

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



ISSUE DATE: March 27, 2019

CASE NO(S): PL140495
PL141165
PL170037 PL141235
PL170983 PL141243
PL170987 PL141244

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(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellants: See Attachment 1
Subject: Proposed Official Plan Amendment No. 150
Municipality: City of Ottawa
OMB Case No.: PL140495
OMB File No.: PL140495
OMB Case Name: Dolan v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 6980848 Canada Corporation & 7657315 Canada Corporation
Subject: Proposed Plan of Subdivision - Failure of the City of Ottawa to make a decision
Purpose: To permit residential development
Property Address/Description: Part of Lot 7, Concession 3 (1566 Stagecoach Road) in the Geographic Township of Osgoode now in the City of Ottawa
Municipality: City of Ottawa
Municipal File No.: D07-16-10-0015
OMB Case No.: PL140495
OMB File No.: PL101449
OMB Case Name: 6980848 Canada Corporation & 7657315 Canada Corporation v. Ottawa (City)

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

Appellant:	Greater Ottawa Home Builders Association
Appellant:	KNL Developments Inc.
Appellant:	Maurice Yelle Excavation Limited
Appellant:	Taggart Group Of Companies; and others
Subject:	Proposed Official Plan Amendment No. 141
Municipality:	City of Ottawa
OMB Case No.:	PL141165
OMB File No.:	PL141165
OMB Case Name:	Greater Ottawa Home Builders Association v. Ottawa (City)

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

Appellant:	2087875 Ontario Inc.
Appellant:	Greater Ottawa Home Builders' Association
Appellant:	Gibson Patterson
Appellant:	Taggart Group Of Companies; and others
Subject:	Proposed Official Plan Amendment No. 140
Municipality:	City of Ottawa
OMB Case No.:	PL141235
OMB File No.:	PL141235
OMB Case Name:	Gibson Patterson v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Richcraft Homes Ltd.
Subject:	Proposed Official Plan Amendment No. 136
Municipality:	City of Ottawa
OMB Case No.:	PL141243
OMB File No.:	PL141243
OMB Case Name:	Richcraft Homes Ltd. v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Urbandale Corporation
Subject:	By-law No. 2014-343
Municipality:	City of Ottawa
OMB Case No.:	PL141244
OMB File No.:	PL141244

OMB Case Name: Urbandale Corporation v. Ottawa (City)

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

Appellant: Ontario Stone, Sand & Gravel Association
 Appellant: R.W. Tomlinson Ltd.
 Appellant: Taggart Group Of Companies
 Subject: Proposed Official Plan Amendment No. 179
 Municipality: City of Ottawa
 OMB Case No.: PL170037
 OMB File No.: PL170037
 OMB Case Name: Ontario Stone, Sand & Gravel Association v. Ottawa (City)

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

Appellant: 2356349 Ontario Inc.
 Appellant: City of Ottawa
 Appellant: Claridge Homes (Elgin) Inc. et al
 Appellant: Glendon Moore; and others
 Subject: Proposed Official Plan Amendment No. 180
 Municipality: City of Ottawa
 OMB Case No.: PL170983
 OMB File No.: PL170983
 OMB Case Name: Glendon Moore v. Ontario (Municipal Affairs)

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

Appellant: Mattamy Homes Limited
 Appellant: Minto Greenfield GP Inc.
 Subject: Failure of the Ministry of Municipal Affairs to announce a decision respecting Proposed Official Plan Amendment No. 180
 Municipality: City of Ottawa
 OMB Case No.: PL170987
 OMB File No.: PL170987
 OMB Case Name: Mattamy Homes Limited v. Ontario (Municipal Affairs)

Heard: March 4, 2019 by telephone conference call

APPEARANCES:**Parties****Counsel**

City of Ottawa

T. Marc

Ministry of Municipal Affairs and
Housing

I. Shachter

Glendon Moore

Self-represented

Taggart Group Companies

S. Zakem

Mattamy Homes Ltd., Minto Greenfield
GP Inc., Riverside South Development
Corp., Urbandale Corp.

U. Melinz

Claridge Group of Companies,
2356349 Ontario Inc., Conroy Road
Developments Inc., Claridge Homes
(Elgin) Inc., Estate of Luigi Mion, John
Mion, Rodolfo Mion, Marcella Mion,
Anne Mion and Gustavo Mion, and CP
REIT Ontario Properties Ltd.

E. Blanchard

**MEMORANDUM OF ORAL DECISION DELIVERED BY C.J. BRYSON ON
MARCH 4, 2019 AND ORDER OF THE TRIBUNAL**

BACKGROUND

[1] The City of Ottawa (“City”) passed Official Plan Amendment 150 (“OPA 150”) in 2013 upon the City’s five year comprehensive review of its Official Plan (“OP”). OPA 150 was appealed in its entirety. After Land Evaluation and Area Review (“LEAR”) and Employment Lands studies were completed in 2015, the City passed the further Official Plan Amendment 180 (“OPA 180”) in 2017. Several portions of OPA 180 were also appealed.

[2] At the second pre-hearing conference (“PHC”) on May 4, 2018, regarding the consolidated OPA 150 and OPA 180 appeals, Vice-Chair Makuch issued an Order setting hearing dates for most of the appeals, divided by land use designation topics:

Mineral Aggregates, Agriculture, Employment Lands, Natural System, Rural Servicing, Transportation, and Urban Expansion. The Order issued by Vice-Chair Makuch was accompanied by Procedural Orders (“POs”) for each identified subset of appeals set down for hearing.

[3] Just prior to the scheduled hearing dates for the Agricultural Lands appeals of OPA 150 and OPA 180, the City notified the Tribunal that the Parties to those appeals had reached a settlement for consideration by the Tribunal. The Tribunal was also advised that the site specific Agricultural Lands appeal of Glendon Moore was not subject of the proposed settlement and that the City and Mr. Moore would jointly request that a new date be set for that single appeal hearing.

[4] The Tribunal was provided with the Affidavit of Bruce Finlay, a professional planner with the City, in support of the settlement proposal. The Affidavit is marked as Exhibit 1. There were no objections to the Affidavit or qualifications of Mr. Finlay in providing expert planning evidence to the Tribunal in relation to the settlement. All Parties further consented to the revised OPA language provided as Exhibit 11 to the Affidavit of Mr. Finlay, which is attached to this decision and order as Attachment 2.

[5] Mr. Finlay explained that both proposed changes, to section 2.2.1 – Urban Area and Village Boundaries in OPA 150 and to section 3.7.3 – Agricultural Resource Areas in OPA 180, pertain to removal of lands from designated Agricultural Resource Areas.

[6] The proposed revision to policy 4 in Section 2.2.1 of OPA 150 is intended to be used by the City to evaluate the suitability of lands for removal from Agricultural Resource Areas and inclusion in a settlement area. Mr. Finlay opined that the Provincial Policy Statement (“PPS”) acknowledges that avoiding “prime agricultural areas” as defined in the PPS may not always be possible and that it considers lower agricultural value lands may be considered for removal as required. The proposed revised language paraphrases PPS section 1.1.3.8(c) in this regard.

[7] The PPS section 2.3.5.1 indicates the only mechanism available to review “prime agricultural area(s)” is by a City comprehensive review. Mr. Finlay opines this is not the

case, that the PPS obligates the City to constantly review consistency and not necessarily within a comprehensive review. He noted that the City LEAR study was developed to identify “prime agricultural areas”, relying upon soil mapping and ongoing land use information. Further, the Ministry of Agriculture Food and Rural Affairs also undertook soil testing and provided its information to the City in 2010. Mr. Finlay opines this information is most relevant though it did not coincide or arise from a City comprehensive review. Accordingly, he proposed the new policy 3 in Section 3.7.3 to OPA 180, which outlines other circumstances under which removal of agricultural lands for other use designations may be considered, including as part of a LEAR study or a comprehensive site-specific study for parcels of 250 hectares or more. A site specific study on such a large parcel could only result in a general rural designation, to avoid scattered pockets of non-agricultural land and to limit the uses thereon.

[8] Upon the affidavit evidence of Mr. Finlay and the submissions of the parties, the Tribunal approved the proposed amendments to OPA 150 and OPA 180. The Tribunal accepted that the proposed amendments are consistent with the PPS and have regard to s. 2 of the *Planning Act*. The Tribunal then re-scheduled the site specific appeal of Mr. Moore.

ORDER

[9] Against this background, the appeals of OPA 150 and the appeal of OPA 180 regarding Agricultural Lands are allowed in part and the Official Plan for the City of Ottawa is modified as set out in Attachment 2 to this Order, and as modified is approved.

[10] The site specific appeal of Mr. Moore remains and the Tribunal ordered a two day hearing of the PL140495 appeal to commence on **Tuesday, October 8, 2019 at 10 a.m.** for disposition of all issues, to be held at:

**City Hall
Keefer Room
110 Laurier Ave. W., Cartier Square
Ottawa ON K2P 2L7**

[11] There will be no further notice in regard to the appeal of Mr. Moore in PL140495.

[12] This Member is not seized of the appeal hearing of Mr. Moore in PL140495.

"C.J. Bryson"

C.J. BRYSON
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

ATTACHMENT 1

No.	Appellant	*Solicitor/Representative
1	Karen Wright et al	Joshua Moon
2	Claridge Homes Corporation	*Janet Bradley
3	Gib Patterson	*Janet Bradley
5	Richcraft Homes Ltd.	*Ursula Melinz
6	Greater Ottawa Home Builders Association	*Ursula Melinz
7	Building and Owners Association of Ottawa	*Ursula Melinz
8	Thomas Cavanagh Construction Limited	*Ursula Melinz
9	Phoenix Properties	*Michael Polowin
10	2024644 Ontario Inc.	*Michael Polowin
11	Walton Development and Management Ontario LP	*Michael Polowin
12	Taggart Group of Companies	*Steven Zakem
13	969113 Ontario Inc.	*Peter Vice
14	Groupe Claude Lauzon Ltee.	*Greg Meeds
15	Starwood Acquisitions Inc.	*Janet Bradley
16	536555 Ontario Limited and Embros Development Corporation ("Torgan")	*Janet Bradley
18	Sunset Lakes Developments et al	*Paul Webber
19	Taggart Realty Management	*Alan Cohen
20	Loblaw Properties Limited	*Alan Cohen
21	2398688 Ontario Inc.	*Alan Cohen
22	Bridgeport Realty	*Alan Cohen
23	Arnon Corporation	*Alan Cohen
24	McRae Avenue Development and the Estate of Carson Unsworth	*Alan Cohen
25	1716709 Ontario Inc.	*Alan Cohen
26	Laurentide Engineering Limited/Broccolini Laurentide Holdings Inc. et al	*Doug Kelly
27	Urbandale et al	*Ursula Melinz
28	Tartan Land Consultants Inc.	*Alan Cohen
29	Miller Paving Limited	Kim Horrigan
30	Greenspace Alliance	Erwin Dreessen
31	Shirley Dolan	-
32	Metcalf and District Citizens Association	Dal Brodhead

Modification to OPA #150

Section 2.2.1 Policy 4

- "a. Avoid lands designated 'Agricultural Resource Area' unless there is no reasonable alternative on lands which avoid 'Agricultural Resource Area' or the lands contain primarily poorer quality agricultural soils within such Agricultural Resource Areas."

Modification to OPA #180

Section 3.7.3

- "2. The City will consider the removal of land from an Agricultural Resource Area designation to allow for urban expansion if it is demonstrated, through a comprehensive review undertaken by the City and addressing the matters required by the Provincial Policy Statement, that the land is required for the expansion of an existing settlement area or identification of a new settlement area.
3. The removal of land from an Agricultural Resource Area designation, may be considered outside of a comprehensive review where it is demonstrated that the land does not meet the requirements for an Agricultural Resource Area through,
- a) a municipal-wide assessment (LEAR study): or
 - b) an area-specific assessment, where the area assessment is 250 ha in area or the boundaries are agreed to by the City, that demonstrates:
 - (i) based upon new information, related to one or more LEAR factors, the lands are not part of a prime agricultural area; and
 - (ii) any re-designation would avoid the potential for adverse impacts to any adjacent agricultural land and operations, or if unavoidable, such adverse impacts are mitigated to the extent feasible.

The outcome of an area-specific assessment would be a General Rural Area designation that is at least 250 hectares in size or a smaller area that would be a logical extension of an existing General Rural Area designation. If a different rural designation is being proposed then the need for that designation, within the timeframe of the Official Plan, must also be established."