



July 24, 2020

COMMUNITY UPDATE: Residential Developments along McKenzie Road in Caledonia

Six Nations of the Grand River has been accommodated for the two residential developments along McKenzie Road in Caledonia. The Accommodations were done by Ballantry Homes, a residential development company from the Toronto area.

There are two parts to the Accommodation. The first was in 2016 when 42.3 acres of land across from Little Buffalo along Townline Road, formerly owned by the Sloat family, was transferred to Six Nations. The second was the transfer in 2019 of \$352,000 to the Six Nations of the Grand River Elected Council that was put into a Land Banking Account to be used for future purchases of land that will be added to the Reserve.

There is no legal obligation upon any third party owner of lands to Accommodate for land that is under claim against the Crown and which land change goes back to the 1800's. Most of the land in Oneida Township went out of Six Nations possession in the 1850, 60 and 70's. The Ontario Court of Appeal pronounced this principle of law in the year 2000 in the Chippewas of Sarnia case. The court said the Chippewas could not have the land returned from innocent third parties from an illegal surrender in the 1830's because of the passage of time. However the court did say that the Chippewas did have a valid Claim against Canada and Ontario for Breach of Fiduciary Duty because of the illegal surrender. The Ontario Court of Appeal confirmed this principle in 2012/2013 in the HDI court case against the City of Brantford. Similarly, Ballantry Homes, as a third party owner of the land, has no legal obligation to accommodate Six Nations but it did anyway because it is aware of the Claims by Six Nations against Crown Canada and Crown Ontario. This in line with what Empire Homes did in 2016 for its development along McClung Road in Seneca Township in Caledonia when it purchased 200 acres in Oneida Township and agreed to transfer it in stages to Six Nations. Presently Six Nations has received 75 acres from that agreement and will receive the remainder as development progresses at McClung Road.

The remedy for lands and money that were unlawfully taken back in the 1800's is against Crown Canada and Crown Ontario. Six Nations commenced an action against both Crowns in 1995 in the Ontario Superior Court of Justice. The suit is being actively prosecuted and the trial is scheduled to start in October of 2022. The Claim is that the Crowns breached their Fiduciary Duty in unlawfully dispossessing Six Nations of all its land and money. As well Six Nations is asking the Crown to account as a Trustee for all the land and money that were taken and if the Crown cannot account, then to restore all the land and money that was lost.

Six Nations of the Grand River is working collaboratively with the Haldimand County Council. Both Councils are advocating for the development of a water line from Lake Erie running along Highway No. 6 which would service Caledonia and which Six Nations would have access to from Second, Third and Fourth Lines. As well both Councils are interested in seeing Sixth Line Road extended to connect with McKenzie Road to alleviate the traffic pressure on Argyle Street. The Councils are committed to working collaboratively on future projects that would benefit both communities.

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