The Lake Report

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Hyper-local news for Niagara-on-the-Lake



Making NOTL proud | Page 11

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NOTL man loses bid to quash Marotta defamation suit

Richard Harley
The Lake Report

A judge has refused to throw out a defamation suit filed by developer Benny Marotta against a Niagara-on-the-Lake senior who made critical comments on social media about the prominent builder.

In a ruling last Thursday, Justice Edward Morgan of the Ontario Superior Court in Toronto dismissed an application by Stewart Hall, who had argued his comments on the NOTL 4U Facebook group should be considered protected speech under Ontario's anti-SLAPP legislation.

SLAPP laws, or "strategic litigation against public participation," are intended to prevent powerful people or organizations from using the courts to silence public criticism.

The case stems from a June 2024 post in the NOTL 4U group, where Hall accused Marotta and his companies of engaging in corrupt business practices, offering bribes to politicians and employing aggressive tactics against opponents.

Hall's post followed a controversial 5-4 town council vote that approved Marotta's proposal to build a hotel on the former Parliament Oak school site, which he purchased in 2022.

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Election 2025

Kaiser and Baldinelli run head-to-head in federal election for third time

Julia Sacco
Local Journalism Initiative
The Lake Report

All four major parties in Niagara-on-the-Lake's riding have announced their candidates for the snap federal election on April 28.

As of Wednesday afternoon, the New Democrats have selected Shannon Mitchell as their candidate for the Niagara Falls—Niagara-on-the-Lake riding.

Lifelong Niagara-on-the-Lake resident Andrea Kaiser is the face of the Liberal Party for the riding, facing off against incumbent Conservative Tony Baldinelli.

This year, NOTL's election riding excludes Fort Erie, a municipality that was included in past elections.

The riding now includes Niagara Falls and Niagara-on-the-Lake, reflected in its name.

Kaiser has run as the Liberal candidate for NOTL's riding twice before, once in 2019 and again in 2021.

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THE WILD WEST OF WINE

Bylaw bypass: Does zoning matter?

How a farm winery isn't following the rules, bylaw enforcement is practically non-existent and competitors are getting frustrated

This is the first in a series of stories about NOTL's "Wild West" of wineries, examining zoning bylaws, restrictions, how some wineries are ignoring those bylaws and restrictions and operating as they please, and how the Town of Niagara-on-the-Lake doesn't appear to be enforcing its own bylaws. And we look at whether the solution is to change the rules to ease restrictions or crack down on those who aren't following the existing rules.

Paige Seburn
Local Journalism Initiative
The Lake Report



Ferox by Fabian Reis winery has caused a stir in the wine industry. It appears to be operating outside town laws, bringing NOTL's winery zoning requirements and enforcement practices into question. PAIGE SEBURN

Niagara-on-the-Lake has a wine problem.

Well, a winery problem. And it centres around the rules for how wineries are allowed to operate.

Under the town's bylaws, there are two distinctions for wineries: Smaller-scale operations are classified as farm wineries, while larger facilities are zoned as estate wineries.

With those distinctions come sets of rules for what's allowed — and, importantly, differences in the ways the two operations are taxed.

Farm wineries, which pay only agricultural taxes besides the commercial taxes paid on their maximum 18.5-square-metre retail space, face many restrictions. They cannot host events, can't operate commercial kitchens or serve food of any kind, and are not allowed to have hospitality rooms or dining areas or patios.

Essentially, unless farm wineries have a site-specific permission granted by the town, they can only produce and sell wine. They can operate a small retail space, where wine tasting is allowed, but can't sell anything besides wine produced on the property, from the grapes it grows on site.

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Bikes for Farmworkers is in dire need of donations

Paige Seburn
Local Journalism Initiative
The Lake Report

Time to dust off those bicycles sitting in your garage and give them a new life.

Bikes For Farmworkers is running out of bikes — fast. With fewer than 60 left, it urgently needs adult bike donations to help migrant farmworkers get around Niagara-on-the-Lake this spring and summer.

"Generally, at this time of the year, we would have at least 150 bikes all ready and refurbished to go out for sales," said Dave Cox, volunteer with the program.

"This is the worst it's been, and I've been here since 2019."

Bikes For Farmworkers is a volunteer-driven outreach organization through Gateway Community Church, selling reconditioned bikes to seasonal farmworkers annually since its inception in 2017.

The program's supply has been dwindling.

In 2022, the program had 420 bikes, but by 2023, that number dropped to just 368. Last year, only 150 bikes

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Volunteer Dave Cox with one of the few bikes left.

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Social media ‘not a defamation-free zone,’ says judge

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Morgan determined Hall’s statements went beyond fair comment and could reasonably be seen as defamatory. The decision means Marotta’s suit against Hall can continue.

In his decision, he described the post as “intemperate” and an “ad hominem attack” that implied widespread bribery and corruption without any factual basis.

Hall told The Lake Report he plans to appeal Morgan’s ruling.

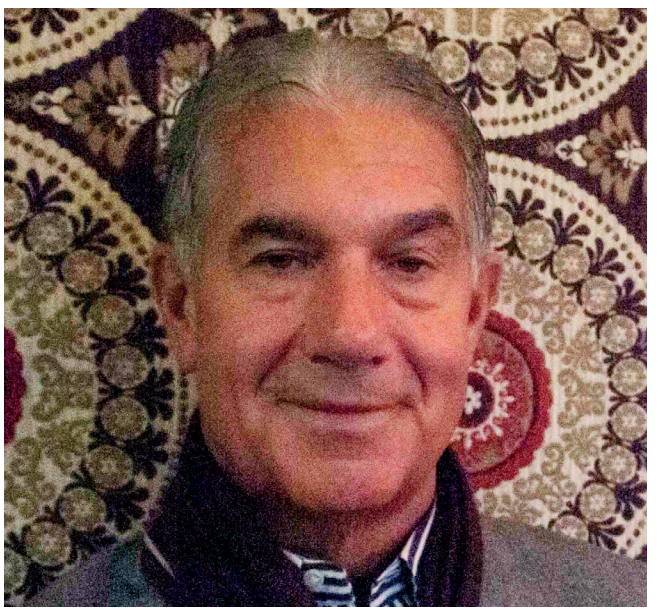
“It was shocking and disappointing to receive the judge’s decision on my motion to dismiss the $2 million libel suit brought against me by Solmar and Benny Marotta,” he said in a statement.

“I feel that it was unfair and unreasonable based on the evidence presented to court.”

Hall said he removed the post a week after it was published.

> “I am not editorializing when I say that the tone and content of the message is, by any measure, intemperate. The fact that it prompted a lawsuit is perhaps the least surprising thing about it.”
>
> JUSTICE EDWARD MORGAN
> ONTARIO SUPERIOR COURT





Prominent developer Benny Marotta, right, is suing NOTL resident Stewart Hall for defamation for a Facebook post Hall made, which accused him of widespread corruption and bribery. Hall’s anti-SLAPP motion was dismissed.

“To be sued for a Facebook post that commented on an issue of public interest, was up for seven days, was seen by a limited number of people and removed at the request of Solmar’s lawyer is disturbing,” he said.

“I view this as an attempt by a large corporation and wealthy individual to silence an ordinary citizen commenting on an issue of public importance.”

In a statement supplied via his lawyer, Marotta said he was “very pleased with the judge’s decision and in particular his findings and look forward to total vindication at trial.”

“I am hopeful that all development applications in the town can be dealt with on merit without council and staff being subjected to false, accusatory and inflammatory influences, and as always I look forward to working with our community.”

The Facebook post and its consequences

Hall’s post specifically questioned whether councillors who voted in favour of Marotta’s hotel project had received undisclosed gifts or payments.

He encouraged readers to search online for past legal disputes involving Marotta’s company, Solmar, and accused the developer of bullying political opponents through lawsuits.

Marotta’s lawyers argued the statements were not only false but damaging to their client’s reputation and business interests.

They pointed to investigations by police and the town’s integrity commissioner, both of which found no wrongdoing related to a $10,000 cash envelope Marotta handed to Coun. Gary Burroughs in March 2023. Burroughs returned the envelope and no charges were laid.

Hall admitted in court in February that he was aware no legal action resulted from the incident, but he continued to suggest corruption in his Facebook post.

Judge’s analysis: Fair comment or defamation?

To succeed in an anti-SLAPP motion, a defendant must demonstrate their speech was a matter of public interest and had substantial merit, the judge noted. The court must also weigh the harm caused by the speech against the public interest in allowing it.

Morgan found that while development projects and municipal decisions are matters of public interest, Hall’s statements crossed the line into defamation.

He noted the Facebook group had 3,100 members, including town councillors, and that Hall’s words could have serious repercussions for both Marotta and local officials.

“The thrust of the post is that the plaintiff and his companies have a longstanding practice of bribing public officials and of suing all who oppose him,” Morgan wrote.

> “I am very pleased with the Judge’s decision and in particular his findings and look forward to total vindication at trial. I am hopeful that all development applications in the town can be dealt with on merit without council and staff being subjected to false, accusatory and inflammatory influences.”
>
> BENNY MAROTTA

“The two posts also convey that those public officials who support the plaintiff’s real estate projects ... have either been intimidated or received bribes and are equally corrupt.”

Morgan said the message “is designed to do more than to galvanize opposition to the Parliament Oak development project; it is designed to disqualify any and all development by (Marotta).”

Hall’s claim that he was merely posing questions or encouraging research was dismissed by the judge, who noted that rhetorical questions such as “How many received cash or gifts in kind from Marotta that were not reported?” were clearly intended as accusations.

“The statement is a sardonic way of suggesting that of course there were other cash gifts,” Morgan wrote. “For the defendant to say that he was just raising questions is, frankly, to understate the intelligence of the reader.”

Morgan also noted that Hall had not actually read the articles he referenced in his post and conceded under cross-examination that he did not believe some of his own allegations were true.

“I make no comment on the content of this Facebook post — i.e. whether it contains truth, whether it is ‘just desserts’ for the plaintiff, whether it is an effective form of community advocacy, etc. But I am not editorializing when I say that the tone and content of the message is, by any measure, intemperate. The fact that it prompted a lawsuit is perhaps the least surprising thing about it,” Morgan wrote.

Public interest vs. harm

In weighing the potential harm of the lawsuit against the importance of public debate, Morgan determined that Hall’s accusations carried serious consequences for Marotta’s business and reputation.

He noted the developer’s projects, including the Parliament Oak hotel, require ongoing municipal approvals and that public perception could impact future votes.

“Being known as a corrupt developer whose supporters take bribes is bound to be a type of harm that will cause serious detriment to the plaintiff and his business,” Morgan wrote.

He continued that “NOTL is a town of 19,000 residents, and in the small-town environment described by the (Hall) one can reasonably assume that a significant percentage of the community will have seen or been referred to (Hall’s) post.”

While acknowledging the importance of public discussion on local development, Morgan ruled that Hall’s approach — levelling serious, unsubstantiated accusations — did not contribute meaningfully to the debate.

“There is, of course, legitimate public interest in expression that addresses real estate development and local development applications,” Morgan wrote.

> “I view this as an attempt by a large corporation and wealthy individual to silence an ordinary citizen commenting on an issue of public importance.”
>
> STEWART HALL

“But that interest does not weigh heavily on the ledger where the expression, as here, takes the form of serious, unsubstantiated accusations against a developer and city councillors rather than an actual critique of a development policy or plan.”

Morgan also rejected arguments that Facebook should be considered a more lenient platform for public discourse, writing that “social media is not a defamation-free zone.”

He acknowledged Marotta’s lawyers conceded that he “is or has been engaged in some personal litigation against the mayor of Caledon, as prominently mentioned in the (Hall’s) original post,” but since that legal action is unrelated to any development proposal in Caledon or elsewhere, “(Hall’s) reference to it in the context of his Facebook message about development approvals is thus an entirely gratuitous reference injected as an element of character assassination rather than as a bona fide argument about (Marotta’s) real estate developments.”

“The message is designed to do more than to galvanize opposition to the Parliament Oak development project; it is designed to disqualify any and all development by (Marotta). Not only does it call (Marotta) a criminal operator, but it ‘casts aspersions,’ as (Hall) has conceded, on any officials who might agree with him.”

Hall argued that his statements were merely questions, however Morgan found that “the impugned Facebook posts were designed to lower the Plaintiff’s reputation in the eyes of the reasonable reader, and they are bound to do so ... The message cannot be rationally understood in any other way.”

Morgan said the comments are more than questions, but “piercing barbs, whose form is a question but whose meaning is an accusation.”

He decided Hall has no valid anti-SLAPP defence to the defamation claim and dismissed the motion.

Next steps in the case

With Hall’s anti-SLAPP motion dismissed, the defamation lawsuit can proceed, barring a settlement. If found liable, Hall could face financial damages for harming Marotta’s reputation.

Marotta has filed a submission for the legal costs pertaining to the anti-SLAPP motion. Marotta’s lawyer, William McDowell, a partner at Lenczner Slaght, would not comment on the costs being sought as it is still before the judge.

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