

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** July 03, 2018

**CASE NO(S):** PL111184

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	1042710 Ontario Limited (aka Royal Centre)
Appellant:	1096818 Ontario Inc.
Appellant:	11333 Dufferin St et al
Appellant:	1191621 Ontario Inc.; and others
Subject:	Failure to announce a decision respecting Proposed New Official Plan
Municipality:	City of Vaughan
OMB Case No.:	PL111184
OMB File No.:	PL111184
OMB Case Name:	Duca v. Vaughan (City)

**Heard:** June 11, 2018 in Vaughan, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

City of Vaughan

Bruce Engell and Effie Lidakis

Regional Municipality of York

Bolajoko Ogunmefun

2636786 Ontario Inc. (Toys 'R' Us  
Canada Limited)

Roslyn Houser

Glenwood Property Management  
and 2 Steeles Avenue West Ltd.

Max Laskin

8188 Master Holding Inc. and Project 8188 Yonge St. Inc.	Chris Tanzola
Haulover Investments Ltd.	Jeffrey Streisfield
1306497 Ontario Inc. (Hugh Sisley)	Joel Farber
Tan-Mark Holdings Ltd. and Telast Enterprises Inc.	Alexander Burton-Vulovic
390 Steeles West Holdings Inc. and 398 Steeles Avenue West Inc.	Kailey Sutton
7040 Yonge Holdings Ltd., Auto Complex Ltd., and 72 Steeles Holdings Ltd. and Salz and Son Ltd.	Ira Kagan

**MEMORANDUM OF ORAL DECISION DELIVERED BY GERALD S. SWINKIN  
ON JUNE 11, 2018**

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[1] This hearing session of the Local Planning Appeal Tribunal (the “Tribunal”) dealt with that part of the Vaughan New Official Plan (the “OP”) identified as the Yonge-Steeles Corridor Secondary Plan (the “YSCSP”). The YSCSP was before this panel of the Tribunal on March 9, 2018, for the purpose of hearing two motions for party status brought by City of Toronto and the City of Markham respectively.

[2] The hearing of those two motions commenced but were then adjourned *sine die* based upon arrangements amongst the Parties and the motion applicant municipalities. Prior to this session, the Tribunal was advised that the two municipalities were content to be accorded Participant status in the Phase 1 proceeding of the appeals relating to the YSCSP, which Phase was before the Tribunal this day.

[3] The record of the March 9 session was set forth in the Tribunal’s decision issued on March 21, 2018. As it contains a useful prefatory background to the YSCSP, the

Tribunal here will simply transcribe in the text from the opening portion of the decision for convenience in order to set the background again.

[4] The YSCSP is a secondary plan which forms part of the OP, all of which was adopted by City of Vaughan ("Vaughan") Council back on September 7, 2010. The OP was subject to approval by an approval authority, which approval authority is the Region of York ("York").

[5] The YSCSP affects a rather limited area of land within Vaughan but it is significant as it falls within what has been identified by Metrolinx's Big Move (Regional Transportation Plan) as a Gateway Hub, which area also has been identified by York in its 2010 official plan as a Regional Corridor. There is an expectation of the extension of the Yonge Subway from its current terminus at Finch Avenue in Toronto up Yonge Street ultimately to Highway 407 in Vaughan and beyond to Richmond Hill/Langstaff Gateway Centre.

[6] The lands within the YSCSP lie on the west side of Yonge Street, running from Steeles Avenue West up to just south of Highway 407 and west from Yonge Street along the north side of Steeles Avenue West to Palm Gate Boulevard. The north/south segment on the west side of Yonge Street is broken into two segments, the south, and larger, segment lying south of the Thornhill Heritage Conservation District/Yonge Street Thornhill Secondary Plan, and the north segment lying north of the Thornhill Heritage Conservation District/Yonge Street Thornhill Secondary Plan.

[7] Due to the role of this corridor in the Province's plans as a Gateway Hub, and for the purpose of better managing development in the corridor, York undertook, as an inter-municipal exercise, what became known as the Yonge and Steeles Area Regional Transportation Study (the "Study"). The recommendations of the Study were adopted by York's Council on November 19, 2015. These recommendations included proposed modifications to the YSCSP to provide for development phasing tied to the progress of construction of the proposed subway extension. This was to be effected by a

significantly augmented policy under Section 8.6 of the Implementation provisions of the YSCSP.

[8] The modifications proposed by York were subsequently endorsed by Vaughan Council.

[9] The Vaughan OP comes to the Tribunal as a s.17(40) *Planning Act* appeal by reason of the failure of York, as approval authority, to render a decision within the statutory time frame.

[10] For appeal hearing purposes, the YSCSP is separated from the other Vaughan OP appeals. The entire YSCSP is under appeal.

[11] Arising out of a pre-hearing conference ("PHC") held on July 12, 2017, with the consent of all counsel involved save one, Vice Chair Seaborn and Member Tousaw determined that the YSCSP would proceed as a phased hearing. The first phase would be confined to dealing with the phasing policy in the YSCSP relating to the triggers for release of lands for development contingent upon transportation/transit infrastructure being approved/funded/constructed.

[12] A subsequent phase of the hearing would deal with the various other matters, which were the subject of the appeals, including height and density of buildings, parkland and privately owned public open space, the road network, office priority area, cost sharing and bonusing.

[13] The disposition from the July 12, 2017 PHC fixed June 11, 2018 as the commencement date for the Phase 1 hearing and set aside four weeks for that phase of the hearing.

[14] Since that time, through the means of a mediation conducted by the Parties amongst themselves, a consensus was achieved on further modifications to the

proposed amended Section 8.6 of the YSCSP. As a consequence, the matter comes before the Tribunal now on the basis of a settlement of the appeals relating to the matter of development phasing as addressed by Section 8.6 of the YSCSP.

[15] To this end, with the assent of all counsel, consent evidence was called by counsel for Vaughan. This came before the Tribunal through David Marcucci, Senior Planner, LPAT, Policy Planning and Environmental Sustainability of the Vaughan Planning Department.

[16] Mr. Marcucci advised that through the mediation exercise, modifications had been made to the York proposed modifications. The key changes resulting from the final modifications are that it will now be incumbent on each residential development applicant within the YSCSP to support their application for development approvals with a detailed transportation study prepared in accordance with the criteria set forth in Section 8.6.

[17] The policy in Section 8.6 recognizes the importance of the Yonge Subway extension to permit full buildout of the Secondary Plan area. The policy reflects the finding of the Study that, prior to construction of the subway extension, transportation capacity constraints may arise upon the Secondary Plan area reaching a population of approximately 3,000 people.

[18] A previously proposed overall cap on residential population has been removed in favour of the ongoing assessment of transportation capacity through the study updates and implementation of transportation management measures and new infrastructure.

[19] The amendment to the YSCSP will take the form of replacement text for Section 8.6 as set forth on Attachment 1 to this Decision as well as further text to be added to the Part A Preamble Section 3.0 of the YSCSP as set forth on Attachment 2 to this Decision.

[20] Based upon the evidence heard by the Tribunal in this hearing session and the submissions of counsel, these amendments, as set forth on Attachments 1 and 2, are now approved by the Tribunal but their effectiveness will be contingent upon the approval of the YSCSP, which contingency will be reflected in the final Order of the Tribunal to be issued subsequent to the release of this Decision. Mr. Engell is to provide the draft of the formal Order for my review and clearance. It will deal only with this phase and will not be held pending completion of the phase 2 hearing.

### **Motions for Party Status**

[21] As adverted to above, City of Toronto and the City of Markham had recently sought party status in the YSCSP hearing. As a result of the resolution of those motions, the two municipalities were accorded Participant status in the Phase 1 hearing of the YSCSP appeals. They did not appear at this session, presumably as they were content with the settlement achieved amongst the other Parties.

[22] As was also referenced in the disposition of this panel issued on March 21, 2018, on consent of all parties, City of Toronto and the City of Markham were accorded Party status in the following phase of the YSCSP hearing. That matter was raised by the Tribunal at this session and it was acknowledged by those present that the grant of Party status to City of Toronto and the City of Markham in the following phase is confirmed.

[23] In addition to the two municipalities, a motion was made returnable at this session by 2636786 Ontario Inc. ("Toys") seeking Party status in the following phase of the YSCSP hearing. Toys is the owner of the property municipally known as 300 Steeles Avenue West, which lies on the north side of Steeles Avenue West and is therefore, in the City of Vaughan. That property lies within the area of the YSCSP. The property is currently occupied by the retail store Toys "R" Us, a McDonalds restaurant and a retail plaza.

[24] The motion filed by counsel for Toys was supported by the Affidavit of Lindsay Dale-Harris. The Affidavit indicated that due to a recent restructuring, there has been a change in ownership of the property at 300 Steeles Avenue West. The prior owner is not a formal appellant. The new owner is in the process of assessing the long-term potential of its assets, including this property. As the policies in the YSCSP may affect the development potential of this property, Toys wishes to be in a position to participate and be heard in the appeal hearing.

[25] After canvassing all of the Parties, the Tribunal ascertained that there was no objection to the grant of Party status to Toys for the following phase of the hearing. Toys, based upon the affidavit evidence, does have a material interest in the matters under appeal, and particularly, in the absence of objection by the present Parties, and in accordance with the authority under s. 17(44.1) and (44.2) of the *Planning Act*, the Tribunal grants Toys Party status in the following phase of the YSCSP hearing.

### **The Next Phase Hearing**

[26] The Tribunal canvassed with Mr. Engell the status of the dealings amongst the Parties regarding the next phase of the hearing, with a view to the establishment of a Procedural Order and fixing of a hearing date. Mr. Engell advised that there are ongoing discussions amongst the Parties regarding the outstanding issues arising from the appeals and that he is optimistic that progress is being made in the resolution of some or all of those appeals.

[27] It was the preference of Vaughan that those discussions continue for the time being and that when there is greater clarity on the status of resolution of the appeals, Vaughan will be in contact with the case co-ordinator at the Tribunal to make arrangements for a Pre-hearing Conference or such other step as may be appropriate to deal with the outstanding YSCSP appeals.

[28] As it was a gesture of grace and goodwill, the Tribunal here simply acknowledges the gratitude publicly expressed by Ira Kagan to all of those who participated in the mediation exercise in finding a reasonable resolution of the issues and avoiding a potentially long and taxing hearing. The Tribunal also commends the Parties in having found their way to that resolution.

[29] With that, the hearing session concluded.

*“Gerald S. Swinkin”*

GERALD S. SWINKIN  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

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**Proposed Amendments to Policy 8.6 and Section 3 to the Yonge Steeles Corridor  
Secondary Plan approved by York Region January 21, 2016**

**Amendments to Policy 8.6**

Replace Policy 8.6 with the following:

**8.6 Monitoring and Phasing of Development**

In order to coordinate development with the availability of improvements to the transportation system, development will be implemented in accordance with the following policies:

- i. The policies in this Section apply to residential uses. Notwithstanding the foregoing, non-residential uses, shall comply with policy 8.6.vi and with all other applicable Sections of the Plan, including the completion of a transportation study to accommodate the proposed development.
- ii. The Yonge Subway extension is the key transportation infrastructure investment required to permit the full buildout of the Secondary Plan area.
- iii. Each application for development will be assessed on a site by site basis through a detailed transportation study.
- iv. Any transportation study contemplated by iii. above shall take place in the context of jurisdictional cooperation involving the Region of York and the City of Vaughan. The transportation study scope of work and study area will be determined by York Region and the City of Vaughan and the transportation study shall be completed to the satisfaction of York Region and the City of Vaughan;
- v. The Transportation study should have regard for the Yonge-Steeles Area Regional Transportation Study (the "YSRTS"), Region's Transportation Master Plan as updated and the Growth Plan requirements for Major Transit Station Areas. The YSRTS recognizes the potential for transportation infrastructure constraints on development, including constraints prior to having secured funding for the subway extension and the determination of a definitive construction timeline. In particular, the YSRTS concludes that transportation capacity constraints may arise upon the Secondary Plan area reaching a population of approximately 3,000 people. Therefore, each required transportation study should address the following matters:
  - (a) Recommendations on transportation infrastructure or program improvements that are appropriate to accommodate individual phases of the proposed development;

- (b) Recommendations for TDM measures for the purposes of mitigating the transportation impacts of the proposed development including, but not limited to, providing maximum vehicle and minimum bicycle parking provisions in the site specific zoning by-law amendment, membership with Transportation Management Associations (e.g. Smart Commute), maximize active transportation connections to the external network and provision of car share facilities, real-time transit information screens and unbundled parking; and
- (c) Any monitoring that may be required prior to approval of subsequent phases of development.

vi. In processing and implementing development applications the City will:

- Provide for the development of any infrastructure that is within its jurisdiction, through the development approval process, including the protection and implementation of the fine grain street network as identified in the Secondary Plan;
- In cooperation with York Region, secure as a condition of development approval, TDM measures for implementation on a development-by-development basis for the purposes of mitigating the transportation impacts of new development;
- Ensure any recommendations contained in the approved transportation study for transportation infrastructure, program improvements and/or monitoring for a development are secured as conditions or requirements for development approval; and
- Ensure each development or phase of a development will not proceed until the transportation impact mitigation measures or improvements have been instituted by the developer or others and such mitigation measures have been evaluated to the satisfaction of York Region and the City of Vaughan.

vii. Nothing in this Secondary Plan will preclude additional financial tools to assist funding the required Yonge Subway Extension to the benefit of all developments. These may be implemented through subsequent development approvals.

viii. Specific municipal and transit/transportation related infrastructure improvements (or triggers) required to support build-out of the Secondary Plan Area will be identified and provided through the development application approval process. All servicing and transit/transportation infrastructure, required to support the initial phases of development and the ultimate build-out of the Plan, will be coordinated with the final conclusions and recommendations of development application studies and York Region's and the City's ongoing servicing and transportation related master plans. All servicing and transportation infrastructure proposed within the Steeles Avenue West right-of-way shall include the approval of the City of Toronto, so long as the City of Toronto retains ownership and jurisdiction over Steeles Avenue West.

**ATTACHMENT 2**

PL111184

**Amendment to Section 3.0 York Region Official Plan**

Add wording following the last paragraph in Section 3.0 Region of York Official Plan:

The Yonge-Steeles Area Regional Transportation Study (YSRTS) completed in September 2015, was led by York Region in partnership with the Cities of Vaughan, Markham and Toronto. Overall, the purpose of the study is to provide guidance on how to manage population, employment and travel demand growth in the study area.