

ADDENDUM

REGULAR MEETING OF CITY COUNCIL

2008 02 25

4:30 P.M.

PART ONE – CONSENT AGENDA

**5. COMMUNICATIONS AND ROUTINE REPORTS OF
CITY DEPARTMENTS; BOARDS AND COMMITTEES**

- (a) Further correspondence from AMO is attached for the information of Council.
- (o) Correspondence from Councillor Susan Myers concerning the FONOM-MMAH Conference being held in Sault Ste. Marie May 14 to 16, 2008 is attached for the information of Council.
- (p) **Steelback Centre - Nominated for Canadian Music Industry Award**
A report of the Commissioner of Community Services is attached for the consideration of Council.

Mover - Councillor T. Sheehan

Seconder - Councillor F. Fata

Resolved that the report of the Commissioner of Community Services dated 2008 02 25 concerning Steelback Centre - Nominated for Canadian Music Industry Award be accepted as information.

PART TWO – REGULAR AGENDA

**7. UNFINISHED BUSINESS, NOTICE OF MOTIONS AND RESOLUTIONS
PLACED ON AGENDA BY MEMBERS OF COUNCIL**

- (a) Mover - Councillor P. Mick
Seconder - Councillor S. Myers
Whereas Boniferro Mill Works was successful before Mr. Justice Tranmer in having the residual value charge (RVC) imposed on the company by the Ministry of Natural Resources ordered returned to Boniferro Mill Works as having been collected unlawfully; and
Whereas the Province of Ontario has claimed in the past to be in support of the forest industry in Ontario; and

7. (a) Whereas the Province of Ontario, despite its public statements of support for the forest industry in Ontario, has decided to appeal the decision of Mr. Justice Tranmer;

Now therefore be it resolved that the Council of the Corporation of the City of Sault Ste. Marie hereby requests the government of Ontario to enact legislation that cancels any purported residual value charge levied on companies such as Boniferro Mill Works, retroactive to 2003; and

Further that a copy of this resolution be forwarded to the Minister of Natural Resources, our area M.P.P.s David Oraziatti and Mike Brown, and other municipalities in Northern Ontario that have companies in the same situation as Boniferro Mill Works.



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 Toronto, ON M5H 3C6
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 E-mail: amo@amo.on.ca

ALERT

MEMBER COMMUNICATION

ALERT N°: 08/008

To the attention of the Clerk and Council
February 25, 2008

FOR MORE INFORMATION CONTACT:
 Craig Reid, AMO Senior Policy Advisor
 (416) 971-9856 ext 334

Premier Announces Additional Infrastructure Funding for Municipalities

Issue: Premier McGuinty announced \$150 million in additional infrastructure funding support for Ontario municipalities under the Municipal Infrastructure Investment Initiative (MIII).

Background:

Ontario Premier Dalton McGuinty announced an additional investment of \$150 million in infrastructure funding for municipalities today at the Ontario Good Roads Association (OGRA)/Rural Ontario Municipal Association (ROMA) Annual Conference.

Today's announcement extends the funding available under the province's MIII program announced last December in the Finance Minister's Fall Economic Statement to the Legislature, making a total investment of \$450 million available in municipal infrastructure funding under that program.

In making the announcement, the Premier noted the strong interest in the MIII program which received over 450 applications, requesting over \$750 million in funding for eligible project costs valued in excess of \$1.0 billion. The Premier also noted that the latest announcement would create over 6,500 construction jobs in Ontario communities.

The MIII program application window closed on February 15, 2008 and was open to all classes of construction-ready municipally-owned infrastructure projects, except for public transit, which receives provincial funding through other initiatives. The additional funding will be applied to existing applications submitted by the February 15, 2008 deadline. No new applications will be necessary.

Funding announcements under the MIII will be made by March 31, 2008.

Action:

For your information.

This information is available in the Policy Issues section of the AMO website at www.amo.on.ca.



Council update re FONOM-MMAH Conference May 14 – 16, 2008
Great Northern Conference Centre Sault Ste. Marie

Background

Sault Ste. Marie last hosted the FONOM conference in 1992. At that time, I was the Manager of Marketing and Tourism for SSMEDC and part of the Organizing Committee as was Councillor Manzo who worked hard to bring this prestigious event to our City then, just as Councillor Turco and I have done now. That initiative required about fourteen City Staff and it was a great deal of work. Much has changed since then.

2008 Conference Requirements

To a large extent, FONOM has now taken over the lion's share, about 80% of the work however the remaining 20% is important and one key component is to provide a high caliber Companion Program. The local arrangements committee consists of our Clerk and Deputy Clerk, Donna Irving and Malcom White, along with Councillor Lou Turco, and me. An individual will be brought on board for a short term contract as per a resolution approved by City Council last year and will be our admin support and foot soldier working on a number of details with the FONOM-MMAH organizers and will be on site the entire week of the conference as our lead person.

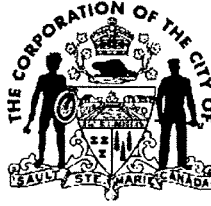
A number of planning meetings are scheduled and already underway, most being held by conference call. A theme proposed by us to FONOM-MMAH has been chosen and it is **Beyond Borders**. Of special note and another suggestion from our committee, was to contract Dr. Roberta Bondar as the keynote opening speaker. The organizers jumped at that and Dr. Bondar is confirmed for Wed. May 14 as the Opening Plenary Speaker. Everyone is quite excited and feel Roberta's presence is a good draw for high attendance and will set a great tone for the overall conference event.

Participation by all members of City Council is requested as this is an excellent opportunity to learn and meet with our fellow municipal leaders from across Northern Ontario and to provide hospitality and public relations as Ambassadors for our City. In Kirkland Lake 2007 there were about 280 delegates; for 2008, they expect to push 400.

This truly is a time to showcase the community and "spread the word" as to what a great place Sault Ste. Marie is to live, play and do business. Hosting a conference such as FONOM, spotlights the city. It also provides an opportunity for a number of local individuals to attend and be exposed to educational topics offered on the agenda and to attend the Trade Show - people who otherwise would never have the occasion to be at a FONOM conference. As host city, we can influence the agenda topics in order to provide an enriching experience for our interested citizens and businesses.

Submitted by: Councillor Susan Myers
February 25, 2008.

NICHOLAS J. APOSTLE
COMMISSIONER COMMUNITY SERVICES



COMMUNITY SERVICES DEPARTMENT
Community Centres Division
Municipal Day Nurseries Division
Recreation & Culture Division

2008 02 25

Mayor John Rowswell
and Members of City Council

Steelback Centre – Nominated for Canadian Music Industry Award

We were advised late last week that the Steelback Centre has been nominated for a Canadian Music Industry award. The award is under the **LIVE TOURING** category and is for **MAJOR FACILITY OF THE YEAR** (under 8,000 capacity). The other facilities that are nominated are: Grand Prairie Arena, Grand Prairie; CN Centre, Prince George; Ricoh Coliseum, Toronto; Brant Centre, Regina; and the Enmax Centre, Lethbridge.

The Canadian Music Awards are being held in Toronto March 5 to 8, 2008.

Respectfully submitted as information.

Nicholas J. Apostle
Commissioner Community Services

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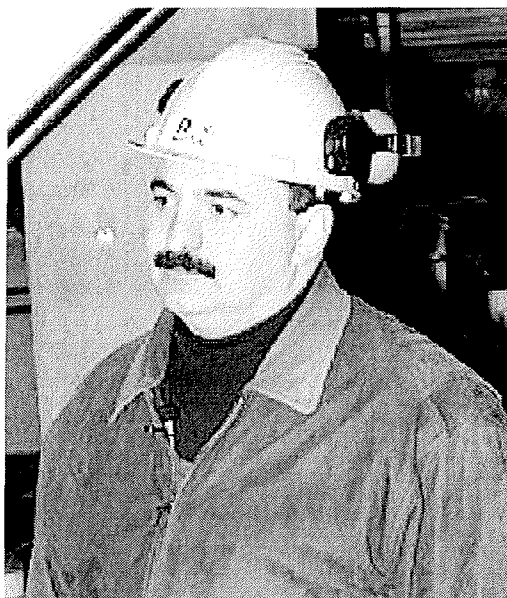
SOOTODAY.com

Province decides to appeal Boniferro decision

By SooToday.com Staff

SooToday.com

Wednesday, February 20, 2008

**NEWS RELEASE****BONIFERRO MILL WORKS**

Boniferro expresses disappointment at government appeal

Ontario Ministry of Natural Resources challenges Judge Tranmer's decision

SAULT STE. MARIE - The Ministry of the Attorney General served a notice of appeal on Boniferro Mill Works today that it will be filing with the Court of Appeal for Ontario

tomorrow.

The appeal challenges the order of Judge Tranmer last month regarding the illegal collection of residual value charges on Crown timber.

In its notice of appeal, the government claims that Judge Tranmer erred in his order that the residual value charge collected from Boniferro Mill Works since 2003 was and is a tax for which there is no lawful authority.

Justice Tranmer ordered the ministry to complete a full accounting of the RV charges back to 2003 and to pay back those charges with interest and costs.

The decision to appeal is another blow to a forest industry plagued with financial challenges across the province.

Jim Boniferro [shown], president and CEO of Boniferro Mill Works, expressed his disappointment with the ministry's choice of action.

"We have been constantly working hard to meet the difficult challenges present in today's marketplace. Our employees, suppliers and other stakeholders have been extremely supportive and recognize the severe financial climate we are currently in.

Way
To Be

740 Queen St. E.
253.9212

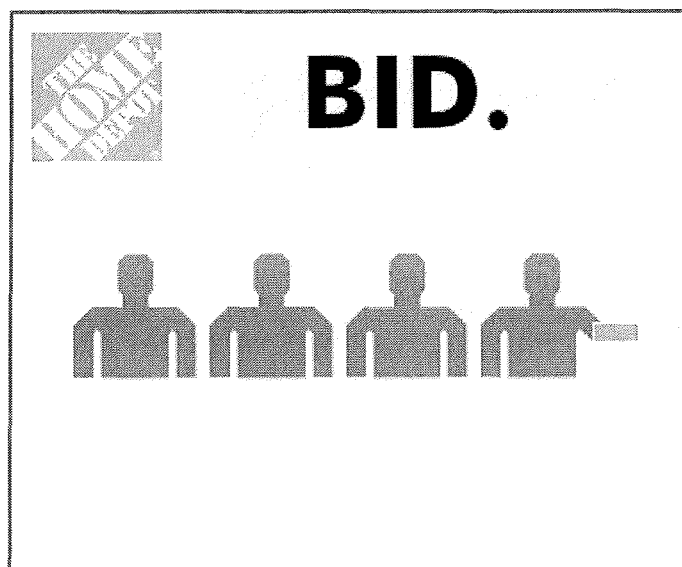
Warm
someones
HEART
this winter.

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"We have continually worked with the Ontario Ministry of Natural Resources to find solutions over the last four years. Since the decision, we have kept that spirit of co-operation, and tried to move forward without any further legal expense, with the Attorney General's Office, as well as the Ministry of Natural Resources and the Premier's office."

The notice today indicates that those initiatives have been ignored.

This decision comes at a time when sawmills continue to shutdown operations in Ontario.



Printed from SooToday.com on 2/25/2008

February 22, 2008

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MNR appeal 'a huge risk' of tax dollars; Province taking big gamble by forcing Boniferro Mill Works back to court over \$1.1M award- CEO — COMMENT ON THIS STORY

Posted 3 days ago

The provincial government is taking a big gamble with taxpayers' dollars by appealing a court ruling on stumpage fees, Jim Boniferro says.

A month ago, the Ontario Superior Court of Justice agreed with Boniferro Mill Works' challenge to the legality of more than \$1 million in residual value charges (RVCs) it paid to the Ministry of Natural Resources.

But Wednesday, company president and CEO Boniferro, was served notice by the Ministry of the Attorney General, that the province would appeal Justice Gary Tranmer's ruling to the Court of Appeal for Ontario.

"I believe the appeal is a huge risk on the government's part; a roll of the taxpayer's dice," said Boniferro.

His mill was awarded \$1.1 million plus interest and legal costs. Tranmer ruled that RVCs were an illegal tax levied without legislative approval.

"In my opinion, it would have been to their advantage to accept the ruling and move on. . . . The earlier decision affects only Boniferro Mill Works, involves a little over \$1 million, and dates back to March 2003.

"The appeal opens up the possibility of a provincial-wide ruling that could go beyond 2003, as far back as 1997 (when the industry started paying RVCs), and involve the return of enormous amounts of money."

It was revealed in Justice Tranmer's ruling that the MNR had collected \$108 million in RVCs from the industry over a five-year period, from 2002-2003 until 2006-2007.

Boniferro believes a rollback to 1997 would reveal payments "in excess of \$500 million."

Dave Bauer, communications advisor with MNR Minister Donna Cansfield, would only confirm Thursday that the earlier ruling is being appealed, claiming he couldn't get into specifics "because the matter is before the courts."

David Oraziotti, Sault MPP, who had previously gone on the record as being opposed to a government appeal, also declined comment because "the matter is heading to a higher court."

The government is claiming Tranmer "erred" in his order that the RVC collected from Boniferro Mill Works since 2003 is a tax for which there is no lawful authority, states Boniferro in a release announcing the government's appeal.

"The basis for their appeal is weak," said Boniferro. "It appears they simply want to reargue their legal case and that's a waste of taxpayer money."

The Attorney General's office, which was expected to file the notice of appeal Thursday, has advised Boniferro that it would not be opposed to an expedited appeal, meaning, "we could have a court date as early as June," he said.

Boniferro believes, although he cannot confirm, that several other forest product mills have filed similar applications against the province since Tranmer's ruling.

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Only two of four forest product sectors, veneer and composite producers, are believed still paying RVCs. Payment by the hardwood sector was stopped in July and payment by the softwood sector some time ago, both due to deteriorating market conditions.

RVCs, one of four stumpage fee components collected by the MNR, are designed to ensure that the province, which provides Crown resources to the forest industry, shares in the financial rewards when profits reach specific levels.

Boniferro, who said last summer his hardwood mill has paid \$2.3 million in stumpage fees since its launch in March 2003, including \$1.1 million in RVCs, has referred to the fee as a financial burden on growth and development.

The fee, as high as \$14 a cubic foot in September 2004, diverts cash flow which should be directed elsewhere during challenging times confronting the industry, says Boniferro.

Oraziotti finds himself in a difficult position on the matter as a member of the government which has appealed a ruling favoring a mill in his riding.

"My opinion on the matter (the appeal) was very clear after the lower court ruling," he said.

In comments made to Sault Star columnist Doug Millroy earlier this month the Sault MPP said he had lobbied David Ramsay, then MNR Minister, and Premier Dalton McGuinty's office last fall, "insisting that they settle it; that they not let it go to court. . . . I don't think they should appeal it either."

He said he couldn't get anyone in government to accept the facts of the issue.

"I am not happy with MNR staff who made recommendations on continuing to charge this residual value fee. . . . There was no legislative merit to it."

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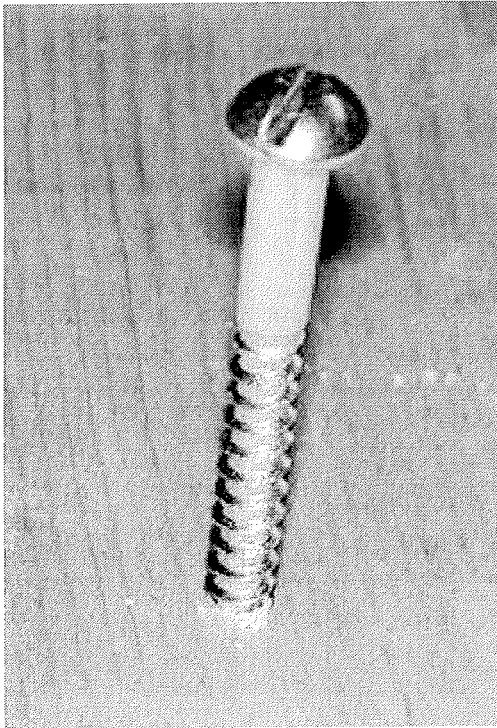
SOOTODAY.com

MNR screwed local sawmill. Judge orders huge repayment

By Carol Martin

SooToday.com

Tuesday, January 22, 2008



Boniferro Mill Works will be doing a million-dollar happy dance this morning, President and Chief Executive Officer Jim Boniferro says.

Yesterday, Ontario Superior Court Justice Gary Tranmer ruled that the residual value charge imposed on Boniferro by the Ministry of Natural Resources was collected unlawfully and must be repaid to the hardwood sawmill located on Third Line.

Justice Tranmer heard the case on December 4 and handed down his 20-page judgment yesterday.

He ruled that the residual value charge was in fact an illegal tax imposed on the lumber industry without authorization by Ontario's elected officials.

Tranmer directed the ministry to refund all residual value charges paid by Boniferro Mill Works since Boniferro took over the ailing mill in March of 2003, with interest.

"We're very excited and it's great news for us, for our employees and hopefully for the whole forestry industry in Ontario" Boniferro told SooToday.com. "Our next challenge will be to make sure they [OMNR] live by it."

Earlier, Boniferro had said his company alone has paid more than \$1 million in illegal provincial taxes since March 2003, and that Ontario forestry operators had lost \$100 million.

For more information on the case heard December 4, click [here](#).

The full text of a Boniferro Mill Works news release follows:

Ontario Superior Court declares residual value charges a tax

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Orders the Ontario Ministry of Natural Resources to refund all RVC's paid by Boniferro Mill Works with interest

SAULT STE. MARIE – In a written ruling, Mr. Justice Tranmer of the Ontario Superior Court of Justice declared that the residual value charge (RVC) imposed by the Ontario Ministry of Natural Resources is a tax that the ministry had no lawful authority to impose or collect.

Through a court application started on August 20, 2007, Boniferro Mill Works asserted that the OMNR levied RVCs that negatively affected the profitability and long-term sustainability of the hardwood lumber mill and all of its employees.

A hearing was held in Sault Ste. Marie on December 4, 2007.

The court upheld the application, ruling that Boniferro Mill Works is entitled to a complete accounting by the OMNR of all RVCs paid since March 13th, 2003 and a refund of same together with interest in accordance with the Rules of Civil Procedure and the Courts of Justice Act.

"This is great news for all of the employees of the hardwood mill in Sault Ste. Marie. This tax has been a financial burden on the growth and development of our company since 2003" stated Jim Boniferro, president and CEO of Boniferro Mill Works. "I look forward to concentrating on the many challenges facing our industry and continuing to build and grow on all of our past successes."

Boniferro Mill Works was represented by David Hamer and Gillian Slaughter of the firm McCarthy Tétrault. David Hamer expressed satisfaction with the court's application of the settled legal principle that governments cannot levy any tax without clear authorization from the elected members of the legislature

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The Sault Star

Bad choice by MNR

Sat Feb 23, 2008

Posted 2 days ago

Who exactly does the MNR work for?

A month ago, the Ontario Superior Court of Justice agreed with Boniferro Mill Works' challenge to the legality of more than \$1 million in residual value charges (RVCs) it paid to the Ministry of Natural Resources. This week, company president and CEO Jim Boniferro, was served notice that the province would appeal Justice Gary Tranmer's ruling to the Court of Appeal for Ontario.

Boniferro says the MNR may regret its decision because the appeal opens the possibility of a provincewide ruling that could cost the government much more. But what's especially upsetting is that the MNR is throwing up hurdles for a local mill and an industry that could use a helping hand. Once again, we ask, who does the MNR work for?

RVCs, one of four stumpage fee components collected by the MNR, are designed to ensure that the province, which provides Crown resources to the forest industry, shares in the financial rewards when profits reach specific levels. In other words, it's one more tax and another batch of red tape the forestry industry has to cope with.

And the money isn't even put back into forestry.

"The funds are not paid into or used for forestry programs, rather, they are paid into the province's consolidated revenue fund," Judge Tranmer wrote in his Jan. 21 ruling. "The [Ontario government] concedes that the [residual value charge] is used to raise revenue for general purposes."

Now that the matter is before the courts the MNR and MPP David Oraziotti won't offer any comments.

But we know that Oraziotti has lobbied to convince the government to live by the earlier ruling and not appeal.

"I am not happy with MNR staff who made recommendations on continuing to charge this residual value fee. . . . There was no legislative merit to it," Oraziotti said in a recent interview with Star columnist Doug Millroy.

That is as true now as it was a month ago.

We believe the MNR should find better things to do with its time and our money. They can start by cutting Ontario's forestry industries some slack.

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Boniferro Mill Works
News Release

FOR IMMEDIATE RELEASE
January 23, 2008

Ontario Superior Court Declares Residual Value Charges A Tax
*Orders the Ontario Ministry of Natural Resources to refund all RVC's paid by
Boniferro Mill Works with interest.*

Sault Ste Marie – In a written ruling, Mr. Justice Tranmer of the Ontario Superior Court of Justice declared that the Residual Value Charge imposed by the Ontario Ministry of Natural Resources is a tax that the Ministry had no lawful authority to impose or collect.

Through a court application started on August 20, 2007, Boniferro Mill Works asserted that the OMNR levied RVC's that negatively affected the profitability and long-term sustainability of the hardwood lumber mill and all of its employees. A hearing was held in Sault Ste. Marie on December 4, 2007.

The court upheld the application, ruling that Boniferro Mill Works is entitled to a complete accounting by the OMNR of all RVC's paid since March 13th, 2003 and a refund of same together with interest in accordance with *the Rules of Civil Procedure* and the *Courts of Justice Act*.

"This is great news for all of the employees of the hardwood mill in Sault Ste. Marie. This tax has been a financial burden on the growth and development of our company since 2003" stated Jim Boniferro, President and CEO of Boniferro Mill Works. "I look forward to concentrating on the many challenges facing our industry and continuing to build and grow on all of our past successes."

Boniferro Mill Works was represented by David Hamer and Gillian Slaughter, of the firm McCarthy Tétrault. David Hamer, expressed satisfaction with the court's application of the settled legal principle that governments cannot levy any tax without clear authorization from the elected members of the legislature

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Boniferro Mill Works
News Release
Draft #1

FOR IMMEDIATE RELEASE
August 20, 2007

**Minister of Natural Resources Responsible financial challenges in the
Hardwood Sawmill Sector**

50 Sault Ste Marie jobs hang in the balance

Sault Ste Marie – In a Notice of Application filed with the Ontario Superior Court of Justice this morning, the owner of Boniferro Mill Works, Jim Boniferro, is claiming that the Minister of Natural Resources' admitted practice of over-charging on stumpage fees is jeopardizing the financial viability and operation of his company and therefore 50 Sault Ste Marie jobs.

"The Minister of Natural Resources acknowledged that there are significant issues with the stumpage fees with respect to residual value charges to hardwood mill operators and that he would look for a solution," said Boniferro. "It is months later, the viability and operation of our company and 50 Sault Ste Marie jobs are at stake and still the Minister has done nothing to correct the system."

The Notice of Application claims that the Minister of Natural Resources and provincial government has not ever had the authority to collect the residual value tax and therefore the stumpage fees that have been paid by Boniferro Mill Works to date be should refunded.

"Everyone is working together to keep this mill profitable and productive," said Ken Matilla, Chair of Steelworkers Local IWA-1000. "Now is the time for the Minister of Natural Resources to do his part, realize the fees he collected are wrong and refund the money."

Boniferro Mill Works, located in Sault Ste Marie, produces high quality, forest products for the market from a valuable, renewable and sustainable forest resource through continuous secondary research and recognized forest management.

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For more information
Jim Boniferro
705-942-4269