## **Local Planning Appeal Tribunal**

Tribunal d'appel de l'aménagement local



**ISSUE DATE:** October 07, 2019 **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:** September 11, 2019 in Vaughan, Ontario

APPEARANCES:

Parties Counsel

City of Vaughan ("City")

Bruce Engell

**Christian Guerette** 

Parties in attendance See Schedule 1

MEMORANDUM OF ORAL DECISION DELIVERED BY S. TOUSAW ON SEPTEMBER 11, 2019 AND ORDER OF THE TRIBUNAL

#### INTRODUCTION

[1] This proceeding was a further Pre-hearing Conference ("PHC") to address appeals to the 2010 Vaughan Official Plan ("VOP"). The 168 appeals have been managed according to various categories by area or subject matter. This proceeding addressed appeals in several categories: "Other Site-Specific," "Other Development Applications," "Parkland" and "Yonge-Steeles."

#### PREVIOUSLY SCHEDULED HEARINGS

[2] The City advised that settlement discussions have been successful with certain appeals and it will advise the Case Coordinator of cases where fewer hearing days are required (e.g., Langvalley) or the matter is being deferred for related environmental assessment work (e.g., Tien De Religion).

#### **OUTSTANDING APPEALS**

- The City of Vaughan ("City") advised that several Appellants responded to the Tribunal's direction from the last PHC and have been in contact with the City regarding resolutions or advancing their Issues List ("IL"). The City requested a similar direction on another set of appeals and requested that appellants show progress on their appeals through discussions or submissions to the City by **Friday**, **November 1**, **2019**. To maximize the Appellants' time to respond, the City will advise each of the listed Appellants of this request forthwith, in the event that the release of this disposition is delayed. The Tribunal ordered the request as set out below.
- [4] The following Appellants shall provide a draft Procedural Order with IL to the City by **Friday**, **November 1**, **2019** unless the City has agreed with an Appellant on an alternative approach to advance the resolution of the appeal: **Lundell Appeal 42**,

## Danlauton 46, Magna 110, Tedesco 117, Caldari 150, and Teston Villas 152.

#### **PARKLAND APPEALS**

[5] The City advised, with consent of the Parkland Appellants, that more time is required to ascertain the issues resulting from the recent coming into force of Bill 108. The parties arranged to meet before the next PHC, at which time a proposed process will be provided to the Tribunal. The previous direction of the Tribunal that the Parkland Appellants submit their IL is rescinded.

### **MOTION TO DISMISS**

- [6] The City filed a motion to dismiss eight appeals on various grounds. Only one party, Overiver Holdings Limited ("Overiver"), filed a response opposing the motion. However, the City's motion initiated discussions with the appellants leading to the following outcomes.
- [7] Appeal 70, Royal Group Inc. Settlement discussions are underway and the matter is adjourned on consent to the next PHC.
- [8] Appeal 87, Lanada Investments Limited ("Lanada") Counsel for the Appellant, Gerald Borean, advised that the appeal is withdrawn today on the basis of Exhibit 2, being the City's commitment that Lanada may proceed with its current applications for official plan amendment and zoning by-law amendment, filed prior to the VOP, without prejudice from the VOP even if an amendment to the VOP is required to address the applications. The parties agree that the VOP essentially carries forward the policies that were in place previously affecting Lanada's property.
- [9] On the request of the Parties, and having accepted the affidavit evidence of David Marcucci, Registered Professional Planner and Senior Planner with the City, that the VOP with respect to the Lanada lands has regard for s. 2 of the *Planning Act* ("Act"),

is consistent with the Provincial Policy Statement, 2014, conforms with the Growth Plan for the Greater Golden Horseshoe, 2019 and conforms with the Region of York Official Plan (collectively, the "statutory tests"), the Tribunal enacted the VOP with respect to the Lanada lands as set out in the Order below.

- [10] The Tribunal orders that in accordance with the provisions of s. 17(50) of the Act, the City of Vaughan Official Plan (2010), as adopted by the City on September 7, 2010 subject to Council modifications on September 27, 2011, March 20, 2012 and April 17, 2012, and as modified and endorsed by the Regional Municipality of York on June 28, 2012, is approved as it applies to lands which were previously subject to the appeal of Lanada Investments Limited (Appeal 87).
- [11] Appeal 98, Overiver Discussions are underway and the matter is adjourned on consent to the next PHC.
- [12] Appeals 38, 39, 40 and 51, the "Young-Steeles Group" The Parties agree to scope the appeal of policy 9.1.1.1.f to the area affected by the Yonge Steeles Corridor Secondary Plan, without limiting the possibility for a modification to that policy to apply within the Secondary Plan area, such that the policy may otherwise come into force on a city-wide basis. On the request of the Parties, and having accepted the affidavit evidence of Mr. Marcucci that policy 9.1.1.1f satisfies all statutory tests, the Tribunal approved the policy as set out in the Order below.
- [13] The Tribunal orders that in accordance with the provisions of s. 17(50) of the Act, **policy 9.1.1.1.f** of the City of Vaughan Official Plan (2010), as adopted by the City on September 7, 2010 subject to Council modifications on September 27, 2011, March 20, 2012 and April 17, 2012, and as modified and endorsed by the Regional Municipality of York on June 28, 2012, is approved except as it relates to **Appeals 38, 39, 40 and 51** within the Yonge Steeles Corridor Secondary Plan.

- [14] Appeals 72, "First Vaughan" and 73, "SmartCentres" Other than their remaining parkland appeals, these appeals were resolved by previous Order of the Tribunal on May 11, 2017. The City requests and the Appellants agree that a related policy, s. 2.2.5.3 of the VOP, be approved because no city-wide appeals to the policy remain outstanding. On the request of the Parties, and having accepted the affidavit evidence of Mr. Marcucci that policy 2.2.5.3 satisfies all statutory tests, the Tribunal approved the policy as set out in the Order below.
- [15] The Tribunal orders that in accordance with the provisions of s. 17(50) of the Act, as amended, **policy 2.2.5.3** of the City of Vaughan Official Plan (2010), as adopted by the City on September 7, 2010 subject to Council modifications on September 27, 2011, March 20, 2012 and April 17, 2012, and as modified and endorsed by the Regional Municipality of York on June 28, 2012, is approved **(re: Appeals 72 and 73)**.

### YONGE STEELES CORRIDOR SECONDARY PLAN ("SP")

- [16] Three motions for party status were filed which elicited no responses from other Parties. The City consents to the requests for party status from the Roman Catholic Episcopal Corporation for the Diocese of Toronto (the "Archdiocese") and from Mizrahi Constantine (180 Saw) Inc. ("Mizrahi").
- [17] At the City's request, and without objection from the moving Party, the request of The Thornhill Club was adjourned to the next PHC to allow for further discussions.
- [18] Both the Archdiocese and Mizrahi submit that, as landowners in the south area of the SP, they have a direct interest and may be affected by the outcomes of mediation, settlement or a hearing related to various policies under appeal within the SP area. The Archdiocese made submissions to the City before the VOP was adopted and therefore submits that it satisfies the requirements of s. 17(44.2)1 of the Act for added parties. Mizrahi acknowledges that it did not own the property at the time of adoption of the VOP and did not make submissions to the Council before the VOP was adopted, but

maintains that there are reasonable grounds, similar to the Archdiocese, for adding it as a party under s. 17(44.2)2 of the Act.

- [19] On the written motion materials and oral submissions of the moving parties, the Tribunal is satisfied that, as a reasonable test, the six "obvious factors" established by Vice-Chair S.J. Stefanko in 1137528 Ontario Ltd. v. Oakville (Town) 2010 CarswellOnt 18558: their interest arises from others' appeals that could result in policy changes affecting their lands; allowing affected parties to participate is in the public interest; no prejudice results on other parties; a direct interest is identified; a multiplicity of hearings is avoided by the early participation of the added parties as opposed to after mediation or potential settlements are reached; and the background to the requests is legitimate and genuine. Accordingly, the Tribunal granted party status as set out in the Order below.
- [20] Party status is granted to the Archdiocese and Mizrahi pertaining to the Yonge Steeles Corridor Secondary Plan appeals.

#### **CENTRE STREET MEDIATION**

[21] The City advised that the parties to the Centre Street appeals are arranging private mediation in an effort to resolve the appeals.

## PARTIAL APPROVAL (APPEAL 157)

[22] Project 8188 Yonge Street Inc. ("Project 8188") brought a motion requesting partial approval of the VOP with a modification for 8136-8188 Yonge Street and 5 Uplands Avenue ("property"), without prejudice to the appeals of other parties, and continuance of its party status for the balance of the VOP proceedings as granted for other settlements. No responses to the motion were filed and the City consents to the requests.

- [23] Project 8188 and the City have settled on policies for height, density and related requirements for the property. The Tribunal accepted the unchallenged affidavit of Mike Dror, Registered Professional Planner, in which he attests that the proposed modification satisfies the statutory tests and represents good planning. The Tribunal approved the VOP as modified affecting the property as set out in the Order below, without prejudice to other parties' appeals, and the continuance of Project 8188's party status.
- The Tribunal orders that the appeal by Project 8188 Yonge Street Inc. (**Appeal 157**) is allowed in part and that in accordance with the provisions of s. 17(50) of the Act, the City of Vaughan Official Plan (2010), including the Yonge Steeles Corridor Secondary Plan, as adopted by the City on September 7, 2010 subject to Council modifications on September 27, 2011, March 20, 2012 and April 17, 2012, and as modified and endorsed by the Regional Municipality of York on June 28, 2012, is modified as set out in Schedule 2 to this order and is approved as modified in respect of the lands subject to Appeal 157.

#### **ORDER**

- [25] The Tribunal's orders and directions set out above are so ordered.
- [26] The next PHC will commence at 10 a.m. on Wednesday, January 8, 2020 at:

Vaughan City Hall Multi-Purpose Room 2141 Major Mackenzie Drive West Vaughan, ON

[27] After the above PHC, the following PHC will commence at **10 a.m.** on **Thursday**, **March 5, 2020 at:** 

## Vaughan City Hall Multi-Purpose Room 2141 Major Mackenzie Drive West Vaughan, ON

[28] No further notice will be given.

[29] This Member is seized for case management purposes subject to the Tribunal's calendar and may be spoken to if issues arise.

"S. Tousaw"

S. TOUSAW MEMBER

If there is an attachment referred to in this document, please visit www.elto.gov.on.ca to view the attachment in PDF format.

## **Local Planning Appeal Tribunal**

A constituent tribunal of Tribunals Ontario - Environment and Land Division Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

# **SCHEDULE 1**

# SEPTEMBER 11, 2019 PHC – SIGN IN SHEET

APPELLANT	APPEAL	REPRESENTATIVE	
Briardown Estates Inc.	33	Defrield Herrinates	
1406284 Ontario Inc.	164	Patrick Harrington	0
Solmar Inc.	3		Meaghern McDermid (Solmar Inc. + Overiver)
Tesmar Holdings Inc.	4	×	(Solmar Inc. + Overiver)
Block 40/47 Developers Group Inc.	28		
1539253 Ontario Inc.	68	Michael Melling /	van Madia Kadvi
Overriver Holdings Ltd.	98	Meaghan McDermid	100m 1/2000 FedV
Block 66 West Landowners Group Inc.	125		
Teston Green Landowners Group	149		
Block 42 Landowners Group	151		
Lucia Milani and Rizmi Holdings Ltd.	62	Mattle and Di Mara	
Teston Villas Inc.	152	Matthew Di Vona	
2264319 Ontario Inc.	6		
7040 Yonge Holdings Ltd. and 72 Steeles Holdings Ltd.	38		
2 Steeles Avenue West Ltd.	39	Ira T. Kagan	
Auto Complex Ltd.	40		
Salz & Son Ltd.	51		ti
Haulover Investments Ltd.	7		
David and Kathy Lundell	42	Jeffrey Streisfield	
Portside Developments (Kipling) Inc.	116		
Mario Tedesco	117		-
York Region Condominium Corporation 730	137	Reza Fakhim / Ali Shojaat / Domenica Perruzza	

APPELLANT	APPEAL	REPRESENTATIVE	
Baif Developments Limited	8		To 11 CC
Costco Wholesale Canada Ltd.	9		Jac Hortman top
Wal-Mart Canada Corp.	10	Roslyn Houser /	Ice Hoffman for Appellant 10, 72 and 73
First Vaughan Investments Inc., Ruland Properties Inc. and Skyrange Investments Inc.	72	lan Andres / Joseph Hoffman	
Calloway REIT (Sevenbridge) Inc.	73		
836115 Ontario Inc.	48	8	
1191621 Ontario Inc.	<del>19</del>		
Granite Real Estate Inc. (formerly MI)	20		
1834375 Ontario Ltd.	29		
1834371 Ontario Ltd.	30	D. II.	
Delisle Properties Ltd.	34		
1541677 Ontario Inc.	43	Barry Horosko	P
2159645 Ontario Ltd. (Liberty)	56		
Nine-Ten West Limited	80		
Cedarbrook Residential	103		
2128475 Ontario Corp.	146		*
Caldari Land Development Corporation	150		
West Rutherford Properties Ltd.	16 -	- Mark Joblin + Maggie C	euny-Mader
Ozner Corporation	17 ~	Mark Joblin + Maggie Co Mark Joblin + Maggie C	heung- Mada
MCN (Pine Valley) Inc.	57 -	Steve Ferri Quinto M. Annibale / Steven Ferri	
Kirbywest Ltd.	66	Quinto IVI. Annibale / Steven Ferri	
Royal 7 Developments Limited	84	- Steve Fari	
Holcim (Canada) Inc.	129	- Steve Feri - Mondy	

APPELLANT	APPEAL	REPRESENTATIVE	
2203012 Ontario Limited	130	Steven For & Mandy NG steven For & Mandy NG Mark Joblin + Maggie Cheu Steven For.	
Blair Building Materials Inc.	131	- steven Ford & mondy NG	
10350 Pine Valley	163	Mark Joblin + Maggic Cheu	ny-Madar
Lormel Developments Ltd.	167 .	-Steven For:	
Blackwood Realty Fund I Limited Partnership	24		
2117969 Ontario Inc.	106	John Alati /	
Midvale Estates Ltd.	107	Susan Rosenthal	
Potestas Properties Inc.	108		
Ivanhoe Cambridge II Inc.	142		
RioCan Holdings Inc. (Coulter's Mills Marketplace)	31		N 0 0
RioCan Holdings Inc. (Springfarm Marketplace)	32	Joel D. Farber	
RioCan Holdings Inc. (Centre Street Corridor)	82		
1306497 Ontario Inc. (Sisley Honda)	133		
Canadian Fuels Association	41		
Country Wide Homes (Pine Valley Estates) Inc.	166	N. Jane Pepino	
Home Depot Holdings Inc.	44	Steven A. Zakem	
Granite Real Estate Inc. and Magna International Inc.	110		
Casertano Development Corporation and Sandra Mammone	45	Mary Flynn-Guglietti / Annik Forristal	

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Danlauton Holdings Ltd.	46		
1529749 Ontario Inc. (the "Torgan Group")	47		
2157160 Ontario Inc.	99		
390 Steeles West Holdings Inc.	153		
398 Steeles Avenue West Inc.	160		
2090396 Ontario Ltd.	60		
Arthur Fisch & 1096818 Ontario Inc.	61		9 .
H&L Title Inc. & Ledbury Investments Ltd.	75	Mark R. Flowers	
Centre Street Properties Inc.	78		
Vogue Investments Ltd.	79		
Teefy Developments Inc.	63	Chris Barnett	
Anland Developments Inc.	83	Chris Barnett	
281187 Ontario Ltd.	64		
L-Star Developments Group	65		g-set
Lanada Investments Limited	87		
Market Lane Holdings Limited	88	Gerard C. Borean	
1034933 Ontario Ltd.	120	Gerard C. Borean	
Luigi Bros. Paving Company Ltd.	128		
Concetta Marciano	135		
Pro Catering Ltd.	136		
2 Steeles Avenue West Ltd.	39	Daniel Artenosi /	Centertin -
Blue Water Ranch Developments Inc.	67	Christopher J. Tanzola/	
Berkley Commercial (Jane) Inc.	119	Natalie Ast	

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FCF Old Market Lane 2013 Inc.	140		
Liberata D'Aversa	148		
8188 Master Helding Inc.	157	Project 8188 younge	st. Inc.
Glenwood Property Management Ltd. and The Gupta Group	165	, ,	andutu -
Royal Group Inc.	70	Robert J. Gray	
Langvalley Holdings	77	Nicholas T. Macos	9
Camelot on 7 Inc. and Elia Breda	93	Paul R. Bottos	1 0
Tien De Religion Lands	141	Alan Heisey	00
TDC Medical Properties Inc.	105	Stephen D'Agostino	
Mr. Antonio Di Benedetto	109	Self-Represented	
Bentall Kennedy (Canada) LP	111	James Harbell / Patrick Duffy	
Toromont Industries Ltd.	114	Michael Miller / Alexandra Schwarz	
Tan-Mark Holdings Limited & Telast Enterprises Inc.	156	William Friedman	
Tan-Mark Holdings Limited, Gino Matrundola and Telast Enterprises Inc.	168	vviiliam Friedman	
2464879 Ontario Inc. and Ultra Towns Inc.	159	Leo Longo	
The Ravines of Islington Encore Inc.	161		
Frende	14)		
	Party No.	<u>Representative</u>	

	Party No.	<u>Representative</u>	
Region of York	Α	Pitman Patterson / Bola Ogunmefun	
Ministry of Municipal Affairs and Housing	В	Kenneth G. Hare / Ugo Popadic	a
Toronto and Region Conservation Authority	С	Jonathan Wigley / June Little	
York Region Catholic District School Board	G	Tom McCrae / Christine Hyde	
York Region District School Board	Н	Gilbert Luk	^
CNR	K	Alan Heisey	
Mizrahi Constantine (180 San	) Inc.	Mark Joblin + Maggir C	herry-Modar
CITY OF TORONTU		Christian Guenette	Sally

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Liberata D'Aversa	148		Ci.
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2464879 Ontario Inc. and Ultra Towns Inc.	159	Leo Longo	
The Ravines of Islington Encore Inc.	161		

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Toronto and Region Conservation Authority	С	Jonathan Wigley Tim Chan June Little Corcensing	THE STATE OF THE S
York Region Catholic District School Board	G	Tom McCrae / Christine Hyde	
York Region District School Board	Н	Gilbert Luk	
CNR	К	Alan Heisey	
Cife or Vargham		Chois Guenette	al

### Appeal 157 VOP 2010 Amendments required

### 5 Uplands Avenue

- Volume 1 Schedule 14-C to add a Special Site Policy number for 5 Uplands Avenue on the schedule
- Volume 2 Section 13.1 "Areas Subject to Site-Specific Policies" to add the following statement:
  - o "The lands known as 5 Uplands Avenue are identified on Schedule 14-C as Item #XX and are subject to the policies set out in Section 13.XX of this Plan
- Volume 2 Amending Volume 2, Section 13 "Site Specific Policies" by adding a location map for
   5 Uplands Avenue and adding the following policies

13.XX	5 Upla	nds Avenue		
13.XX.1	Genera	al		
13.XX.1.1	The fol	lowing policies shall apply to the lands identified on Map 13.XX.A		
13.XX.1.2	Notwithstanding the Low-Rise Residential Designation, the following shall be permitted on the lands known as 5 Uplands Avenue:			
	a.	Open space amenity uses to support development located at 8136-8188 Yonge Street		
	b.	Privately Owned Publicly Accessible park and open space uses		
	C.	Underground parking to support the development located at 8136-8188 Yonge Street		
	d.	Access and driveway to support the development at 8136-8188 Yonge Street		
13.XX.1.3	No buil	dings or structures are permitted on the lands except for the ng:		
	a.	Amenity or recreation uses not within an enclosed building		
	b.	Transformer, utilities or services to support the development at 8136-8188 Yonge Street		
	c.	Underground parking to support the development located at 8136-8188 Yonge Street		
13.XX.1.4	For the purposes of the permitted Floor Space Index for 8136-8188 Yonge Street, the net developable area for 8136-8188 Yonge Street shall also include the land area of 5 Uplands Avenue. The City's Urban Design Guidelines shall apply to the development of the subject lands			
13.XX.1.5				

#### 8136-8188 Yonge Street

Amendments to Yonge Steeles Corridor Secondary Plan

- Amend Schedule 2 (North) Land Use, Height and Density (existing D 1.5, H 8)
  - D 3.4, H 10 (no change to Mid-Rise Mixed-Use designation)
- New 8.10 Special Provisions for 8136-8188 Yonge Street added
  - 8.10 Special Provisions for 8136-8188 Yonge Street
- a) For the purposes of the permitted Floor Space Index for the development located on the lands at 8136-8188 Yonge Street, the net developable area for 8136-8188 Yonge Street shall also include the land area of 5 Uplands Avenue
- b) The City's Urban Design Guidelines shall apply to the development of the subject lands
- c) Based on the policies of the Planning Act, R.S.O. 1990, c. P.13, dated March 26, 2019, prior to the implementation of the site-specific Zoning By-law, the requirements for a Section 37 Agreement and contribution calculation using a Base Density of 1.5 FSI shall be satisfied. This policy may be superseded subject to amendments to the Planning Act and Section 37 policies and associated updates to Official Plan policies







