

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: May 28, 2024

CASE NO(S):

OLT-23-001176

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

Applicant and Appellant:

Westchester Limited

Subject:

Application to amend the Zoning By-law –
Refusal or neglect to make a decision

Description:

To permit the redevelopment of the site with six
residential towers in four separate buildings

Reference Number:

22 207468 WET 07 OZ

Property Address:

33 Walsh Avenue

Municipality/UT:

Toronto/Toronto

OLT Case No.:

OLT-23-001176

OLT Lead Case No.:

OLT-23-001176

OLT Case Name:

Westchester Limited v. Toronto (City)

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

Appellant:

Westchester Limited

Subject:

Site Plan

Description:

To permit the redevelopment of the site with six
residential towers in four separate buildings

Reference Number:

22 207467 WET 07 SA

Property Address:

33 Walsh Avenue

Municipality/UT:

Toronto/Toronto

OLT Case No.:

OLT-23-001177

OLT Lead Case No.:

OLT-23-001176

Heard:

May 16, 2024, by Video Hearing

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

Westchester Limited

Natalie Ast
Christopher Tanzola (*in absentia*)

City of Toronto

Michelle LaFortune
Jessica Amey (*in absentia*)

Greater Toronto Airports Authority

Chris Barnett

**MEMORANDUM OF ORAL DECISION DELIVERED BY C. HARDY AND A.
SNOWDON ON MAY 16, 2024 AND ORDER OF THE TRIBUNAL**

[1] This is the second Case Management Conference (“CMC”) relating to appeals brought pursuant to s. 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended and s. 114(15) of the *City of Toronto Act*, 2006, S.O. 2006, c. 11, Sched. A from the failure by the Council of the City of Toronto (“City”) to make a decision within the statutory timeframes with respect to applications for a Zoning By-law Amendment and a Site Plan Approval (“SPA”) respectively. The appeals have been filed by Westchester Limited (“Appellant”) regarding the property located at 33 Walsh Avenue (“Subject Property”).

[2] The first CMC was conducted on February 6, 2024, by a Panel differently constituted. At the first CMC, the Tribunal, among other things, adjourned the SPA appeal *sine die*, and granted Participant status to two individuals and set a 15-day Merit Hearing commencing on **Monday, February 3, 2025**.

[3] After the first CMC, the Parties requested that the Tribunal amend the hearing dates, which was subsequently approved by the Tribunal. The Merit Hearing is now scheduled for 13 days commencing on **Tuesday, February 18, 2025**, at **10 a.m.** and the Tribunal will not be sitting on **Monday, March 3, 2025**.

STATUS REQUESTS

[4] In advance of this CMC, the Tribunal was in receipt of one written request for Party status from the Greater Toronto Airports Authority ("GTAA"). The Subject Property is located in close proximity to Pearson International Airport, and as such, is subject to various limitations such as height restrictions and noise mitigation. GTAA was requesting Party status to assist the Tribunal in ensuring any development would not be an obstacle or pose a hazard to commercial aircraft operations. The Tribunal granted Party status to GTAA on consent of all the Parties.

[5] An additional Party status request was made prior to the second CMC by Salvatore Castiglione. Mr. Castiglione had requested Party status prior to the first CMC, but at the first CMC had instead opted to change his status request to Participant. Since then, he contacted the Tribunal Case Coordinator and requested changing to Party status going forward. He informed the Tribunal that he was concerned about community representation, amenities, park location, school access, traffic, and benefits in the local community. The Tribunal pointed out that the City's Issues List ("IL") addressed many of these concerns. Counsel for the City indicated that, while this may be true, they are not representing the interests of Mr. Castiglione or the community.

[6] Following a lengthy discussion, the Tribunal denied Mr. Castiglione's request for Party status explaining that a Party must assist the Tribunal in understanding and deciding upon the issues before it and given that his concerns were being raised by the City on the IL, his involvement in the appeals as a Participant is the most efficient way to proceed. Mr. Castiglione was informed that the deadline for Participant statements is Friday, December 20, 2024, and that his Participant statement would be considered by all Parties and the Tribunal. Mr. Castiglione stated that as long as his concerns are addressed, he would continue with Participant status.

[7] Participants are encouraged to submit updated or additional Participant statements early so that the Parties may consider them during discussions and hearing preparations.

OPPORTUNITIES FOR SETTLEMENT / MEDIATION

[8] The Parties jointly advised the Tribunal that they are having informal discussions and are not requesting Tribunal assisted mediation at this time.

DRAFT PROCEDURAL ORDER AND ISSUES LIST

[9] Prior to the commencement of the CMC, the City submitted a draft Procedural Order ("PO") and IL on consent as was directed at the first CMC. The GTAA advised that it has one issue with three sub-issues that will be added to the revised PO.

[10] During the CMC, the Tribunal and the Parties conducted a review of various timeframes set out in the draft PO.

[11] Ms. Ast, counsel for the Appellant, has agreed to submit a final PO and IL by end of day Friday, May 24, 2024. On Monday, May 27, 2024, a revised PO and IL was submitted to the Tribunal and is attached as **Schedule A** to this Decision. The revised PO and IL have been reviewed and approved by the Tribunal and will govern the pre-hearing procedural requirements and the hearing of the appeal.

[12] No further appearances are scheduled prior to the Merit Hearing.

ORDER

[13] The case management directives set out above are so ordered.

[14] This Panel is not seized, however, will remain available for case management subject to the Tribunal's calendar.

"C. Hardy"

C. HARDY
VICE CHAIR

"A. Snowdon"

A. SNOWDON
MEMBER

ONTARIO LAND TRIBUNAL

Website: 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.

SCHEDULE A**Ontario Land Tribunal**

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

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Web Site: olt.gov.on.ca

CASE NO(S): OLT-23-001176

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

Applicant and Appellant:	Westchester Limited
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit the redevelopment of the site with six residential towers in four separate buildings
Reference Number:	22 207468 WET 07 OZ
Property Address:	33 Walsh Avenue
Municipality/UT:	Toronto/Toronto
OLT Case No.:	OLT-23-001176
OLT Lead Case No.:	OLT-23-001176
OLT Case Name:	Westchester Limited v. Toronto (City)

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

Appellant:	Westchester Limited
Subject:	Site Plan
Description:	To permit the redevelopment of the site with six residential towers in four separate buildings
Reference Number:	22 207467 WET 07 SA
Property Address:	33 Walsh Avenue
Municipality/UT:	Toronto/Toronto
OLT Case No.:	OLT-23-001177
OLT Lead Case No.:	OLT-23-001176

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

Organization of the Hearing

2. The video hearing will begin on **Tuesday, February 18, 2025 at 10 a.m. at** <https://global.gotomeeting.com/join/709076365>
3. The parties' initial estimation for the length of the hearing is 13 days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. The parties and participants identified at the case management conference are set out in Attachment 1 (see Attachment 5 for the meaning of these terms).
5. The issues are set out in the Issues List attached as Attachment 2. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.
6. The order of evidence shall be as set out in Attachment 3 to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.
7. Any person intending to participate in the hearing shall provide a mailing address, email address and a telephone number to the Tribunal as soon as possible. Any person who retains a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
8. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's Video Hearing Guide, available on the Tribunal's website.

Requirements Before the Hearing

9. If the applicant intends to seek approval of a revised proposal at the hearing, the applicant shall provide copies of the revised proposal to the other Parties which for the purposes of this paragraph shall consist of all revised architectural plans, drawings and proposed instruments, on or before **Monday, October 21, 2024** (120 days prior to the start of the hearing). The applicant acknowledges that any revisions to the proposal after that date without the consent of the parties may be grounds for a request to adjourn the hearing.
10. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which the witnesses will be called. This list must be delivered on or before **Monday, October 21, 2024** (120 days prior to the start of the hearing) and in accordance with paragraph 24 below. A party who

intends to call an expert witness must include a copy of the witness' Curriculum Vitae, signed Acknowledgment of Expert Duty form and the area of expertise in which the witness is prepared to be qualified.

11. Any challenge to the qualification of a witness to give opinion evidence in the area of expertise proposed shall be made by motion in accordance with the Tribunal's Rules of Practice and Procedure and notice of same shall be served on the parties on or before **Friday November 22, 2024** (90 days prior to the start of the hearing).
12. Expert witnesses in the same field shall have at least one meeting before **Monday, November 25, 2024** (85 days prior to the start of the hearing) and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting, the parties must prepare and file a Statement of Agreed Facts and Issues with the OLT case co-ordinator on or before **Monday, December 2, 2024** (78 days prior to the start of the hearing).
13. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in paragraph 15 below. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony. For greater certainty, each expert witness statement must comply with the minimum content requirements specified in Rule 7 of the Tribunal's Rules of Practice and Procedure. If the expert witness has prepared any report(s) that they intend to rely on at the hearing, and which did not form part of the submissions made to the City, such report(s) shall be provided to the parties at the same time as the delivery of witness statements.
14. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence as in paragraph 15 below. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph 15 below.
15. On or before **Friday, December 20, 2024** (60 days prior to the start of the hearing), the parties shall provide copies of their witness statements and expert witness statements to the other parties and to the OLT case co-ordinator and in accordance with paragraph 24 below.
16. On or before **Friday, December 20, 2024** (60 days prior to the start of the hearing), a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 24 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
17. On or before **Friday, January 17, 2025** (32 days prior to the start of the hearing), the parties shall provide copies of any reply witness statements to the other parties and to the OLT case co-ordinator and in accordance with paragraph 24 below.

18. On or before **Monday, January 20, 2025** (*30 days prior to the start of the hearing*) the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
19. On or before **Tuesday, February 4, 2025** (*14 days prior to the start of the hearing*), the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 24 below. The Tribunal and all parties shall be notified if a model will be used and all parties must have a reasonable opportunity to view it before the scheduled commencement of the hearing.
20. The parties shall prepare a joint document book, which shall be filed with the Tribunal and served upon the Parties on or before **Friday February 7, 2025** (*10 days prior to the start of the hearing*).
21. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. *See Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.*
22. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.
23. The parties shall prepare and file a preliminary [hearing plan](#) with the Tribunal on or before **Tuesday February 11, 2025** (*7 days prior to the start of the hearing*) with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.
24. All filings shall be submitted electronically to the Tribunal, the parties and any participants. The Tribunal shall be provided with a hard copy of documents and materials in advance of the hearing event upon request. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the *Rule 7*. All documents filed with the Tribunal and served upon the parties shall be tabbed and digitally searchable and such materials shall be filed in accordance with directions contained in the Tribunal's Video Hearing Guide or as may be amended. This paragraph applies regardless if the hearing event is in-person or electronic.
25. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness or as permitted in paragraph 9. The Tribunal's Rule 17 applies to such requests.

Attachment 1 – List of Parties

Parties

1. Westchester Limited

Chris Tanzola, ctanzola@overlandllp.ca

Natalie Ast, nast@overlandllp.ca

2. City of Toronto

Jessica Amey, Jessica.Amey@toronto.ca

Michelle LaFortune, michelle.lafortune@toronto.ca

3. Greater Toronto Airports Authority

Chris Barnett, cbarnett@osler.com

Participants

Salvatore Castiglione, samcastiglione1@outlook.com

Anthony Perruzza, Councillor_Perruzza@toronto.ca

Attachment 2 – List of Issues

NOTE: The identification of an issue on the Issues List does not constitute an acknowledgement by the OLT or any Party that such issue, or the manner in which the issue is expressed, is either appropriate or relevant to the determination of the OLT at the hearing. The extent to which these issues are appropriate or relevant to the determination of the OLT at the hearing will be a matter of evidence and argument at the hearing. The identification of an issue on this list by a Party indicates that Party's intent to lead evidence or argue that the issue is relevant to the proceeding, for the purpose of fairly identifying to the other Parties the case they need to meet and shall not be construed as the OLT having jurisdiction over such matters in each circumstance. Accordingly, no Party shall advance an issue not identified on the Issues List without leave of the OLT.

Issues List of the City of Toronto

Planning Act

1. Does the proposed development have appropriate regard to the matters of provincial interest as set out in Section 2 of the Planning Act, including but not limited to subsections (f), (h), (p), (q), (r)?

Provincial Policy Statement

2. Is the proposed development consistent with the Provincial Policy Statement, 2020, including but not limited to policies 1.1.1, 1.1.3.2, 1.1.3.3, 1.1.3.4, 1.1.3.6, 1.5.1, 1.6.1, 1.6.6.1, 1.6.9, 1.7, and 4.6?

Growth Plan

3. Does the proposed development conform with and not conflict with the Growth Plan for the Greater Golden Horseshoe, 2020, including but not limited to sections 1.2.1, 2.2.1.2, 2.2.1.4, 2.2.4.10, 2.2.5.7, 3.2.1, 3.2.6, 3.2.7?

City Of Toronto Official Plan

4. Does the proposed development conform with the policies of the City of Toronto Official Plan, including but not limited to the following:
 - a. Structuring Growth in the City (Policy 2.2(2));
 - b. Healthy Neighbourhoods (Section 2.3.1, 2.3.2);
 - c. Bringing the City Together, Transportation (Section 2.4);
 - d. Public Realm (Section 3.1.1);

- e. Built Form (Sections 3.1.3, and 3.1.4);
 - f. Parks and Open Spaces (Section 3.2.3);
 - g. Apartment Neighbourhoods Areas (Section 4.2)
 - h. Implementation (5.1.2, 5.1.3(4), 5.3.1, 5.6)?
5. Does the proposed development fulfill the requirements specified in Site and Area Specific Policy 67 in regard to:
- a. The convenience retail component; and
 - b. The provision of public art.

Guidelines

6. Does the proposed development have appropriate regard for and meet the intent and purpose of applicable City of Toronto Guidelines and standards, including but not limited to:
- a. Tall Building Design Guidelines;
 - b. Mid-Rise Buildings Performance Standards and Addendum;
 - c. Growing Up Guidelines: Planning for Children in New Vertical Communities (2020);
 - d. Pet Friendly Design Guidelines for High Density Communities and Best Practices for New Multi-Unit Buildings;
 - e. Retail Design Manual;
 - f. Streetscape Manual;
 - g. Development Infrastructure Policy and Standards (DIPS);
 - h. Toronto Accessibility Design Guidelines;
 - i. Complete Streets Guidelines; and
 - j. Toronto Green Standard?

Site-Specific Issues

Site Organization, Built Form, Height, Massing and Density

7. Is the site organization and built form of the proposed development appropriate, including:
- a. Is the proposed tall building massing located along Walsh Avenue appropriate?
 - b. Is the siting of the proposed buildings appropriate?
 - c. Is the height, massing and setbacks of the proposed tower base buildings appropriate?
 - d. Are the proposed building entrances and tower frontage appropriate in relation to public streets and sidewalks?
 - e. Are the proposed tower step backs and separation distances appropriate?
 - f. Are the proposed tower heights appropriate?
 - g. Are the proposed tower floor plate sizes appropriate?

- h. Does the proposed development provide an appropriate transition to surrounding land uses and built form?
 - i. Is the amount and location of amenity space appropriate for the development?
 - j. Is the proposed development appropriately organized and massed to limit shadow impacts and provide access to direct sunlight and daylight on the surrounding streets, proposed open spaces, proposed public park and outdoor amenity?
 - k. Does the proposed development limit the impact of pedestrian level wind on the public realm and amenity areas?
8. Is the proposed development appropriately organized to provide a site layout that limits the points of conflict between vehicles and pedestrians, and creates a pleasant environment for pedestrian activity?
9. Does the proposed development protect for the required right-of-way widening in accordance with the Official Plan?

Site Access, Parking, Loading and Transportation Demand Management

10. Does the proposed development consolidate and reduce vehicular loading and driveways to provide dedicated areas for pedestrians and open spaces?
11. Does the proposed development promote pedestrian safety and security?
12. Does the proposed site organization, layout and vehicular access support the City's Complete Streets approach? Does the proposed development appropriately expand and connect to the network of public streets?
13. Does the proposed development appropriately provide for site access and mitigate traffic impacts?
14. Does the proposed development plan for active transportation?
15. Does the proposed development provide sufficient TDM measures, loading spaces, and vehicular and bicycle parking spaces?
16. Is the location of the parking and loading spaces appropriate?

Servicing

17. Has it been demonstrated that there is adequate municipal infrastructure in place to support the proposed development? Is there adequate sanitary, storm and water capacity available, and appropriate stormwater and groundwater management?
18. Should a holding ("H") symbol be imposed on any Zoning By-law Amendment for the lands until such time as sufficient municipal infrastructure is in place to support the proposed development, including any required improvements and/or upgrades to municipal infrastructure?

Proposed Parkland Conveyance

19. Is the proposed public parkland dedication appropriate in terms of the location, quantity, quality, and interface with surrounding buildings and public realm?
20. Does the proposed public parkland dedication meet the requirements of §415-26 of the Toronto Municipal Code?

Urban Forestry

21. Does the proposed development provide adequate preservation and/or protection of existing trees on the site?
22. Does the proposed development provide adequate soil volume and replacement tree plantings?

Public Interest and Good Planning

23. In light of the foregoing issues, do the proposed development and proposed Zoning By-law Amendment represent good planning and good urban design, and is approval of the proposal in the public interest?

Conditions

24. In the event that the Ontario Land Tribunal allows the appeals in whole or in part, should the Tribunal withhold its Order(s) on the Zoning By-law Amendment until City Solicitor has confirmed that the following conditions have been satisfied:
 - a. The final form and content of the draft Zoning By-law Amendment is to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.

- b. The owner has addressed all outstanding issues identified within the Engineering and Construction Services Part I – Re-zoning Application correspondence, dated November 22, 2023, or as revised, to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services.
- c. The owner has submitted a Functional Servicing and Stormwater Management Report to determine the stormwater runoff, sanitary flow and water supply demand resulting from the proposed development, and whether there is adequate capacity in the existing municipal infrastructure to accommodate the proposed development to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services.
- d. The owner has submitted a revised Traffic Impact Study to the satisfaction of the General Manager, Transportation Services, the Chief Engineer and Executive Director of Engineering and Construction Services and the Chief Planner and Executive Director, City Planning.
- e. Should it be determined that upgrades are required to the infrastructure to support the development according to the accepted Functional Servicing and Stormwater Management Report and/or the Transportation Impact Study, City Council direct the City Solicitor and appropriate City staff to request that a Holding Provision be included in the final form of the site-specific Zoning By-law Amendment and the Holding Provision not to be lifted until such a time as the owner has made satisfactory arrangements, including entering into appropriate agreement(s) with the City for the design and construction of any improvements to the municipal infrastructure and the provision of financial securities to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services and General Manager, Transportation Services.
- f. The owner has submitted a revised Hydrological Assessment Report, and Hydrological Review Summary Form, Servicing Report Groundwater Summary Form and Foundation Drainage Summary Form to determine the quality and quantity of groundwater that may be required to be discharged to the City sewage works as a result to of a proposed development and comply with Foundation drainage policy and guidelines to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services and the General Manager, Toronto Water.
- g. The owner has addressed all transportation related issues identified in Section A1.1 of the memorandum from Engineering and Construction Services, dated November 22, 2023, to the satisfaction of the General Manager, Transportation Services and the Chief Engineer and Executive Director of Engineering and Construction Services.
- h. The owner has addressed all outstanding issues identified in the Toronto Transit Commission memorandum, dated October 11, 2022, to the satisfaction of the Chief Executive Officer, Toronto Transit Commission, the General Manager,

Transportation Services, and the Chief Planner and Executive Director, City Planning.

- i. The owner has submitted revised Landscape and Planting Plans to the satisfaction of the General Manager, Parks, Forestry and Recreation.
- j. The owner has provided an on-site parkland dedication that is free and clear, above and below-grade, of all easements, encumbrances and encroachments, and in a size, location and configuration that is to the satisfaction of the General Manager, Parks, Forestry and Recreation.
- k. The owner has submitted an Energy Strategy Report to the satisfaction of the Executive Director, Environment and Climate Division.
- l. The submitted Air Quality and Land Use Compatibility Assessment, and Transportation Noise and Vibration Assessment, both dated August 31, 2022 and authored by Gradient Wind Engineers and Scientists, have been peer reviewed by a third-party consultant retained by the City at the owner's expense to confirm there are no negative impacts on the proposed development or surrounding uses, and the owner agrees to implement any necessary air quality, noise, vibration or land use compatibility control measures and recommendations identified through the peer review, with the control measures to be secured through the Site Plan Control process, to the satisfaction of the Chief Planner and Executive Director, City Planning.
- m. The owner has submitted a revised Pedestrian Level Wind Study to the satisfaction of the Chief Planner and Executive Director, City Planning.

Issues List of GTAA

1. Is the proposed development consistent with policy 1.6.9 of the Provincial Policy Statement. In particular:
 - a. Is the long term operation and economic role of Lester B. Pearson International Airport (LBPIA) protected?
 - b. Is development of the site for residential uses appropriate given the location of the NEF/NEP noise contours?
 - c. Do the proposed heights interfere with aviation safety, and are they consistent with the Airport Zoning Regulation and ICAO Type A Surfaces?

Attachment 3 – Order of Evidence

1. Appellant, Westchester Limited
2. City of Toronto
3. Other Parties
4. Appellant, Westchester Limited (in reply)

Attachment 4 – Summary of Exchange Dates

Date	Event
October 21, 2024 (120 days prior to the hearing)	Last date to provide copies of revised proposal, including revised plans and draft instruments (if any)
October 21, 2024 (120 days prior to hearing)	Exchange of witness lists (names, disciplines and order to be called)
November 22, 2024 (90 days prior to hearing)	Last date to challenge qualification of expert witnesses
November 25, 2024 (85 days prior to hearing)	Experts meeting(s) prior to this date
December 2, 2024 (78 days prior to hearing)	Deadline to File any Agreed Statement(s) of Facts
December 20, 2025 (60 days prior to hearing)	Exchange of witness statements and experts reports, participant statements (if any), and summoned witness outlines (if any)
January 17, 2025 (32 days prior to hearing)	Exchange of reply witness statements (if any)
January 20, 2025 (30 days prior to hearing)	Parties to advise if any hearing dates can be released
February 4, 2025 (14 days prior to hearing)	Exchange of visual evidence (if any)
February 7, 2025 (10 days prior to hearing)	Filing of Joint Document Book
February 11, 2025 (7 days prior to hearing)	Filing of hearing plan
February 18, 2025	Hearing commences (13 days)

Attachment 5

Meaning of terms used in the Procedural Order:

A **party** is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. An **unincorporated group** cannot be a party and it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer and may have an agent speak for them. The agent must have written authorisation from the party.

NOTE that a person who wishes to become a party before or at the hearing, and who did not request this at the case management conference (CMC), must ask the Tribunal to permit this.

A **participant** is an individual or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Section 17 of the Ontario Land Tribunal Act states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal. A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.

A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.

Written evidence includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material.

Visual evidence includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss; and a list of reports or materials that the witness will rely on at the hearing.

An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons supporting their opinions and conclusions and (5) a list of reports or materials that the witness will rely on at the hearing. An expert witness statement must be accompanied by an acknowledgement of expert's duty.

A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a statement of the participant's position on the appeal; a

list of the issues which the participant wishes to address and the submissions of the participant on those issues; and a list of reports or materials, if any, which the participant wishes to refer to in their statement.

Additional Information

*A **summons** may compel the appearance of a person before the Tribunal who has not agreed to appear as a witness. A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons through a request. (See [Rule 13](#) on the summons procedure.) The request should indicate how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the information provided in the request that the evidence is relevant, necessary or admissible, the party requesting the summons may provide a further request with more detail or bring a motion in accordance with the Rules.*

***The order of examination of witnesses** is usually direct examination, cross-examination and re-examination in the following way:*

- *direct examination by the party presenting the witness;*
- *direct examination by any party of similar interest, in the manner determined by the Tribunal;*
- *cross-examination by parties of opposite interest;*
- *re-examination by the party presenting the witness; or*
- *another order of examination mutually agreed among the parties or directed by the Tribunal.*