



Cohen Highley<sup>LLP</sup>  
L A W Y E R S

**WE REPRESENT OWNERS OF  
RECREATIONAL LAND LEASE  
PROPERTIES:**

## **CAMPING IN ONTARIO BULLETIN**

### **A WINDFALL FOR “CAMPERS” AND LIABILITY FOR LAND OWNERS**

The Ontario Court of Appeal recently declared that owners of permanent structures on leased land are subject to the provisions of the *Residential Tenancies Act* (RTA). For owners of recreational campgrounds and recreational land lease properties the ruling creates unexpected and costly liability because if the RTA applies, the owner of the land is required to maintain roadways, trees, provide garbage removal, snow removal, and ensure compliance with all “housing” standards required by municipalities or other provincial legislation. The owner must also comply with rigorous security of tenure provisions and rent control provisions of the RTA. The net effect is to convert the property from a recreational use to a residential use regardless of zoning and infrastructure. For the owners of land lease homes, the ruling is a windfall: they effectively receive a transfer of the entire land value, plus extra’s, free of charge at the expense of the land owner. You cannot “contract out” of the RTA.

Where recreational camp structures owned by campers are “permanently” affixed to leased land, there is a high risk of the RTA applying. The risk declines if the operations on the land fall within an exemption provided in section 5 of the RTA which exempts “living accommodation...occupied for a seasonal...period in a...campground, trailer park...or vacation home”; however, if the structure is “permanent”, thereby making the structure a “land lease home”, then the exemption cannot apply. If you are an owner with concerns about the degree of permanence of some homes in your community and the potential that the RTA applies, then it is time to do a careful and objective audit of the structures on your property and the current leasing/licensing arrangements in place. Ignoring the problem won’t make it go away and will cripple the value of your property and costs of operations if campers obtain a declaration that the RTA applies to your community.

At Cohen Highley LLP we act exclusively for property owners and operators of campgrounds, land lease communities and mobile home parks. Our lawyers assist owners with land use transitions from campgrounds to residential use; with infrastructure

approvals; with leasing and licensing documents; and we initiate or defend owners in legal proceedings in all levels of Ontario Superior Court and other adjudicative Boards and Tribunals.

The Court of Appeal decision referred to in this Bulletin is *Algoma Timberlakes Corporation v. Mathews*. The decision can be accessed through:

<http://www.canlii.org/en/on/onca/doc/2010/2010onca468/2010onca468.html>.

Joe Hoffer and Kristin Ley of Cohen Highley were the lawyers for Algoma Timberlakes Corporation. They were successful at the Landlord and Tenant Board and in Divisional Court, but the Court of Appeal disagreed with the courts below and substituted its own reasoning which is highly prejudicial to campground operators in Ontario.

For further information about our legal services or the contents of this Bulletin, contact Joe Hoffer at [hoffer@cohenhighley.com](mailto:hoffer@cohenhighley.com) or telephone 519-672-9330. You may also visit our website at [www.cohenhighley.com](http://www.cohenhighley.com)

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