

The case of the residents of the Braeside Ridge versus Miller Group was heard in Pembroke Superior Court House even though the suit was actually filed in Small Claims Court. This week the plaintiffs and their witnesses gave testimony in a case alleging nuisance and trespass.

Ottawa University Professor Lynda Collins, Ecojustice, *pro bono* Counsel for the plaintiffs, made it clear to the court that protection of property rights is entrenched in centuries-old common law. That law includes the rights of property owners to enjoy their property, all of it. Simple things we take for granted: opening a window for fresh air, hanging clothes on a line to dry, gardening, playing, barbequing, swimming, doing yard work or making home improvements.

The court heard eleven people testify under oath how their lives had been changed by the temporary asphalt plant, a 'temporary' plant that has returned here *three* years running. Linda McCaffrey, a nationally known environmental trial lawyer led testimony from the witnesses. Former founding director of the Ecojustice Environmental Law Clinic at Ottawa University, Ms. McCaffrey, as lead counsel, is representing nine plaintiffs *pro bono*.

Testimony varied as to how the plant had negatively affected the plaintiffs, depending on how close they lived to the plant, whether they were downwind or upwind of the plant, whether they were at work all day elsewhere, or whether they were at home, working or just enjoying their property. But the common thread the judge heard was that the joy in their home lives had been stolen, stolen for the profit of a private multinational company.

There was testimony under oath of symptoms caused by the emissions of odour and noise, symptoms such as nausea, migraines, irritation of the eyes, nose and throat, shortness of breath, anxiety, loss of sleep etc. The anxiety included fear for the health of their families knowing the cancer-causing chemicals contained in asphalt emissions, fear for the certainty that their property values had plummeted.

Dr. Elaine MacDonald, Environmental Engineer and expert in the field of dispersion of pollutants in the environment, talked of chemicals found emitted from the production of asphalt, coming from the stack. She also spoke of the important fugitive emissions from truck loading, diesel engines, baghouse, conveyor and storage. These emissions contain toxic chemicals: polycyclic aromatic hydrocarbons, (PAHs), known or potential carcinogens, volatile organic compounds, benzene, sulphur compounds, nitrogen oxides, heavy metals and particulate matter – all pollutants of concern to long term health of those exposed.

Underlying this testimony, in the drama of the courtroom, one felt the anger at the disruptive power of one neighbor over the lives of all the others, and at the Ministry of the Environment for allowing this to happen.