to its costs of the Application and appeal. The parties have agreed on the amount of those costs - \$53,319.11 for the Application and \$40,000 for the appeal.

[2] However, the parties have not been able to agree on entitlement. Mr. Angus submits that this is an appropriate case in which no costs should be awarded. His submission rests on his contention that: the matter was brought by him as a representative of all residents of the former Hope Township, now Ward 2 of Port Hope; it was a matter of public interest: and, the issues raised were novel.

[3] We do not accept this submission.

[4] Mr. Angus did not act in a representative capacity. He acted to vindicate the private financial interests of Ward 2 ratepayers, of whom his wife was the largest residential taxpayer. Further, the issues raised do not have a significant and widespread societal impact. Moreover, their resolution depended on the application of well-known legal principles to a *sui generis*, fact-specific contract.

[5] In our view, in these circumstances, it would be unjust to require the Port Hope taxpayers to bear the financial burden of this lawsuit, commenced by a single citizen in its community.

[6] Accordingly, we order costs of the Application and the appeal to the Municipality in the agreed-on sum of \$93,319.11, all inclusive.

“G.R. Strathy C.J.O.”

“E.E. Gillese J.A.”

“G. Pardu J.A.”