

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: May 20, 2026

CASE NO(S): OLT-25-000816

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

Applicant and Appellant:	1985780 Ontario Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision to facilitate the development of three 14- storey apartment buildings
Description:	
Reference Number:	OZ-9508
Property Address:	1470-1474 Highbury Avenue North
Municipality/UT:	City of London
OLT Case No.:	OLT-25-000816
OLT Lead Case No.:	OLT-25-000816
OLT Case Name:	1985780 Ontario Inc. v. London (City)

Heard: April 13, 2026, by Video Hearing

APPEARANCES:

Parties

1985780 Ontario Inc.

City of London

Counsel

Analee Baroudi

Aynsley Hovius
Laura McFalls

MEMORANDUM OF ORAL DECISION DELIVERED BY YASNA FAGHANI ON APRIL 13, 2026 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This is the first Case Management Conference (“CMC”) for the above-noted matter. The Applicant, 1985780 Ontario Inc., has filed an appeal against the City of London’s (“City”) refusal of an application for a Zoning By-Law Amendment (“ZBA”) pursuant to s. 34(11) of the *Planning Act*. The subject property is municipally known as 1470-1474 Highbury Avenue in the City.

[2] The purpose of the ZBA is to facilitate the development of three 14-storey buildings.

[3] There were no issues identified with the Affidavit of Service sworn by Hesham Baroudi dated March 25, 2026 (marked as **Exhibit 1**), and as such, no further Notice is required.

PARTY/PARTICIPANT STATUS REQUEST

[4] The Tribunal received Party Status requests from Shawn Harrington and Jamie McNeil, and a Participant Status request from David Gale. The Tribunal explained the difference between a Party and Participant’s role in the proceedings and answered and clarified the individuals’ questions.

[5] Mr. Harrington is a neighbouring property owner. His property abuts the east edge of the subject property. He expressed concerns related to the impact of property values, the height and density of the proposed buildings, as well as compatibility of the proposed buildings with the neighbourhood. He advised that he would not be calling any witnesses. Counsel for the Applicant opposed the Party Status request but advised she consented to Mr. Harrington being granted Participant status. She said the expectation of a Party is to call witnesses, and the issues identified by Mr. Harrington are already

captured by the City on the draft issues list (for example, hydrogeological, density and compatibility issues). The Applicant will be expected to address the issues and demonstrate a lack of negative impacts via expert evidence. She further advised that the City will also be calling experts in this regard and, as such, Mr. Harrington's concerns will be addressed.

[6] The City did not oppose Mr. Harrington's Party Status request. She said a Party has no obligation to call a witness and can ask questions as necessary. With that said, she also agreed to Mr. Harrington changing his status to Participant if he chose to do so. The Tribunal answered more questions from Mr. Harrington, namely the cost consequences and the ability for a Party to change status at various stages of the proceedings. After some consideration Mr. Harrington requested to change his status request to Participant. The Tribunal granted Participant status to Mr. Harrington.

[7] Mr. McNeil is also a neighbouring property owner. His property is directly behind the subject property. His concerns related to hydrological issues, loss of privacy, and shadow impacts due to the height of the buildings amongst other issues. After hearing the Tribunal's comments regarding the difference between a Party and Participant, as well as clarifying his specific questions such as how his concern as a Participant would be addressed, Mr. McNeil requested to change his status request to Participant. Neither Counsel for the Applicant nor City opposed the change in status request. Of note, Mr. McNeil was advised by the Tribunal that the expectation is that the Parties' witnesses will address the Participant concerns and provide their opinion regarding the identified issues. The Tribunal granted Participant Status to Mr. McNeil.

[8] Regarding the Participant request of David Gale, Counsel for the Applicant and Counsel for the City advised that they had not received said request. Mr. Gale was also not in attendance at the Hearing. His concerns were the drainage of a nearby stream, impact of tree removal, and loss of privacy amongst other concerns. Both Counsel said they do not generally oppose Participant status requests, but requested the opportunity to review the request and provide their respective positions on granting the Participant

Status request. After the review of the Participant Status request, the Parties did not oppose the status request. The Parties agreed most of the concerns raised have already been identified by the Parties and would already be addressed. The Tribunal notes that the attendance of those seeking status requests, especially Party Status, is important. With that said, since the concerns raised by Mr. Gale are already being considered and there was no opposition from the Parties to that Participant Status, the Tribunal granted the request to Mr. Gale.

MEDIATION/OPPORTUNITIES FOR SETTLEMENT

[9] The Tribunal canvassed the Parties' interest in a Tribunal-led mediation. Counsel for the Applicant advised that she and Counsel for the City will have discussions with respect to scoping issues. She advised her client is open to discussions on a without-prejudice basis, and this is the preferred approach versus mediation. Counsel for the City was not opposed to this approach.

NEXT STEPS

[10] Counsel for the Applicant advised that she and Counsel for the City are requesting hearing dates in February of 2027. Counsel for the Applicant said she would be calling experts in the area of land use planning, hydrogeology, ecology, and urban design. Counsel for the City also said she would estimate calling four witnesses. The Parties requested a ten-day Hearing.

[11] A draft Procedural Order was provided to the Tribunal prior to the CMC. Counsels advised that they are working on finalizing the Procedural Order, including the Issues List. The Tribunal directed the Parties to work with each other and file a final draft Procedural Order by **Monday, April 27, 2026**.

[12] After hearing and considering the submissions of the Parties, the Tribunal agreed to schedule the Hearing on **Monday February 1st, 2027, to Friday, February 12, 2027.**

[13] Parties and/or Participants are asked to log in to the event at least **15 minutes** before it begins to test their video and audio connections:

GoTo Meeting: <https://meet.goto.com/348282861>

Access code: 348-282-861

[14] Parties and/or 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 [GoTo Meeting](#), or a web application is available:

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

[15] Persons who experience technical difficulties accessing the GoTo Meeting application, or who only wish to listen to the event can connect to the event by calling in to an audio-only telephone line: **+1-647-497-9373 or (Toll-free) +1-888-299-1889. The access code is as indicated above.**

[16] 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 event to ensure that they are properly connected at the correct time. Questions prior to the event may be directed to the Tribunal's Case Coordinator.

[17] As of March 30, 2026, all hearing events are governed by the Tribunal's [Artificial Intelligence Practice Direction](#). This Practice Direction requires a party, participant, or witness to include a declaration within each submitted document if generative AI was used to create or generate content.

ORDER**[18] THE TRIBUNAL ORDERS THAT:**

- a. A ten-day Hearing is scheduled to proceed with details provided earlier in this Decision.
- b. The Procedural Order, attached as **Attachment “A”** to this Decision, is approved.

“Yasna Faghani”

YASNA FAGHANI
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.

ATTACHEMENT “A”**Ontario Land Tribunal**

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

Tel: 416-212-6349 | 1-866-448-2248

Web Site: olt.gov.on.ca

ISSUE DATE: May 20, 2026**CASE NO(S):** OLT-25-000816**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act, R.S.O. 1990, c.P.13, as amended*

Applicant/Appellant: 1985780 Ontario Inc.
 Subject: Request to amend Zoning By-law – Refusal or neglect to make a decision
 Description: To facilitate the development of three 14-storey apartment buildings
 Reference Number: OZ-9508
 Property Address: 1470-1474 Highbury Avenue North
 Municipality/UT: City of London
 OLT Case No.: OLT-25-000816
 OLT Lead Case No.: OLT-25-000816
 OLT Case Name: 1985780 Ontario Inc. v. London (City)

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 February 1, 2027 at 10:00am
3. The parties' initial estimation for the length of the hearing is 10 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 the sample procedural order 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 should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining 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.
9. A party, participant, or witness who intends to submit document(s) to the Tribunal must include a declaration within each submitted document if generative AI was used to create or generate content. A declaration is not required if AI was used to merely suggest changes, provide recommendations, or critique content already created by a human who then considered and manually implemented the changes.

Requirements Before 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 they will be called. This list must be delivered on or before October 16, 2026 and in accordance with paragraph 22 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.
11. Expert witnesses in the same field shall have a meeting on or November 6, 2026 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 November 13, 2026.
12. 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 14 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.
13. 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 14 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 14 below.

14. On or before December 18, 2026, the parties shall provide copies of their [witness and] expert witness statements to the other parties and to the OLT case co-ordinator and in accordance with paragraph 23 below.
15. On or before December 18, 2026, a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 23 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
16. On or before December 18, 2026 the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
17. On or before December 18, 2026 the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 22 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
18. Parties may provide to all other parties and the OLT case co-ordinator a written response to any written evidence on or before January 15, 2027 and in accordance with paragraph 23 below.
19. The parties shall cooperate to prepare a joint document book which shall be shared with the OLT case co-ordinator on or before January 22, 2027.
20. 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.*
21. 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.
22. The parties shall prepare and file a preliminary [hearing plan](#) with the Tribunal on or before January 22, 2027 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.

23. All filings shall be submitted electronically unless otherwise directed. 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*.

24. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

This Member is not seized.

So orders the Tribunal.

BEFORE:

Name of Member:

Date:

TRIBUNAL REGISTRAR

SUMMARY OF DATES

Date	Event
October 16, 2026	Exchange of witness lists (names, disciplines and order to be called)
November 6, 2026	Experts meeting prior to this date, if such a meeting occurs
November 13, 2026	Agreed Statement of Facts, if meeting occurs and matters agreed to
December 18, 2026	Exchange of Witness Statements, summoned witness outlines, Expert Reports and Participant Statements
December 18, 2026	Parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
December 18, 2026	Exchange of visual evidence (if any)
January 15, 2027	Written response to any written evidence, if any
January 22, 2027	Final Hearing Plan filed with the Tribunal
January 22, 2027	Finalize Joint Document Book
February 1, 2027	Hearing commences (10 days)

ATTACHMENT 1 – PARTIES AND PARTICIPANTS**PARTIES**

1. Appellant – 1985780 Ontario Inc.
2. Municipality – City of London

PARTICIPANTS

1. Shawn Harrington
2. Jamie McNeil
3. David Gale

ATTACHMENT 2 – ISSUES LIST

NOTE: The identification of an issue on the Issues List does not constitute an acknowledgement by the Tribunal or any Party that the issue is relevant or appropriate, or that the Tribunal has jurisdiction over it. The identification of an issue by a Party indicates that Party's intent to tender evidence and/or make submissions on it, for the purpose of fairly identifying to the other Parties the case they need to meet. No Party shall make submissions or tender evidence on an issue not identified on the Issues List without leave of the Tribunal.

Hydrogeology

1. Has the Appellant demonstrated, through its Hydrogeological Assessment, that the proposed works will not result in adverse impacts to the water table, groundwater resources, wetlands and nearby private wells in the short term and the long term?
2. If the answer to issue 1 is "no", can any remaining hydrogeological concerns be addressed through the site plan approval process and a holding provision?
3. Is the level of detailed hydrogeology information being requested by the City appropriate for the re-zoning stage of development?
4. Are the proposed amendments consistent with the following sections of the Provincial Planning, 2024:
 - a. 3.6.1_c
 - b. 3.6.1_d
 - c. 4.2.1_d
 - d. 4.2.1_e
 - e. 4.2.1_f
 - f. 4.2.2
5. London Plan – do the proposed amendments conform to the following policies of the London Plan:
 - a. 474_13
 - b. 475_1(h)
 - c. 1301
 - d. 1302

- e. 1308_3
- f. 1309
- g. 1301
- h. 1362
- i. 1363
- j. 1364
- k. 1516_3
- l. 1552
- m. 1555
- n. 1635_5(b)

Ecology

- 6. Has the Appellant demonstrated that there will be no negative impacts on the wetland located on this site?
- 7. Is it premature to approve the proposed development without the proponent demonstrating there are no short-term and/or long-term net negative impacts to the wetland and hydraulically-connected shallow groundwater table on the site?
- 8. Provincial Planning Statement – are the proposed amendments consistent with the following sections of the Provincial Planning Statement with respect to natural heritage:
 - a. 2.1.1
 - b. 4.1.1
 - c. 4.1.8
 - d. 4.1.4
 - e. 4.1.5
 - f. 4.1.6
 - g. 5.1
 - h. 5.2
- 9. London Plan – do the proposed amendments conform to the following policies of the London Plan:
 - a. 120
 - b. 1293
 - c. 1308_3
 - d. 1322
 - e. 1335
 - f. 1432
 - g. Map 5- Natural Heritage

- h. Map 6- Hazards and Natural Resources
- i. Map 1-Place Type

Planning – Use Intensity and Form

10. Is the zoning bylaw amendment application premature due to the lack of sufficient supporting information to determine the impacts of the proposed development?
11. Has the Appellant demonstrated that there will be no negative impacts to the ability of adjacent lands to develop in a compatible and coordinated manner pursuant to the intent of The London Plan?
12. Is the proposed development good planning and in the public interest?
13. Provincial Planning Statement – are the proposed amendments consistent with the following sections of the Provincial Planning Statement with respect to use, intensity and form:
 - a. 2.4.1.1
 - b. 2.4.1.3.c
 - c. 3.6.1.c
 - d. 3.6.1.d
14. London Plan – do the proposed amendments conform to the following policies of the London Plan:
 - a. 1577
 - b. 1578
 - c. 1579
 - d. 58
 - e. 58_4
 - f. 58_13
 - g. 61_1,3
62_9,10
 - h. 153
 - i. 154_8
 - j. 935
 - k.
 - l. 938
 - m. 940

- n. 918_13
- o. 298
- p. 953_2
- q. 954- 1989 Official Plan
- r. 955
- s. 958_1
- t. 958_3
- u. 958_5
- v. 1772
- w. Map 2—High Density Residential Overlay from 1989 Official Plan)

Urban Design

15. Does the proposed development represent an appropriate transition in height from adjacent developments?
16. Are the building and tower setbacks from adjacent lots appropriate?
17. Is the on site tower separation distance appropriate?
18. Is the separation distance between the north and south buildings appropriate?
19. Is the proposed reduced front yard setback appropriate?
20. Will the development as designed result in unacceptable adverse impacts on adjacent properties in the form of shadowing, loss of privacy and amenity through overlook, constraint on future development of adjacent lands and visual mass impact
21. London Plan – do the proposed amendments conform to the following policies of the London Plan:
 - a. 293
 - b. 298
 - c. 292
 - d. 935_3
 - e. 958_3
 - f. 958_5
 - g. 252
 - h. 253
 - i. 255

- j. 228
- k. 259
- l. 286
- m. 61_3
- n. 62_9
- o. 62_10
- p. 953_2
- q. 1578_7
- r. 1578_6. g
- s. 1578_6. h
- t. 1578_6. i

ATTACHMENT 3 – ORDER OF EVIDENCE

1. Appellant – 1985780 Ontario Inc.
2. Municipality – City of London