
MEDIA BACKGROUND

Legal action continues over bird kills at GTA office complex

April 2011

The Prosecution

- Menkes Consilium Inc., Menkes Developments Ltd., Menkes Property Management Services Ltd. and three related companies have been jointly charged, after a lengthy investigation, under Ontario's *Environmental Protection Act* (EPA) for discharging a contaminant during the years 2008 and 2009 that caused or was likely to cause an adverse effect, namely, harm to animals.
- The companies are also charged under s. 11.2(1) of the *Ontario Society for the Prevention of Cruelty to Animals Act* for causing birds to be in distress.
- The charges under Section 14, EPA allege that light from the highly reflective window surfaces of Menkes Consilium Place office complex in Toronto (formerly Scarborough) has caused the death or injury of birds, mainly migratory birds.
- The maximum fine under the EPA is \$6 million per day for a first offense.

Toronto bird-building collisions

- According to Toronto non-profit group FLAP (Fatal Light Awareness Program), each year in Toronto over one million birds are killed in collisions with building windows. [www.flap.org]
- There are two principal problems with building windows: (1) birds are confused by images reflected in mirror-like windows (thus making the windows a lethal hazard --the gist of the allegation in the current case); and (2) birds are attracted to the areas around buildings when lights are left on at night (a major problem in downtown Toronto, including the TD Centre, according to FLAP)
- The City of Toronto created its *Bird-Friendly Development Guidelines* in January 2006. [www.toronto.ca/lightsout/pdf/development_guidelines.pdf]
- FLAP recommends that by taking "a few simple steps, like turning out lights at night and eliminating the reflective quality of windows during the day, we can prevent this unnecessary toll, and save energy and money."

Bird collisions at Consilium Place

- FLAP has recovered more than 7,000 dead and injured birds from Consilium Place over the last decade, including more than 800 during 2008-2009.
- FLAP documented a large bird kill at the Consilium Place office complex during Thanksgiving weekend in October 2005 when several hundred birds were killed or injured. The buildings were under different ownership at the time.
- The most common species recovered by FLAP at the site are: Ruby-throated Hummingbirds, Dark-eyed Juncos, White-throated Sparrows and Nashville Warblers.

Migratory birds

- Migratory birds provide various ecological services that are vital for our agriculture and resource industries such as consuming billions of insects each day, pollinating plants, and dispersing seeds.
- Birding is Canada's second biggest leisure activity after gardening. Wildlife viewing, including birding, also pumps billions of dollars into the North American economy each year. (See *Bird-Friendly Development Guidelines*, City of Toronto)
- York University Professor Bridget Stutchbury's 2007 book, *Silence of the Songbirds* chronicles the worrisome decline of many migratory bird species. One of the chapters in her book looks at the problem of bird collisions with building windows – one of the lethal obstacles encountered by migratory birds during their spring and fall migrations.

The groups

- **Ecojustice** is Canada's leading non-profit organization devoted to protecting the environment through the law. Ecojustice lawyer, Albert Koehl is prosecuting the case. www.ecojustice.ca
- **Ontario Nature** is a charitable organization representing more than 30,000 members and supporters and 140 member groups across Ontario that protects wild species and wild spaces through conservation, education and public engagement. Caroline Schultz, executive director of Ontario Nature is the person who “swore” to the “Information” before a Justice of the Peace to initiate the case. www.ontarionature.org