

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: July 19, 2022

CASE NO(S): OLT-22-003330
(Formerly PL190476)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Aryeh Construction Limited
Subject: Application to amend Zoning By-law – Refusal or neglect to make a decision
Purpose: To permit an amendment to the site-specific zoning by-law for the purpose of increasing the height of both residential towers from 19-storeys to 39-storeys and to decrease the height of the podium by one-storey
Property Address: 8293 and 8303 Warden Avenue
Municipality: City of Markham
Municipal File No.: PLAN 19 124607
OLT Case No.: OLT-22-003330
Legacy Case No.: PL190476
OLT Lead Case No.: OLT-22-003330
Legacy Lead Case No.: PL190476
OLTCase Name: Aryeh Construction Limited v. Markham (City)

Heard: July 4, 2022 by Video Hearing

APPEARANCES:

Parties

Counsel*/Representative

Aryeh Construction Ltd.

Jennifer Meader*

City of Markham

Andrew Baker* – *in absentia*
Pitman Patterson*

Unionville Ratepayers Association

Peter Miasek

Markham Centre Landowners
Group

Jason Park*

**MEMORANDUM OF ORAL DECISION DELIVERED BY C. HARDY ON JULY 4, 2022
AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] This was the second Case Management Conference (“CMC”) regarding an appeal by Aryeh Construction Ltd. (“Applicant”) of the failure of the City of Markham (“City”) to make a decision within statutory timeframes on a Zoning By-law Amendment (“ZBA”) pursuant to s. 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended (“Act”). The application relates to the properties located at 8293 & 8303 Warden Avenue, in the City (“Subject Property”).

[2] The Subject Property is located on the west side of Warden Avenue, south of Highway 7. The current development approvals for the Subject Property were provided by an Ontario Municipal Board Order in 2012. The ZBA will allow for additional height and density.

[3] A 3-week hearing had been scheduled to commence July 12, 2021, which was adjourned *sine die* at the request of the Parties made via email on June 29, 2021.

[4] On April 19, 2022 the Parties jointly requested a 1-day appearance to be scheduled for July, 2022 to enable the Parties to bring forward a settlement or to re-schedule a merits hearing. The Tribunal scheduled this CMC as requested by the Parties.

STATUS UPDATE

[5] At this CMC, the Applicant indicated that it has reached a settlement in principle with the City. The proposed draft ZBA has been provided to the Unionville Ratepayers Association and the Markham Centre Landowners Group. The Applicant advised that the intent was to bring forward a settlement at this CMC for the Tribunal to consider, however the Parties ran out of time to complete discussions and paperwork. The Parties are confident that a settlement will be reached.

[6] The Parties jointly requested that the Tribunal set down a date for a settlement hearing in this matter for late October 2022. The Tribunal was satisfied that it is appropriate to set a settlement hearing date in this matter and scheduled a one-day video hearing for **Monday, October 24, 2022 at 10 a.m.**

[7] There was some discussion among the Parties regarding the timing of submission of settlement materials to the Tribunal. The Tribunal directed that settlement materials, including witness statements, a draft Order and a draft ZBA, be submitted to the Tribunal on or before **Monday, October 17, 2022.**

HEARING DATE

[8] The Tribunal has scheduled a one-day settlement hearing to be held by video conference on **Monday, October 24, 2022** commencing at **10 a.m.**

[9] Parties and participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://meet.goto.com/519389173>

Access code: 519-389-173

[10] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](#) or a web application is available:

<https://app.gotomeeting.com/home.html>

[11] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **+1 (647) 497-9373 or Toll Free 1-888-299-1889**. The access code is **519-389-173**.

[12] Individuals are directed to connect to the event on the assigned date at the

correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[13] The Tribunal directed that the Parties file settlement documents with the Tribunal no later than **Monday, October 17, 2022**.

[14] No further notice will be given.

[15] This Member is not seized.

"C. Hardy"

C. HARDY
MEMBER

Ontario Land Tribunal

Website: Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.