



CANADIAN ENVIRONMENTAL LAW ASSOCIATION  
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

ecojustice.ca  
formerly Sierra Legal Defence Fund

Hon. Jim Watson  
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*Via fax only*

October 7, 2009

Dear Minister Watson:

**RE: THE NEED FOR ANTI-SLAPP LEGISLATION IN ONTARIO**

We read with interest your comments on the issue of Strategic Lawsuits Against Public Participation (SLAPPs) during Tuesday's Question Period at Queen's Park.

SLAPPs are lawsuits that are aimed at dissuading citizens from making their voices heard before public decision-makers and tribunals. They are a growing phenomenon in Ontario and seriously threaten citizen participation in the government's decision-making process.

Most SLAPPs take the form of legal proceedings in the courts based on meritless or frivolous grounds. SLAPP plaintiffs are thus rarely, if ever, successful in winning the damage or cost awards they seek. However, just the threat of a lawsuit and the legal fees and costs associated with it, dissuade citizens from participating in public processes. Thus, these lawsuits achieve their purposes of stopping citizen opposition to projects without the lawsuits having to be successful in the courts.

Given that the bulk of SLAPPs are adjudicated by the courts, they are generally not an issue that are addressed by the Ontario Municipal Board (OMB). To suggest that the OMB is adequately dealing with the issue is, therefore, incorrect.

Meritless costs motions before the OMB are a discrete type of SLAPP; however, they are only a small part of the problem. In any event, OMB decisions not to grant cost awards, do not adequately address the issue. For instance, the costs of having to respond to such motions can in themselves have a chilling impact on the willingness of citizens to engage in OMB (and other tribunal) appeal processes.

We urge the provincial government to follow the lead of Quebec and 27 of the U.S. states and enact legislation that protects Ontarians from these suits and defends the objectives of this province's *Environmental Bill of Rights*. The Environmental Commissioner of Ontario, in his recent Annual Report, has forcefully recommended legislative action on this issue. The time to act is now.

We would appreciate the opportunity to further discuss this important issue with you and your staff.

Sincerely,



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**CELA Publication No.: 702**  
**ISBN: 978-1-926602-48-6**