

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JEFFREY BOGAERTS

Applicant

-and-

ATTORNEY GENERAL OF ONTARIO

Respondent

SUPPLEMENTAL APPLICATION RECORD

DATED: February 19, 2015

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Lawyer

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JEFFREY BOGAERTS

Applicant

-and-

ATTORNEY GENERAL OF ONTARIO

Respondent

AFFIDAVIT OF JEFFREY BOGAERTS

(sworn February 18, 2015)

I, **JEFFREY BOGAERTS**, of Lanark County, in the Province of Ontario, **MAKE OATH AND SAY:**

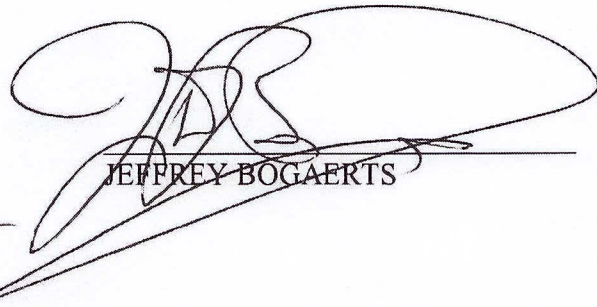
1. I am the applicant of the above application, and as such have direct knowledge of the matters herein deposed. Unless I indicate to the contrary, these matters are within my own knowledge and are true. Where I have indicated that I have obtained facts from other sources, I have identified the source and I believe those facts to be true.
2. As stated at paragraph 5 of my affidavit sworn July 31, 2014, I understand that the OSPCA is private organization. This fact was confirmed on the record by OSPCA Chief Inspector Connie Mallory during cross-examinations in relation to Ontario Superior Court of Justice Court File No. SR11-992 on March 21, 2012. An excerpt from this cross-examination is attached as **Exhibit "A"** to this my affidavit.
3. This application has garnered a significant amount of public interest. Some people have, through my lawyer, Kurtis R. Andrews, provided information that may be relevant to this case. One such document is a faxed copy of a letter sent to Mr. Andrew Miller from the Minister of Community Safety and Correctional Services, confirming the government's understanding that the OSPCA is independent from the government. A copy of the fax

dated November 1, 2013, sent to my lawyer, Kurtis R. Andrews, is attached as **Exhibit "B"** to this my affidavit.

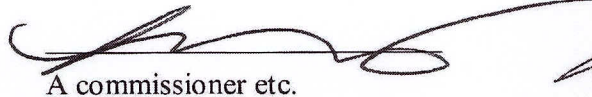
4. On another occasion, my lawyer received a letter from Henry L. Miller, Eli A. Yoder and Gideon S. Miller. This letter provided an account of OSPCA raids upon Amish farms of the Lucknow Old Order Amish Community on February 27, 2012. A copy of the letter sent to my lawyer, Kurtis R. Andrews, is attached as **Exhibit "C"** to this my affidavit.

5. I make this affidavit in support of the within application and for no other or improper purpose.

SWORN before me)
at the City of Ottawa,)
in the Province of Ontario,)
on this 18 day of February, 2015.)



JEFFREY BOGAERTS



A commissioner etc.

JEFFREY BOGAERTS
Applicant

-and-

ATTORNEY GENERAL OF ONTARIO
Respondent

Court File No. 749/13

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
PERTH, ONTARIO

AFFIDAVIT OF JEFFREY BOGAERTS
(sworn February 18, 2015)

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Lawyer for the Applicant

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JEFFREY BOGAERTS

Applicant

-and-

ATTORNEY GENERAL OF ONTARIO

Respondent

AFFIDAVIT OF MARK KILLMAN

(sworn February 18, 2015)

I, **MARK KILLMAN**, of the Town of Caledonia, Haldimand County, in the Province of Ontario, **MAKE OATH AND SAY:**

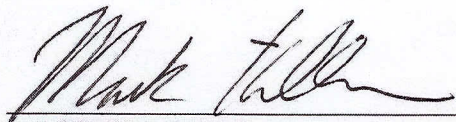
1. I have had interactions with OSPCA in the past and as such have direct knowledge of the matters herein deposed. Unless I indicate to the contrary, these matters are within my own knowledge and are true. Where I have indicated that I have obtained facts from other sources, I have identified the source and I believe those facts to be true.
2. I am the owner and operator of the Killman Zoo [the "Zoo"] located in Caledonia Ontario. The Zoo features approximately 30 species of animals on approximately a 33 acre site. My father, Murray Killman, began operations of a wildlife sanctuary in the 1970s, which evolved into the Zoo and opened to the public on April 1st, 1988. The Zoo is sustained financially by way of admission charges and public donations etc.
3. On or around April 1, 2014, I received a package in the mail from the Ontario Society for the Prevention of Cruelty to Animals [the "OSPCA"]. The enclosed cover letter described a new zoo registry which was being administered by the OSPCA. The cover letter also informed me that, while the registry was voluntary, if I did not register the Zoo as requested, the Zoo would be subjected to increased scrutiny by the OSPCA. The cover letter also implied that the Zoo's reputation would suffer from a negative public perception if it chose to not register. A true copy of the OSPCA's zoo registration package, together with cover letter, is attached as **Exhibit "A"** to this my affidavit.
4. On September 12, 2014, I received an email from OSPCA "Zoo Inspector" Maryanne Pryer ["Inspector Pryer"] requesting that I follow up with her. The purpose of the email was to schedule an initial inspection of the Zoo with regards to the new zoo registry. We


eventually agreed to meet with her at our facility on November 14, 2014. A true copy of the email-string between the OSPCA and the Zoo dated September 12 – October 14, 2014, regarding setting up the meeting, is attached as **Exhibit “B”** to this my affidavit.

5. On November 14, 2014, Inspector Pryer attended our facility and complimented us thoroughly on the health of our animals and standards of care being provided to them. At the same time, she encouraged us to register and provide the requested private information outlined in initial package. She repeated the fact that if we did not register, we would be subjected to increased scrutiny and probably negative public perceptions.
6. On November 28, 2014, Inspector Pryer sent me an email to follow up and requested if we had made a decision to register. She also again complimented us regarding our animals. On December 1, 2014, I replied and indicated that we would register, but wanted greater clarification regarding benefits and purposes of the registry. I also asked for more details about the information that the OSPCA wanted to collect from us, and expressed my weariness and concern about having to provide the OSPCA with our private information. On December 1, 2014, Inspector Pryer replied and explained that the benefits of registering included a positive public perception as a result of having “nothing to hide”, as well as some sort of benefit from having the OSPCA use and share our private information. She also detailed the information that they were seeking, including a complete inventory of our animals, particulars of our exhibits, disposition plan (i.e. succession plan), euthanasia plan, breeding program, and others. A true copy of the email-string between the OSPCA and the Zoo dated November 28 – December 1, 2014, regarding details of the registry, is attached as **Exhibit “C”** to this my affidavit.
7. On February 10, 2015, Inspector Pryer sent us a follow up email and again requested private information about the Zoo. The email also indicated intentions to share our registry status with the government, which I assume would also include sharing our information. We replied and provided the requested information on February 16, 2015. Inspector Prior confirmed that we would be added to the registry on February 17, 2015. A true copy of the email-string between the OSPCA and the Zoo dated February 10-17, 2015, regarding a follow up request for private information about the Zoo, is attached as **Exhibit “D”** to this my affidavit.

8. While the OSPCA has stated that the registry is "voluntary", the OSPCA has not shied away from warning us of the consequences of not registering. It does not feel "voluntary". I feel as though I must register, or else be treated with increased scrutiny by the authorities, and otherwise be treated differently under the law. I feel very uncomfortable with providing the requested information, and certainly would not do so if I was not fearful about being subjected to increased scrutiny or different treatment by the authorities.
9. I am further concerned and fearful about how my information will be used and /or shared by the OSPCA. I am concerned that it will be somehow be used against me, the Zoo and /or the zoo industry in Ontario.
10. I make this affidavit in support of the within application and for no other or improper purpose.

SWORN before me at the)
Town of Caledonia, Haldimand County)
in the Province of Ontario,)
on this 18 day of February, 2015.)


MARK KILLMAN


A commissioner etc.

Barbara Lynn White, a Commissioner,
etc., Haldimand County, for the
Corporation of Haldimand County.
Expires July 21, 2017

JEFFREY BOGAERTS
Applicant

-and-

ATTORNEY GENERAL OF ONTARIO
Respondent

Court File No. 749/13

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