

Hamilton

## Dispute over Land Back Lane injunction in Caledonia, Ont., back in court

Court resumes on Tuesday at 10 a.m. in Cayuga

[Bobby Hristova](#) · CBC News · Posted: Sep 13, 2022 4:00 AM EDT | Last Updated: September 13, 2022



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Demonstrators stopped the McKenzie Meadows development and have renamed the site 1492 Land Back Lane. (Dan Taekema/CBC)

The developer behind controversial efforts to build a subdivision in Caledonia, Ont., was back in court Monday, trying to get a permanent injunction against demonstrators from Six Nations who have been on the site for more than two years.

Foxgate Development (a joint venture between Losani Homes and Ballantry Homes) planned to build more than 200 residences at the location it called McKenzie Meadows in 2020.

Activists stopped the work, saying the land was unceded Haudenosaunee territory, and renamed it 1492 Land Back Lane.

The land sits on the Haldimand Tract, which was 384,451 hectares of land along the Grand River granted to Six Nations in 1784 for allying with the British during the American Revolution.

Skyler Williams has been the spokesperson for the 1492 Land Back Lane camp. The Six Nations-led group erected several buildings and remained on the site.

- [Dispute over Land Back Lane injunction in Caledonia heading back to Ontario court](#)
- [Appeal court rules with Land Back Lane activist, finds he was denied a chance to be heard](#)

Police arrested dozens of demonstrators in the months that followed. As part of legal action, the developers sought an injunction to bar activists, also known as land defenders, from the site and prohibit them from blocking area roads.



Skyler Williams, spokesperson for the 1492 Land Back Lane camp, is pictured on Oct. 28, 2020. It's been over two years since Haudenosaunee land defenders started occupying the proposed McKenzie Meadows subdivision. (Evan Mitsui/CBC)

A judge granted the injunction, but in December 2021, Ontario's highest court ruled the judge had denied Williams an opportunity to be heard.

The Ontario Court of Appeal found the proceedings were unfair and set aside the permanent injunction barring access to the site.

The parties returned to court Monday.

## Foxgate lawyer says company has no duty to resolve Crown issue

Paul DeMelo, Foxgate's lawyer, offered Justice Paul Sweeney numerous reasons Foxgate believes a permanent injunction should be granted.

Some of the reasons he mentioned include:

- No one has asserted their treaty rights before the courts (per Section 35 of the Charter of Rights and Freedoms), adding it has to be asserted by an Indigenous community, not an individual like Williams.
- No land claims have been filed and no Indigenous communities have sought an injunction.
- There are no proceedings against Foxgate.
- There's been no challenge to the title for the lands.
- Private developers, like Foxgate, have no duty to consult with Indigenous groups or resolve their claims against the Crown.

"No one in these proceedings, Your Honour, is saying my clients have done anything wrong. No one is saying my clients stole the land. No one is saying my clients improperly acquired the land," DeMelo said in court.

"My clients are simply being held hostage in the dispute between the Crown and the Indigenous communities."

DeMelo added that the land defenders have been "clearly trespassing," which has had a financial impact on Foxgate.

Court also heard that there are numerous unresolved legal proceedings regarding the demonstrations at the Foxgate development, including a cross-claim between Haldimand County and Williams.

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Bruce Macdonald, the lawyer for Haldimand County, also spoke in court on Monday, saying Williams filed a cross-claim related to "indemnity" — which generally has to do with seeking money for damages.

Haldimand County spokesperson Erin Haase told CBC Hamilton in an email that the county's cross-claim was to reinforce the county's claim for a permanent injunction on its roads.

Macdonald said an interlocutory injunction from August 2020 related to the roads still stands and is needed, even if blockades haven't been there for some time. Interlocutory means it applies until the trial begins.

Williams' lawyers started laying out their case Monday afternoon, but didn't get a chance to finish before 4:30 p.m.

In an online post before court began Monday, Williams said "our people do not have much faith in Canadian courts." But, he said, "we are giving them an opportunity this week, September 12th and 13th, to show what is meant by reconciliation."

All parties will return to court in Cayuga, Ont., on Tuesday at 10 a.m.

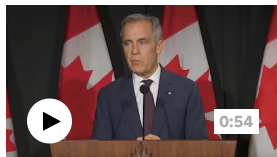
*With files from Dan Taekema*

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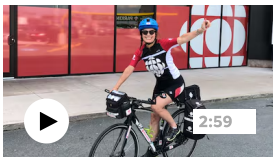


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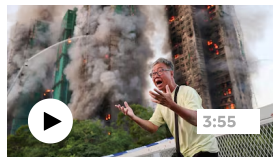
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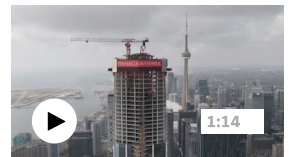
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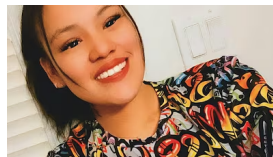
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