

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** February 21, 2023

**CASE NO(S).:**

OLT-22-004594

**PROCEEDING COMMENCED UNDER** section 22(7) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended.*

Applicant/Appellant: Hyde Park GP Inc.  
Subject: Request to amend the Official Plan – Failure to adopt the requested amendment  
Description: Propose a phased mixed-use redevelopment of the existing Hyde Park Plaza with four new residential buildings.  
Reference Number: 21 235960 NNY 15 OZ  
Property Address: 943 - 963 Eglinton Avenue East & 23 Brentcliffe Road  
Municipality/UT: Toronto/Toronto  
OLT Case No: OLT-22-004594  
OLT Lead Case No: OLT-22-004594  
OLT Case Name: Hyde Park GP Inc. v. Toronto (City)

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

Applicant/Appellant: Hyde Park GP Inc.  
Subject: Application to amend the Zoning By-law – Refusal of application  
Reference Number: 21 235960 NNY 15 OZ  
Property Address: 943 - 963 Eglinton Avenue East & 23 Brentcliffe Road  
Municipality/UT: Toronto/Toronto  
OLT Case No: OLT-22-004595  
OLT Lead Case No: OLT-22-004594

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

Applicant/Appellant: Hyde Park GP Inc.  
Subject: Proposed Plan of Subdivision – Failure of Approval Authority to make a decision

Reference Number: 21 235961 NNY 15 SB  
 Property Address: 943 - 963 Eglinton Avenue East & 23 Brentcliffe Road  
 Municipality/UT: Toronto/Toronto  
 OLT Case No: OLT-22-004596  
 OLT Lead Case No: OLT-22-004594

**Heard:** February 2, 2023 by video hearing

**APPEARANCES:**

**Parties**

**Counsel**

Hyde Park GP Inc. ("Applicant") Adrian Frank

City of Toronto ("City") Sarah O'Connor

**MEMORANDUM OF ORAL DECISION DELIVERED BY DAVID L. LANTHIER ON FEBRUARY 2, 2023 AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] This first Case Management Conference ("CMC") was conducted in the Applicant's Appeals of the non-decision of City Council following its applications for an Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision to permit the proposed development at 943-963 Eglinton Avenue East and 23 Brentcliffe Road in the City of Toronto ("Subject Property").

[2] The Affidavit of Service of Christopher J. Drew sworn December 29, 2022 affirming compliance with respect to the Directions as to service of the Notice of this CMC is marked as Exhibit 1 to the CMC.

**PARTICIPANT STATUS CONFERRED**

[3] There were four requests for Participant status received and reviewed by the Tribunal. The Request from the Leaside Residents Association was not reviewed by the Panel prior to the CMC but the Request was made orally by Mr. Geoff Kettel on

behalf of that Association during the hearing, and counsel confirmed their receipt of the Request.

[4] The Panel was advised that there were no objections from the Applicant or the City to the requests for Participant status, and the bases for the requests are reasonable and appropriate to grant status. Participant status is accordingly granted to the following:

1. Camlea South Building Group Inc.;
2. Leaside Business Park Association;
3. Toronto Standard Condo Corporation 2351 (TSCC 2351) at 35 Brian Peck Crescent, East York (Scenic 1 and 2 Buildings); and
4. Leaside Residents Association.

## **MEDIATION AND SETTLEMENT**

[5] The Tribunal has addressed the subject of settlement or mediation with the Parties and has been advised that the parties anticipate ongoing discussions to discuss a resolution of issues and their intention to pursue private mediation.

## **CONSOLIDATION**

[6] Although there was no motion before the Tribunal, the Applicant and City were *ad idem* that it would be appropriate to request that the Tribunal consolidate the hearing of these Appeals with an Appeal that remains before the Tribunal relating to Site and Area Specific Policy: Laird in Focus OPA 450, which includes SASP No. 568 - south of Eglinton Avenue East and west of Laird Drive ("OPA 450"), under Tribunal Case File No OLT-21-001727 (Legacy PL200376).

[7] The Tribunal was advised that there were other appeals in relation to OPA 450

which were subsequently resolved leaving only the site-specific Appeal brought by the Applicant relating to the Subject Property. Anticipating that the within Appeals would eventually be before the Tribunal, the Appeal of OPA 450 was essentially “parked” awaiting the advancement of the Applicant’s applications to these Appeals and the intended request to consolidate the Appeals.

[8] The commonality of subject matter and interwoven issues, the common Subject Property, involved counsel and the convenient point at which this request is being made all support an order for consolidation and there does not appear to be any prejudice to any party if the Appeals are heard together. The Tribunal however inquired with respect to whether any parties had been granted status in the remaining OPA 450 Appeal and it was confirmed that the Leaside Residents Association was granted Party status. As a result, there would, upon consolidation, be a party to one of the two proceedings who was not a party to the other proceeding. This minor concern was dealt with some expediency as Mr. Kettel, on behalf of Leaside, acknowledged that the Residents Association would have no difficulty consenting to have Participant status instead of Party status in the OPA 450 proceeding, upon the commitment of the Applicant and the City to invite the Leaside Residents Association into the mediation. As a result Leaside Residents Association will have Participant status in all Appeals.

[9] The only proviso to granting the requested Order related to the fact that the request for consolidation had not been advanced with formal notice to all parties in the OPA 450 proceeding, and this CMC was formally conducted only with respect to these Appeals. To remedy this Counsel for both the Applicant and the City undertook to make direct inquiries and confirm to the Tribunal before making the necessary order, that all other parties consented to, or had no objection to, the requested consolidation of the proceedings.

[10] The Tribunal subsequently received confirmation from counsel and accordingly the Tribunal hereby orders and confirms that:

(a) Leaside Residents Association shall now have status as a Participant, and

not as a Party, in Tribunal Case File No OLT-21-001727 (Legacy File No. PL200376); and

- (b) The appeal of OPA 450 (Tribunal Case File No. OLT-21-001727, Legacy PL200376) and these Appeals in Tribunal Case File No. OLT-22-004594 are hereby consolidated and Rule 16.2 shall apply with respect to the hearing of these consolidated proceedings.

## **FURTHER STEPS**

[11] The Parties are agreed that the consolidated proceedings may now stand down, and any further case management held in abeyance, until such time as they have determined the extent to which the issues may be resolved or require a hearing on the merits. A period of six months was suggested to provide the Tribunal with a status report.

[12] Accordingly, The Tribunal hereby directs that these consolidated Appeals will be held in abeyance by the Tribunal until such time as:

- (a) the Tribunal is in receipt of notification from the Parties that they are ready to again attend before the Tribunal for the purposes of either of the following:
1. convening a settlement hearing if the Parties have resolved all outstanding issues in the Appeals such that the Parties have received instructions to present a settlement of the Appeals to the Tribunal, and in that event counsel will provide a brief outline of the proposed settlement confirming that the settlement addresses all outstanding issues in the Appeals, and to the extent possible as of that date, also file any documentation not subject to privilege or confidentiality, confirming approval of the terms of the settlement by the Parties, including City Council. The Parties will also advise the Tribunal as to the earliest date that a one-day video settlement hearing may be scheduled by the Tribunal and provide any conflict dates for counsel and proposed witnesses within a 90-day period following that earliest date of availability for a settlement hearing; or

2. convening a further CMC for the purposes of constructive case management of the Appeals and consideration of a draft Procedural Order and Issues List, and/or to schedule a hearing on the merits of the consolidated Appeals,

or alternatively

- (b) the Tribunal is in receipt of a jointly submitted written status report from the Parties, to be filed not later than **Friday, August 25, 2023**,

whichever shall first occur. The Tribunal will thereafter schedule such CMC or other settlement hearing or other hearing events as are necessary based on the advice and requests of the Parties. If the parties require further time to consider their respective positions they will so advise the Tribunal and request an extension for the continued deferral of further case management in accordance with this paragraph.

[13] The Tribunal so orders and provides these CMC directives for the purposes of the case management of these appeals.

*“David L. Lanthier”*

DAVID L. LANTHIER  
VICE-CHAIR

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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