

## **INJURIOUS AFFECTION AND EXPROPRIATION**

Ontario Municipal Board File LC010005, June 11, 2002 – Lazar v. Hydro One

Portions of OMB Decision No. 0781 follow.

Firstly, with respect to the question of the valuation of the lands as at May 3, 1994, the differences among the three appraisers are not that drastic. ...

... On the whole, the Board finds of the three, the choice of the comparables made by Mr. Lansink to be the more thoughtful, cautious and cogent.

Furthermore, the Board is impressed with the care he took with each of the properties and the very detailed adjustments he had applied to ensure that the direct comparison approach is sensible and not subject to variable vicissitude.

... the Board prefers the approach and analysis chosen by Mr. Lansink both in terms of quantum and methodology and as such, ... we find that the acreage rate of over \$3,000 giving rise to the value of \$270,000 to be valid.

Secondly, the Board needs to determine whether there is in fact an "injurious affection" that might result from the acquisition or the use of the works thereon.

... the Board finds that [the other appraiser's] hypothesis was refuted by the investigation conducted by Mr. Lansink, who was able to delineate a number of sales that reflect or define such an "incurable factor" pursuant to a very thorough research he had conducted.

Thirdly, there is a finding required as to the extent of the impact. Here, the evidence of Mr. Lansink has not been controverted by Hydro One at all. The evidence is clear that [the injurious affection] would be in the range of 30% to 54%.

Note: Hydro One originally paid the property owner \$4,900. The Section 25 offer was \$20,750 and Hydro One offered \$30,000. Lazar offered to settle for \$40,000, after which Hydro One reduced its offer to \$3,000; hence the OMB Hearing.