

Local Planning Appeal Tribunal

CASE NO(S):

PL140495
PL170037

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellants: Thomas Cavanaugh Construction Ltd.
Subject: Proposed Official Plan Amendment No. 150
Municipality: City of Ottawa
LPAT Case No.: PL140495
LPAT File No.: PL140495
LPAT Case Name: Dolan v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Subject: Proposed Official Plan Amendment No. 179
Municipality: City of Ottawa
LPAT Case No.: PL170037
LPAT File No.: PL170037
LPAT Case Name: Ontario Stone, Sand & Gravel Association v. Ottawa (City)

AFFIDAVIT OF BRUCE FINLAY

I, **Bruce Finlay**, of the City of Clarence-Rockland, **MAKE OATH AND SAY:**

- 1) I am a Registered Professional Planner, with the Economic Development and Long-Range Planning Branch of the City of Ottawa. Since joining the City, in 2001, I have been involved in the preparation and review of the City of Ottawa's Official Plan and responsible for the preparation of the draft and final versions of the comprehensive amendments to that Plan. I was directly involved with Official Plan Amendment (OPA) 150, and have a working understanding of OPA 179, both of

which are currently before the LPAT. I continue to provide planning policy advice to Council, my colleagues and other City departments.

- 2) In my career I have provided professional land use planning advice to both municipal and private clients and have been recognised by the Ontario Municipal Board and the Local Planning Appeal Tribunal ("LPAT") as an expert in land use planning for the purpose of giving opinion evidence. My Curriculum Vitae and my Acknowledgement of Expert's Duty are attached as Exhibits 1 and 2.
- 3) This affidavit provides my evidence regarding:
 - a) the sequence of events leading to, and my professional opinion as to the appropriateness of, the proposed policy changes made by OPA 150;
 - b) my professional opinion regarding the proposed resolution of OPA 150 appeals by Richcraft and Urbandale (and their affiliated companies).
- 4) The Natural Systems Phase also encompasses appeals from OPA 179. My colleague, Nick Stow, will be providing a separate affidavit providing more detail about the background to OPA 179 and his opinion about the proposed resolution to components of that amendment, as well as the resolution of the OPA 150 appeal by Greenspace Alliance of Canada's Capital.
- 5) The matters at issue in this hearing were summarized as Attachment 4 to the Procedural Order, which is attached hereto as Exhibit 3 for ease of reference.

Proposed Settlement

- 6) As described further in this affidavit and that of Nick Stow, the settlement includes the items summarized in Figure 1.

Figure 1: Overview of Amendments arising from Settlement

Change required by the settlement	Settling appeal from OPA:	Appellant to which change pertains	Reference
Further amend Official Plan Schedule L3 (Natural Heritage Overlay) to conform with existing development approvals	150	Richcraft and Urbandale	Finlay Affidavit, Exhibit 8 (Document 2) and paras. 9 to 16
Add Annex 16 – Core Natural Areas and Natural Landscape Linkages to the Official Plan (not requiring LPAT approval)	150	Greenspace Alliance	Stow Affidavit, Exhibit 11 (at Document 1) and, paras. 16-17
Changes to the Significant Woodlands Guidelines and adoption of a process for consideration of significant woodlands in a future urban boundary expansion, should an expansion be necessary (not requiring LPAT approval)	150	Taggart Group of Companies, R.W. Tomlinson Ltd., and the OSSGA	Stow Affidavit, Exhibit 7 and, paras.10-15
Further amend Official Plan Section 2.4.2 Policy 1.c.iii (definition of Significant Woodlands)	179	Taggart Group of Companies, R.W. Tomlinson Ltd., and the Ontario Sand Stone and Gravel Association	Stow Affidavit, Exhibit 7 and, paras.10-12
Amend Official Plan Section 2.4.2 Policy 3 (requirement for an Environmental Impact Statement)	179 ¹	Taggart Group of Companies, R.W. Tomlinson Ltd., and the OSSGA	Stow Affidavit, Exhibit 7 and paras. 10 through 12

Background to OPA 150 Appeals

- 7) On December 11th, 2013 the City adopted Official Plan Amendment 150 (“OPA 150”). This amendment made significant modifications to the policies and

¹ This Policy was amended by OPA 150. The OPA 150 amendment is no longer contended. The parties seek, as part of the settlement of the OPA 179 appeal, a further amendment to the same policy.

mapping in the City's Official Plan. In particular, the City amended policies related to the identification of the City's Natural Heritage System, a system of natural features and areas identified for protection by the Official Plan. The Council had added the schedules, which mapped the Natural Heritage System, to the Official Plan through OPA 109 on 24 October 2012. Amendment 109 responded to direction in the Ontario Municipal Board decision on OPA 76 (OMB PL#100206, April 26, 2012).

- 8) Those changes included, among other things, an amendment to policy 3 in Section 2.4.2 and the update of three map Schedules (L1, L2 and L3) that delineate as much of the Natural Heritage System as can be reasonably identified at the mapping scale chosen. The changes to Schedules L1 through L3 showed the addition of natural linkages identified in the Natural Landscape Linkage Analysis, that was completed by City staff (Document 11 to OPA 150, attached hereto as Exhibit 4). The modifications to these schedules to include the findings of the Natural Landscape Linkage Analysis was a condition of a settlement, with the Greenspace Alliance of its appeal to OPA 76 (OMB PL#100206).

OPA 150 Appeals and Resolution

- 9) On January 10, 2014 the Ministry of Municipal Affairs and Housing approved OPA 150 without modification. The Minister's approval of OPA 150 was appealed in its entirety by several parties. The appeals of the whole of OPA 150 were eventually dropped, however the Greenspace Alliance of Canada's Capital ("Greenspace Alliance"), Urbandale Corporation, Urbandale Construction, Riverside South Development Corporation, KNL Developments Inc. (the preceding four collectively referred to herein as "Urbandale"), and Richcraft Homes Ltd. and its related entities (collectively "Richcraft") retained appeals of the changes to the Natural Heritage System policies and changes to Schedules L1, L2 and L3.
- 10) My colleague, Nick Stow, has discussed the appeal of and resolution with Greenspace Alliance at paras. 16 and 17 of his affidavit.

- 11) Richcraft and Urbandale disagreed with the identification of specific linkage features on Schedule L3. Richcraft's appeal is attached as Exhibit 5 and Urbandale's appeal is attached as Exhibit 6.
- 12) City Council approved a settlement with Richcraft and Urbandale which would revise the natural linkage features added to Schedule L3 through OPA 150. The Minutes and Report to Council of April 10, 2019 are attached as Exhibits 7 and 8 respectively, the latter of which includes the revised Schedule L3. These changes were made to conform to the registered KNL Phase 8 Plan of Subdivision, the land use plans and registered plans of subdivision in the Riverside South Community Design Plan area, and the changes to the Official Plan shown in Schedule B approved in Kanata Highlands Urban Expansion Area, Official Plan Amendment (OPA) 222.
- 12) I note that as part of the resolution of separate OPA 179 appeals by developer and aggregate companies (not Richcraft and Urbandale), Section 2.4.2 Policy 3, as modified through OPA 150 (deleted text and added text underlined), would be further changed through the addition of the highlighted text:

"Regardless of whether the features are designated in this Plan, an area is identified by the overlay shown in Schedules L1, L2, and L3 of this Plan, an Environmental Impact Statement is required for development proposed within or adjacent to features described in policy 1 above, with the exception of surface and groundwater features. Development and site alteration within or adjacent to these features will not be permitted unless it is demonstrated through an Environmental Impact Statement that there will be no negative impact on the feature or its ecological functions. Where the proposed development or alteration is for the establishment or expansion of mineral aggregate operations within or adjacent to a significant woodland, the demonstration of no negative impact may take into consideration final rehabilitation of the mineral aggregate operation, including any on- or off-site compensation. Rehabilitation of the mineral aggregate operation would need to be planned to occur as soon as possible and be suited to the local natural environment. The Policies regarding Environmental Impact Statements and the definition of terms are contained in Section 4.7.8."

The original language added by OPA 150 to Section 2.4.2 Policy 3 (deleted and underlined text) is no longer under contention by any of the appellants to OPA 150.

- 13) The appellants in the Natural Systems Phase have also appealed mapping changes proposed in OPA 150, being specifically Items 334, 335, and 336. Amend Schedules L1, and L2, combined with Schedule L3 (as amended), depict the Natural Heritage System for the whole City at a useful scale. Through OPA 150 the information, contained in these three maps, was enhanced to include the natural linkages that had been identified through the City's Natural Landscape Linkage Analysis. Identifying this information, in the Official Plan, plays a key role in the development review process by triggering and informing the environmental review process at the time the City considers development proposals. I have described these items in more detail in Exhibit 9 and provided an explanation of each, with copies attached as Exhibits 10 through 12. As a result of the resolution, Items 334, 335, and 336 are no longer in contention.

Opinion as to Agreed upon Resolution to OPA 150 and 179 appeals

- 14) Staff has worked with the appellants and come to agreement with them as to their appeals from OPA 150 and 179. As described above, the resolution includes modifications to the information mapped on Schedule L3 of OPA 150 and changes to Policy 3 in Section 2.4.2, of the Official Plan. Additionally, with respect to the OPA 179 appeals, my colleague Nick Stow has outlined the resolution involving changes to Policy 1.c.iii of section 2.4.2, (the definition of "significant woodland"), Policy 6b of Section 3.11 and policy 3b in Section 3.12.
- 15) The remaining changes, proposed by OPA 150, being mapping changes in Items 334, 335 and 336 are no longer in contention as a result of this resolution.
- 16) In my professional opinion, the changes proposed in the present resolution are consistent with the Provincial Policy Statement, have regard for applicable matters of provincial interest, and represent good planning. Furthermore, the now-undisputed changes proposed by OPA 150 in Items 334, 335, and 336 are, in my

opinion, consistent with the Provincial Policy Statement, have regard for applicable matters of provincial interest, and represent good planning.

17) I recommend approval of OPA 150 as modified by the settlement described above.

SWORN before me in the City of Ottawa,
in the Province of Ontario, this 27th day of
May, 2019



A Commissioner for the Taking of Oaths, etc.

Garrett Schramm

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BRUCE FINLAY