Marineland has not met the requirements of Schedule “A”. We have proved at previous hearings with the Landlord and Tenant Board that Marineland has not paid the compensation to many of the tenants that are required. They have also not obtained the proper permits proving in Good Faith that they intend to follow through with placing Maintenance Buildings on this property.

In order to obtain the proper Building Permits they need to first get approval through the Conservation Authority and then get approved through both the Regional Municipality of Niagara and the City of Niagara Falls which could be difficult since both have by-laws in place using their roads for the crossing of heavy equipment.

We do not believe that Marineland is in good faith intending to place their Maintenance Buildings on this property. We believe that they have used this as an excuse to allow them to evict us from our homes.

Today I would like to talk about the “Bad Faith” of this landlord and why we feel the way we do.

This is not the first time that this landlord has evicted people from their homes and demolished their property. In fact if you ask around Niagara Falls, many people will tell you about the history of this man and property.

We researched at our City Hall for any Demolition Permits that Marineland has applied for. We have copies of 8 permits that were issued by the City of Niagara Falls. Every permit was issued to demolish residential property that Marineland purchased and these properties sit vacant today. In Fact 3 of the permits were issued for property on Stanley Ave. We seem to be just another piece of this puzzle.

Exhibit “A” – Properties that Marineland Owns with Demolition Permits

Marineland makes the following claim in their Schedule “A”

*We have been in communication with the City of Niagara Falls and currently have a demolition permit and will apply for the necessary building permits as soon as we have completed the necessary preliminary work involved with clearing and preparing the property.*

Demolition Permits are not the permits that are required in Schedule “A”. They need to obtain “Building Permits”.

Building Permits are the only proof that Marineland can obtain to prove that they will be putting the Maintenance Buildings on this property in Good Faith. They have had more than a year to either obtain these permits or at least show that they have taken all reasonable steps to obtain them. They have not!

1.

The Demolition Permit that Marineland has for this property was issued on Feb 22, 2010. The beginning of Feb 2010, Marineland started demolishing homes on our property without having this permit. We contacted the Ministry of Labour on Feb 4, 2010 to make sure that they were demolishing in accordance with the law. The Ministry of Labour visited our site and issued a stop work order until they retained a demolition permit. They also advised Marineland that they would need to have each home checked for asbestos prior to demolishing any of them.

This is when Marineland had no choice but apply to the City for demolition permits. Once they obtained this permit they continued to only demolish a couple of homes and they have not demolished any since. It appears that they were waiting for Aug 31, 2010 when all of us would no longer be there to continue with their demolition plans. This way, they could continue without the proper permits and also without checking for asbestos since this is lengthy and costly process.

Marineland claimed on Oct 21, 2010 at one of our hearings that this demolition permit that they received was a blanket permit issued by the City of Niagara Falls. Then on Oct 28th, 2010 they presented an email from John Castrilli the City of Niagara Falls Chief Building Inspector in response to Tracy Stewarts email. This email seemed to confirm everything that Marineland was stating in regards to these permits that it was issued as a blanket permit. This email was received the very next morning on Oct 22, 2010 at 10:39 am which shows how easy it is for Marineland to just contact the City and receive a response so promptly.

We visited John Castrilli at the City of Niagara Falls on November 2, 2010 to discuss these permits that were issued. We asked John for his permission to record our conversation. He permitted us to record it. We asked him “how can he issue a blanket demolition permit on homes that are not currently owned by Marineland”. I have a copy of this recording.

During our conversation with John Castrilli he claims that he was mislead by Marineland when they applied for the permit and was not aware that they did not own the homes.

Exhibit “B” – Recording of Conversation

Exhibit “C” – Email from John Castilli

We also have an email from John Castrilli confirming these demolition permits and why they were issued.

*Up until our meeting I was not aware or was not made aware that other ownerships existed on the trailer park site. Certainly if there are trailers or mobile homes or other structures that are not owned by Marineland then the permit would not apply to those structures. We base the issuance of a permit on the information provided to us.*

*In speaking to my Property Standards Officer who confirmed that we were lead to believe that all units on the property belonged to Marineland and therefore a blanket permit was issued for the site.*

2.

This shows the way that Marineland operates in not fully disclosing everything in order to get what they want. As mentioned before these demolition permits are not even the required permits that they need but yet they can’t even obtain them without misleading information.

On Nov 16th, 2010 when we received the Demolition Permits that were issued you will notice that the one that was issued on Feb 22, 2010 for our property has now been changed by the City of Niagara Falls. Since our conversation with John Castrilli who issued the permit he has added the following to it.

Approx 30 trailers to be demolished and No of buildings to be removed – 30.

Marineland announced in 2000 a $160,000,000 expansion plans. I have 3 websites that refer to the many undeveloped acres that Marineland has within their park to develop on.

Exhibit “D” – Allbusiness.com

Exhibit “E” – 120gallons.com

Exhibit “F” – cwmania.com

Allbusiness states the following in January 2001:

Marineland which opened in 1961, is located on 1,200 acres of land about one mile away from Niagara Falls. Rondinelli said only about 300 acres of that land is currently being utilized, not including the expansions.

120gallons states the following in September 2007 which are in John Holers own words.

I’ve been working on the project for the past 2 years said Holer, who founded Marineland in 1961. “It’s part of our continuing expansion, and we have plenty of acres remaining in the park for much more.”

Less than half of Marineland’s 1,000 acres has been developed into tourist attractions, he said.

Cwmania on July 25th, 2010:

This is a forum posting that shows a map of Marineland and the area that they have to work with.

This map also shows our property that Marineland claims they need in order to place their Maintenance Buildings which are on the opposite side of the road where the park is located.

It shows how small our parcel of land is compared to the available undeveloped acres that Marineland has on the same side of the road as the park.

Why does Marineland need to displace 47 families on the opposite side of the road when they have so much undeveloped land to work with within the park?

Wouldn’t it make more sense to have your Maintenance buildings for Marineland within the park boundaries?

How are you going to obtain a building permit to erect Maintenance Buildings that will be housing heavy equipment containing gas, diesel, oil, etc. on property that is considered wetlands from the Conservation Authority?

How will they obtain a building permit to erect Maintenance Buildings on the opposite side of a Regional Road that will require them to continuously cross the road with heavy equipment in order to maintain the park when there are by-laws in place stating that you cannot use the road as a permanent crossing for heavy equipment?

3.

Exhibit “G” – Property Owned on Stanley Ave

I have a copy of a map showing property that is currently owned by Marineland on Stanley Ave the same road as our park is located. The interesting thing about this map is that Marineland currently owns 19 vacant parcels of land that are located in the same approximates as us in comparison to their park. Even more interesting is that they currently own a parcel of land that is vacant which is directly next to and joining 7885 Stanley Ave which is the location of their Administration Offices. This particular parcel of land is 13.29 acres which is equivalent to ours.

This parcel of land is completely square, not oddly shaped like ours. Directly next door to their admin offices, but yet they would rather evict 47 families.

As stated previously, it is not new for Marineland to acquire properties in and around Niagara Falls and evict the tenants only to demolish their homes. Then the land sits vacant.

It is almost like they are playing Monopoly with our properties and more importantly our lives.

This time Marineland has not just purchased our property and plans to demolish it, but this time they have purchased property that are not just occupied by tenants but it is occupied by owners.

Marineland purchased this park just 5 years prior to our eviction. When they purchased it, there were concerns that John Holer was going to do the same to our homes that he has done to many others. When anyone asked, we were all told that we would be here forever, there was nothing to worry about.

In fact I even have an affidavit from a real estate agent who just 6 months prior to our notice sold a property in this park and ask Marineland for assurance that this property was safe. This tenant still had 6 months left on his lease and this is in our opinion why we were given 1 year 6 months notice.

Exhibit “H”- Affidavit from Real Estate

Exhibit “I” – Purchase of Property

Owning and running a mobile home park is a business. Marineland purchased this park for $300,000. They collected approx. $1,200,000 over the 5 year period in rental income.

Anyone looking at this from the outside will tell you that it is obvious these plans were in place. You don’t just wake up one morning and decide to evict 47 families from their homes, giving up approx. $20,000 / month in rental income without planning.

We have an affidavit from a previous tenant who was talking to Malcolm Gibson who was the previous owner of this park. He claims that John Holer guaranteed him that he would give us 5 years.

Exhibit “J” – Affidavit from Peggy Stewart

This was purely a business decision from the day he purchased it. If John Holer would’ve been fair and announced when he purchased the property that in 5 years he was planning on demolishing it. People may have been upset or angry, but they would have had 5 years to plan and move which would’ve been more than fair. In fact, they would of slowly moved out knowing that there was no more future their and he probably would have had the park cleared within a few years. The problem with this; is he would have never received a return on his investment.

4.

Instead John Holer mislead everyone with promises. People continued to invest in their homes, many of them improving them. More people purchased into the park and he was able to collect maximum rents over the 5 year period. John Holer was only looking after his own interest and investment without any consideration as to what he was doing with these people’s lives and future.

Marineland has evicted us from our homes and the only way to now prove their intent is for the Landlord and Tenant Board to dismiss this eviction notice as defective until Marineland provides the Building Permits that they require in order to prove that they in Good Faith intend to put Maintenance Buildings on this property. More importantly they need to provide these building permits to prove that both the Conservation Authority and The City of Niagara Falls will allow them to place these buildings here.

If we then find out that this property does not qualify for the Maintenance Buildings by the Conservation Authority, Regional Municipality of Niagara or the City of Niagara Falls because it is considered wetlands or because of there own by-laws.

We will proceed with Small Claims, Superior Court or the Landlord and Tenant Board proving the Bad Faith of this Landlord.

Justice will not be served if we lose our homes first and then prove that Marineland operated in Bad Faith. It will then be too late for us, at this point we have completely lost our homes. We deserve to continually be allowed to live in our homes until this landlord has provided the proper permits and paid the compensation that he is required by law. My home was listed with Real Estate for $119,000 prior to this eviction. It is like John Holer reached into my pocket and stole $119,000 from me and my family.

On a final note, if you go to Marinelands website under Presidents Message from John Holer you can read the following statement:

I have dedicated my life to developing one of the world’s best facilities for animal and marine mammal care, where guests can learn about animals through an exciting mix of entertainment and education. Marineland staff members and I consider each Marineland animal resident a member of the family. I will spare no expense when it comes to the health and well being of the animals in my care.

Truly remarkable to see John Holer stating that he considers each Marineland animal resident a member of the family and will spare no expense when it comes to their health and well being. But yet on the other side of the fence he is evicting 47 families (PEOPLE, HUMAN BEINGS) from their own homes with no compassion whatsoever.

Brian Topolinsky

5.



