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File No. 20023

June 29, 2010

The Corporation of the Township of Melancthon
157101 Highway 10
R.R.#6
Shelburne, Ontario L0N 1S9

Dear Mesdames & Sirs:

Re: TOWNSHIP OF MELANCTHON 2010 GENERAL MATTERS

The Arran-Elderslie by-law on wind turbines has been referred to me. It is a very interesting by-law, and obviously a lot of work and consideration went into it.

It is my certain opinion that the Arran-Elderslie by-law will not be upheld by the courts. In substance it is not a by-law for the protection of the health, safety and well-being of the residents of the municipality; it is a by-law to prevent the establishment of wind generation facilities. While the subject reference is to industrial/commercial wind generation facilities, the by-law does not actually provide a specific definition of the term "wind generation facility". So, it applies to every wind generation facility.

I note that, in addition to the health, safety and well-being provisions, there are provisions directed to First Nations issues. This also indicates that the by-law is not primarily about health, safety and well-being, but the prevention of wind generation facilities.

It is my opinion that the passing of the Arran-Elderslie by-law by the Township of Melancthon would bring no benefit to the Township. On the contrary, it would be bound to cause expense and problems.

If you wish an extensive, detailed critique of the by-law, and the likely consequences of passing such a by-law, I will be pleased to provide it. The budget for it should be \$1,500.

While this opinion is provided to you on a confidential basis, Council is free to make it public.

Please let me know if you require anything further on this issue.

Yours very truly,
SHEPHERD, OSYANY & KING, LLP
per:

Andrew Osyany

(ext. 233)

JUL - 8 2010