

## **Superior Court grants injunction against Temagami Barge**

The Ontario Superior Court of Justice released a decision on September 20, 2024 restraining Temagami Barge Limited, Dashiell Lowery Delarosbel and their employees, agents and users of the Temagami Lake property known as 1658 Temagami Access Road from using it for a marina, gas bar and sewage waste disposal service.

Since 2009, the Province has been attempting to close down Temagami Barge at this location which the Province owns and claims Temagami Barge is not entitled to occupy. This litigation remains ongoing. The Municipality brought a separate action in 2022 claiming that the uses being carried out on the property are illegal and not permitted by the zoning by-law which currently zones the property for conservation and recreational uses only. The Municipality has argued that the Temagami Barge business was relocated to this site in 1989 and has gradually expanded its operation for uses that are clearly illegal.

The Court in a 22 page decision agreed with the Municipality's position and granted a permanent injunction to prevent the property from being used for a marina, a gas bar, commercial docking and mooring, outdoor parking rental, a barge rental business, a sewage waste disposal service, public access to Lake Temagami and a service shop and retail store. Since the Municipality was not asking the court to decide the issue as to whether Temagami Barge was lawfully on the lands (an issue still to be decided by the courts), the court did indicate that Temagami Barge could operate a construction business from the property and moor its barges at the property so long as they were used in connection with the construction business.

Before relocating its sewage waste disposal business to this site, Temagami Barge operated its sewage waste disposal business from a different location on the lake. There is nothing stopping Temagami Barge from continuing to operate this business, so long as it finds a lawful location to operate from.

The municipality notes that Temagami Barge has paid no municipal taxes since moving to this location in 1989.

A copy of the court decision can be found at:

<https://www.canlii.org/en/on/onsc/doc/2024/2024onsc571/2024onsc571.html?resultId=1f7e3cdecabf43eaa57c5d0891cff27b&searchId=2024-10-05T13:22:40:994/283ebdbe6a9443aba774bad8e06a82b1>