

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

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 NICK STOW

I, **Nick Stow**, of the City of Ottawa, **MAKE OATH AND SAY:**

1. I am an environmental planner with the Policy Planning Branch of the Planning, Infrastructure, and Economic Development Department of the City of Ottawa. Since joining the City in 2009, I have been involved in the preparation and review of amendments and Comprehensive Amendments to Ottawa's Official Plan. I have been directly involved with Official Plan Amendments (OPA) 150 and 179 that are currently before the Local Planning Appeals Tribunal. I continue to provide planning policy advice to Council, my colleagues, and other City departments.
2. I have provided environmental planning advice to both municipal and private clients and have been recognized by the Ontario Municipal Board (now the Local Planning Appeal Tribunal,

"LPAT") as an expert for the purpose of giving evidence in this field. My Curriculum Vitae and my Acknowledgement of Experts Duty are attached as Exhibits 1 and 2.

3. This affidavit provides my evidence with respect to:
 - a) the sequence of events leading to the adoption of Bill 179;
 - b) my professional opinion as to the appropriateness of a settlement with the appellants with respect to OPA 179; and
 - c) my professional opinion with respect to the resolution of the appeal of Greenspace Alliance from OPA 150.
4. OPA 179 appeals have been consolidated with certain aspects of appeals from OPA 150 in the "Natural Systems Phase" of consolidated Ottawa OPA appeals. My colleague, Bruce Finlay, will be providing a separate affidavit providing more detail about the background of OPA 150 and his opinion about the proposed resolution with Richcraft and Urbandale (and their affiliated companies).
5. The proposed settlement would finally resolve the remaining issues in the Natural Heritage Phase of the consolidated OPA appeals.

Proposed Settlement Overview

6. As described further in this affidavit and that of Bruce Finlay, 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

Change required by the settlement	Settling appeal from OPA:	Appellant to which change pertains	Reference
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 179 and Appeals

7. On December 14th 2016, Council adopted OPA #179, which:

- a) Amended the definition of significant woodlands in Section 2.4.2, Policy 1.c.iii; and
- b) amended references to significant woodlands in Section 3.11, Policy 6b - Urban Expansion Study Area) and Section 3.12, Policy 3b - Developing Community (Expansion Area) of the Official Plan to be consistent with the new definition.

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.

8. These changes were required to comply with 2014 changes to the Provincial Policy Statement which modified the definition of "significant" woodlands to include, "these [significant woodlands] are to be identified using criteria established by the Ministry of Natural Resources" (PPS 2014, p. 48). Prior to OPA 179, Ottawa's Official Plan did not use the Provincial criteria for the identification of significant woodlands; nor did it identify significant woodlands in the urban area.
9. Three parties appealed OPA 179. The Taggart Group of Companies in its appeal attached hereto as Exhibit 3, argued that OPA 179, as a whole, exceeded the intent and requirements of the Provincial Policy Statement. R.W. Tomlinson Ltd. and the Ontario Sand Stone and Gravel Association appealed changes to the definition of significant woodlands in the rural area. Their appeals are attached, respectively, as Exhibits 4 and 5.

Resolution of OPA 179 appeals

10. A proposed settlement has now been reached with each of the appellants to OPA 179.
11. The proposed settlement was approved by City Council on March 6, 2019. The relevant Council Minutes and Staff report are attached as Exhibits 6 and 7 to this affidavit.
12. Under the proposed settlements of OPA 179 appeals:
 - a) Policy 2.4.2 Policy 1.c.iii, as approved by Council in OPA 179, would change as highlighted:

"1.c. Significant Woodlands defined as the following.... iii. In the urban area, any area 0.8 hectares in size or larger, supporting woodland 40 60 years of age and older at the time of evaluation"
 - b) Section 2.4.2 Policy 3, as modified through OPA 150 (underlined), would change as highlighted:

"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.”

13. Also as part of the settlement, on March 6, 2019 City Council approved
 - a) Significant Woodlands Guidelines, being the relevant minutes from the meeting of Council and the Staff Report with the Guidelines; and,
 - b) a process for consideration of significant woodlands in a future urban boundary expansion, should an expansion be necessary.
14. The above guidelines do not form part of the Official Plan. Changes to the guidelines were achieved through the decision of Council and LPAT approval is not required for these aspects of the settlement.
15. The changes proposed by OPA 179 and the settlement are summarized for ease of reference in Exhibit 8 hereto.


Resolution of Greenspace Alliance appeal from OPA 150

16. The history of OPA 150 is discussed in detail in the Affidavit of Bruce Finlay. Among other changes, OPA 150 added discrete “linkage features” – chiefly small woodland areas – shown in the proposed revision to Schedules L1 through L3. Greenspace Alliance of Canada’s Capital (“Greenspace Alliance”) argued that the addition of these “linkage features” did not respect the intent of its settlement with the City. It argued that the broader “landscape linkages” identified in the Landscape Linkage Analysis should be identified and included within the natural heritage system on the schedules. Greenspace Alliance’s appeal is attached as Exhibit 9 hereto.
17. On April 10, 2019 City Council approved a resolution which would introduce a new Annex 16 – Core Natural Areas and Natural Landscape Linkages to the Official Plan. Minutes of April 10, 2019 and the Report to Council, including the new Annex 16, are attached hereto as Exhibits 10 and 11 respectively. As Annex 16 is for informational purposes and does not amend the Official Plan, the adoption of Annex 16 was achieved through the decision of Council and does not require LPAT approval.

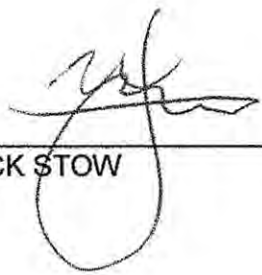
Opinion as to Agreed-upon Resolution

- 18. Staff has worked with the appellants and come to agreement with them as to their appeals from OPA 150 and 179. I have addressed above, with respect to the OPA 179 appeals, the resolution involving changes to Section 2.4.2 Policy 1.c.iii (the definition of "significant woodland") and the changes to Section 2.4.2 Policy 3 as previously amended through OPA 150.
- 19. In my professional opinion, above-described resolution with the OPA 179 appellants is consistent with the Provincial Policy Statement, has regard for applicable matters of provincial interest, and represents good planning.
- 20. It is also my professional opinion that the resolution of Greenspace Alliance's appeal to OPA 150, described above, is consistent with the Provincial Policy Statement, has regard for applicable matters of provincial interest, and represents good planning.
- 21. I recommend approval of OPA 179 as modified by the settlement described above.

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


A Commissioner for the Taking of Oaths, etc.
Garrett Schramm

)
)
)
)
)
)
)



NICK STOW