

# Bridge seeks \$3.5B under NAFTA claim

## Canada violated pact, Moroun says

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The Windsor Star

March 26, 2010

Ambassador Bridge owner Matty Moroun is seeking at least US\$3.5 billion in damages from the government of Canada over its plans to build a downriver border crossing.

The move comes on the heels of a lawsuit the billionaire transportation mogul filed in U.S. District Court in Washington against the Canadian and U.S. governments claiming interference with his bid to build a twin span.

Moroun's latest claim says the Canadian government has violated the North American Free Trade Agreement with its plan to construct a \$1.6-billion Windsor-Essex border parkway that links Highway 401 to the foot of proposed downriver government-backed bridge.

The documents indicate Canada stands to be the greatest beneficiary under the Detroit River International Crossing plan.

The claim says the project will be underwritten by the Canadian government and likely other private Canadian business, which discriminate against American investors, largely Moroun and his bridge company.

Moroun has indicated in legal documents he has already spent US\$250 million on his proposal to build a twin span.

"Canada has arbitrarily undermined the claimant's investments by steering away traffic," says the claim, filed under NAFTA Chapter 11.

The actions of the Canadian government have breached obligations under NAFTA which must treat the bridge company no less favourably than Canadian or third-country investors, the claim says.

The claim also alleges that Canada has reneged on a commitment to invest in roads leading to the Ambassador Bridge. The parkway will stop three kilometres short and funnel traffic west to the new DRIC bridge.

It is thanks to NAFTA -- signed in 1994 -- and previous Canada-U.S. free trade agreements that Moroun's business at the Ambassador Bridge and toll revenues exploded.

At its peak in 1999, the bridge was handling 12,000 trucks per day, but traffic has dropped to about 7,000 following the Sept. 11, 2001 terrorist attacks, border security crackdowns and the economic downturn.

The bridge generates about \$60 million per year in toll revenues and millions more in duty free goods and gas sales.

Moroun's NAFTA claim includes a request for arbitration. It was filed in New York with the United Nations Commission on International Trade Law. Chapter 11 calls for Canada to respond within 90 days, followed by a hearing before a three-member tribunal.

Under the arbitration process, each side selects one member and the International Center for the Settlement of Investment Disputes in New York appoints a third.

Recent cases filed under NAFTA's Chapter 11 rules include AbitibiBowater Inc.'s \$500-million claim against the government of Newfoundland and Labrador for its bid to expropriate the company's main assets in the province.

Moroun's NAFTA claim also alleged that the City of Windsor has intentionally hindered the ability of trucks and other vehicles to reach the bridge by granting numerous curb cuts to business along Huron Church Road and installing 17 stoplights between Highway 401 and the bridge.

Moroun is requesting a finding that Canada has breached its obligations under NAFTA and should be directed to pay in excess of \$3.5 billion, as well as legal fees and interest on whatever is awarded. He has also requested the award be paid in U.S. funds with no deductions in taxes.

"The claim speaks for itself," said Phil Frame, spokesman for the bridge company.

A Transport Canada spokesman declined comment Thursday.