

Ontario Land Tribunal

Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: December 06, 2023

CASE NO(S): OLT-23-000141

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

Applicant and Appellant:	789 Don Mills Developments Inc.
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit a multi-phased development consisting of privately Owned Publicly Accessible Open Space (POPS) with below grade parking in the existing conference centre and residential towers
Reference Number:	22 184087 NNY 16 OZ
Property Address:	789-793 Don Mills Road and 10 Ferrand Drive
Municipality/UT:	Toronto/Toronto
OLT Case No.:	OLT-23-000141
OLT Lead Case No.:	OLT-23-000141
OLT Case Name:	789 Don Mills Developments Inc. v. Toronto (City)

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

Applicant and Appellant:	789 Don Mills Developments Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit a multi-phased development consisting of privately Owned Publicly Accessible Open Space (POPS) with below grade parking in the existing conference centre and residential towers
Reference Number:	22 184087 NNY 16 OZ
Property Address:	789-793 Don Mills Road and 10 Ferrand Drive
Municipality/UT:	Toronto/Toronto
OLT Case No.:	OLT-23-000143
OLT Lead Case No.:	OLT-23-000141

PROCEEDING COMMENCED UNDER subsection 114(15) of the *City of Toronto Act*, 2006, S.O. 2006, c. 11, Sched. A

Applicant and Appellant:	789 Don Mills Developments Inc.
Subject:	Site Plan
Description:	To permit a multi-phased development consisting of privately Owned Publicly Accessible Open Space (POPS) with below grade parking in the existing conference centre and residential towers
Reference Number:	22 184087 NNY 16 SA
Property Address:	789-793 Don Mills Road and 10 Ferrand Drive
Municipality/UT:	Toronto/Toronto
OLT Case No.:	OLT-23-000144
OLT Lead Case No.:	OLT-23-000141

Heard: November 15, 2023 by Video Hearing

APPEARANCES:

Parties

Counsel

789 Don Mills Developments Inc. ("Appellant")	C. Tanzola M. Cara
City of Toronto ("City")	L. Bisset (<i>"in absentia"</i>) J. Davidson
Donmeg Developments Limited	S. Tomasella (<i>"in absentia"</i>) J. Fraser

MEMORANDUM OF ORAL DECISION DELIVERED BY D. ARNOLD ON NOVEMBER 15, 2023 AND ORDER OF THE TRIBUNAL

[1] This second Case Management Conference ("CMC") was held to prepare for a hearing on the merits of the Appellant's appeals to the Tribunal of the failure or neglect of the City to make decisions with respect to the Appellant's applications for an Official Plan Amendment, a Zoning By-law Amendment, and Site Plan Approval within the respective prescribed statutory timelines ("Appeals") to permit the redevelopment of the lands municipally known as 789 to 793 Don Mills Road and 10 Ferrand Drive, in the City of Toronto ("Subject Property") including approximately 2,660 residential units.

ONTARIO HERITAGE ACT APPEAL (OLT FILE OLT-23-000953)

[2] At the outset the Appellant advised that an appeal has been filed by the Appellant with the Tribunal with respect to the City's By-law 743-2023 passed pursuant to the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended pertaining to the Subject Property ("OHA Appeal").

[3] The Appellant requested, with no opposition by the other parties, that the OHA Appeal be "carried forward administratively" with the OLT Files pertaining to the Appeals at this time as there is optimism that the OHA Appeal may be resolved through further discussion and settlement between the City and the Appellant.

[4] The Appellant advised the Tribunal that there are active settlement discussions underway with respect to resolution of the Appeals and requested that a subsequent CMC be scheduled in order to provide a status update on these settlement discussions. In addition, the Appellant requested, with no opposition by the other parties, that a hearing on the merits of the Appeals be scheduled in the event that a settlement is not achieved on some or all of the issues of the Appeals.

CASE MANAGEMENT CONFERENCE

[5] The Parties requested a third CMC in these proceedings to occur in March 2024 in order to provide an update regarding settlement discussions. Depending upon the status of those settlement discussions at that time, this third CMC may be converted to a settlement hearing (upon timely request to, and approval by, the Tribunal to convert this third CMC to a settlement hearing).

[6] Alternatively, a third CMC will be an opportunity for the Tribunal to consider a draft Procedural Order including Issues List ("PO") reflecting any settlement or narrowing of the issues for adjudication and consideration of whether some of the hearing dates may be released in respect of a hearing on the merits of the Appeals. The parties submitted a draft PO at this second CMC, including an issues list reflecting all issues of the Appeals. Given that settlement discussions are underway, however, the Tribunal directs that finalization of the PO await the outcome of these settlement discussions and that the parties submit a further revised draft PO at the third CMC which will reflect the then current outstanding issues on the merits of the Appeals.

[7] In view of the foregoing, the Tribunal concurs that it is appropriate to schedule a hearing on the merits of the Appeals and a third CMC in advance of such hearing, to take place as detailed below.

[8] A third CMC is scheduled to take place by video hearing on **Monday March 25, 2024, at 10 a.m.** in order to consider matters, including an update on the status of settlement discussions and consideration of a draft PO if a hearing on the merits of some or all of the issues of the Appeals will proceed. If the latter is the case, then the parties are directed to submit a draft PO reflecting the then current issues to be adjudicated on the merits of the Appeals by no later than **Wednesday March 20, 2024**. Depending upon the status of settlement amongst the parties at that time, the Tribunal will also consider at the third CMC the appropriateness of releasing some of the assigned hearing dates.

[9] In order to ensure a timely hearing on the merits of some or all of the issues of the Appeals should settlement discussions not result in full resolution of all issues, a hearing on the merits of the Appeals is scheduled to take place for **ten days** by video commencing on **Monday October 21, 2024, at 10 a.m.**

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

Monday, March 25, 2024, at 10 a.m. (One-Day CMC Hearing)

Go To Meeting: <https://global.gotomeeting.com/join/709076365>

Access code: 709-076-365

Audio-only telephone line: (Toll Free) 1-888-299-1889 or +1(647) 497-9373

Audio-only access code: 709-076-365

Monday, October 21, 2024, at 10 a.m. (Ten-Day Merit Hearing)

Go To Meeting: <https://meet.goto.com/278736685>

Access code: 278-736-685

Audio-only telephone line: (Toll Free) 1-888-455-1389 or +1 (647) 497-9391

Audio-only access code: 278-736-685

[11] 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>.

[12] 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: **Toll-Free 1-888-455-1389 or +1 (647) 497-9391**. The **access code** is indicated above.

[13] 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.

[14] The parties were encouraged to request, through the case co-ordinator, Tribunal-facilitated mediation to assist with settlement discussions should the parties deem it helpful potentially in this regard.

ORDER

[15] The Tribunal Orders as follows:

- (a) The Tribunal orders that a further Case Management Conference will be held on **Monday March 25, 2024, at 10.a.m.** by video hearing;
- (b) The parties are directed to provide the Tribunal, through its case co-ordinator, a revised draft PO by no later than **Wednesday March 20, 2024**, in the event that a hearing on the merits of the Appeals with respect to some or all of the issues remains necessary;
- (c) The hearing on the merits of the Appeals is scheduled to take place for 10 days commencing **Monday October 21, 2024, at 10 a.m.** for ten days by video;
- (d) The OHA Appeal File OLT-23-000953 will be “carried administratively” with respect to the Tribunal files comprising the Appeals but will not be the subject of a consolidation or hearing together order at this time. The parties will provide the Tribunal with an update on the status of the OHA Appeal at the third CMC; and,

- (e) The Member is not seized but will remain available for continued case management to the extent that the Tribunal calendar permits.

"D. Arnold"

D. ARNOLD
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca 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.