

If the Supreme Court of Ontario made such a ruling against a neighbour who caused harm to other neighbours (Hamilton, Ontario) as a result of his wood burning activity (ruling 2008) one has to wonder why society in general, and we as a community (London) are still trying to wrap our collective heads around why woodsmoke pollution is dangerous, and what now has to be done about it.

Yes, in this incidence, at issue was a wood burning stove, but the described disturbance is not fundamentally different from what so many Londoner's go through everytime a neighbour burns a backyard fire.

The opening paragraph of the article sums up what those opposed to outdoor burning are trying to get those holding power over information and legislation to clearly understand.



Court finds Wood Smoke Hazardous to Health

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Wood smoke from a neighbor's stove can be more than just an annoyance. It can be a threat to health and to enjoyment of property. In February 2008, the Supreme Court of Ontario found that Brenda and David Deumo of Hamilton, Ontario had suffered harm "severe enough to deprive [them] of the ability to stay outdoors in their yard, or to go to the house and leave the windows open. It even caused them some disturbance when the windows were closed. It was a severe interference with the use and enjoyment of the property."

The judge ordered \$270,000 in damages and legal costs. He also continued an injunction forbidding their neighbors, the Fitzpatricks, from using a wood burning stove in their garage.

From 1999 to 2003, the Deumos had asked the Fitzpatricks to stop using the wood stove in their garage, as the thick smoke was making it almost impossible to spend time outside. The fire department was called several times, and the town even asked Fitzpatrick to restrict his burning to winter months. Nothing stopped the burning, which continued winter and summer, until the Deumos went to court in 2003. They then received a temporary injunction forbidding the Fitzpatricks from using the wood stove.

The Deumo case may be the first to provide legal compensation for damages from wood smoke. Justice Ramsey found that "the smoke caused Mrs. Deumo some pain and suffering by aggravating her existing sensitivities." He also found that Mr. Deumo, who is normally not sensitive to irritants such as smoke, also suffered physically. "The acts of the defendant were reckless, destructive, persistent, pervasive and heedless of their heighbours' physical integrity and property rights," Ramsey wrote.

Describing photos taken of the smoke in 1999 and 2002, the judge said: "To me, it looks like London fog. The photograph of the defendant's chimney resembles nothing so much as the stack of a 19th-century coal-fired train engine."

Lou Frapporti, lawyer for the Deumos told the Hamilton Spectator, "I'm immensely relieved for my clients, who had their story heard and their position vindicated. That no government agency would step in is shameful."

The Deumo case may be the first successful legal challenge to wood smoke pollution, but its unlikely to be the last. The Brandie family of Amherstburg, Ontario sought and received a temporary injunction in 2005 restraining a neighboring family from "burning any wood, waste or other matter leading to the release of smoke from the defendant's residence."

Wood smoke is not just a hazard in extreme cases such as the Deumos. "There's no question it has a health impact," says McMaster University chemist Brian McCarry. McCarry warns that the toxic content of smoke from fireplaces and old-fashioned wood stoves is similar to that of diesel exhaust and tobacco smoke.

" The chemical composition of wood smoke, especially from low-temperature fires, is really nasty," notes McCarry. "...[W]ood smoke is as big a danger as any other combustion source. Because it is considered natural, it is considered benign, but it's really a very dirty energy source. "

As oil prices rise, and people turn to wood as an economical heat source, the problems of wood smoke pollution in both urban and rural communities is increasing. For every increase in the level of particle air pollution, there is a measurable increase in chronic respiratory illness, according to Dr. Joel Schwartz, Harvard School of Public Health.

" The largest single source of outdoor fine particles (PM2.5) entering into our homes in many American cities is our neighbor's fireplace or wood stove," according to Stanford University professor Dr. Wayne Ott. Fine particles are considered the most hazardous type of air pollutants, because they are inhaled deeply where they can cause more damage. "Only a few hours of wood burning in a single home at night can raise fine particle concentrations in dozens of surrounding homes throughout the neighborhood and cause PAH concentrations higher than 2,000ng/m3," notes Ott, an expert in outdoor pollution.

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