

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: July 6, 2015

CASE NO(S): PL140905
PL141112
PL141113

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	2401 Eglinton Avenue West Ltd.
Appellant:	90 Eglinton West Limited
Appellant:	Armel Corporation
Appellant:	Skypod View Inc.
Appellant:	Leaside Property Owners Association Incorporated
Appellant:	Upper Village Investments Ltd.
Appellant:	Solray Investments Limited
Appellant:	Swansea Area Ratepayers' Association
Appellant:	Hullmark (313 Eglinton) Ltd.
Appellant:	RioCan Holdings (Sunnybrook) Inc.
Appellant:	Confederation of Resident & Ratepayer Associations (CORRA)
Appellant:	White Bell Investments Limited
Appellant:	Duffmits Holdings Inc.
Appellant:	Gabriel Properties (2006) Inc.
Appellant:	Avenue Road Eglinton Community Association (ARECA)
Subject:	Proposed Official Plan Amendment No. OPA 253
Municipality:	City of Toronto
OMB Case No.:	PL140905
OMB File No.:	PL140905
OMB Case Name:	Armel Corporation v. Toronto (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	2401 Eglinton Avenue West Ltd.
Appellant:	346-350 Eglinton Avenue West Holdings Ltd.

Appellant: 352-356 Eglinton Avenue West Holdings Ltd.
 Appellant: Solray Investments Limited
 Appellant: Swansea Area Ratepayers' Association
 Appellant: Leaside Property Owners Association
 Incorporated
 Appellant: Rizwan Jiwan
 Appellant: Hullmark (313 Eglinton) Ltd.
 Appellant: Armel Corporation
 Appellant: Skypod View Inc.
 Appellant: Gabriel Properties (2006) Inc.
 Appellant: Avenue Road Eglinton Community Association
 Appellant: Confederation of Resident & Ratepayer
 Associations
 Appellant: Upper Village Investments Ltd.
 Subject: By-law No. 1030-2014
 Municipality: City of Toronto
 OMB Case No.: PL140905
 OMB File No.: PL141112

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Confederation of Resident and Ratepayer
 Associations in Toronto (CORRA)
 Appellant: Swansea Area Ratepayers' Group
 Subject: By-law No. 1031-2014
 Municipality: City of Toronto
 OMB Case No.: PL140905
 OMB File No.: PL141113

Heard: June 30, 2015 in Toronto, Ontario

APPEARANCES:

Parties

Counsel*/Representative

2401 Eglinton Avenue West Ltd.	N. Smiley*
90 Eglinton West Limited and Solray Investments Ltd.	A. Brown*
Armel Corporation	S. Zakem*

Skypod View Inc. and Gabriel Properties (2006) Inc.	S. Zakem* (as agent only)
Leaside Property Owners Association Incorporated	G. Kettel
Bateg and Upper Village Investments Ltd.	P. Devine*
Swansea Area Ratepayers' Association	(absent)
Hullmark (313 Eglinton) Ltd.	C. Higgs and P. Patterson
RioCan Holdings (Sunnybrook) Inc.	RioCan Holdings (Sunnybrook) Inc.
Confederation of Resident & Ratepayer Associations (CORRA)	E. Denny
White Bell Investments Limited and Duffmits Holdings Inc.	J. Dawson*
Avenue Road Eglinton Community Association (ARECA)	E. Denny (P. Smyth absent)
City of Toronto	S. Bradley*

APPEARANCES FOR PL141112:**Parties****Counsel**

346-350 Eglinton Avenue West Holdings Ltd.	D.A. Trinaistich*
352-356 Eglinton Avenue West Holdings Ltd.	D.A. Trinaistich*
Armel Corporation	S. Zakem*
Skypod View Inc. and Gabriel Properties (2006) Inc.	S. Zakem* (agent)
Leaside Property Owners Association Incorporated	G. Kettel

Bateg and Upper Village Investments Ltd.	P. Devine*
Solray Investments Ltd.	A. Brown*
Swansea Area Ratepayers' Association	(absent)
Hullmark (313 Eglinton) Ltd.	C. Higgs
Confederation of Resident & Ratepayer Associations (CORRA)	E. Denny
Avenue Road Eglinton Community Association (ARECA)	E. Denny (P. Smyth absent)
City of Toronto	S. Bradley*

APPEARANCES FOR PL141113:

<u>Parties</u>	<u>Counsel*/Representative</u>
Swansea Area Ratepayers' Association	(absent)
Confederation of Resident & Ratepayer Associations (CORRA)Holdings Ltd.	E. Denny
City of Toronto	Steven Bradley*

MEMORANDUM OF ORAL DECISION DELIVERED BY R. ROSSI ON JUNE 30, 2015 AND ORDER OF THE BOARD

[1] This case before the Ontario Municipal Board ("Board") involves appeals of Official Plan Amendment No. 253 ("OPA"), initiated by the City of Toronto ("City"), which implements the Eglinton Connects Planning Study Area ("Study Area"). OPA 253 applies to a lengthy portion of Eglinton Avenue extending from Jane Street to Laird Drive. Its purpose is to implement certain changes to land use designations within the Study Area, to enact various comprehensive planning approaches and to permit among

other things the sale of parkland to Metrolinx for rapid transit purposes. Also included in this appeal are various appeals of two implementing Zoning By-laws: Nos. 1030-2014 and 1031-2014. This is the first pre-hearing conference (“PHC”) before the Board.

Ratepayer Groups/Residents Associations

[2] Geoff Kettel, representative of the Leaside Property Owners Association Inc., articulated for the Board the nature of his Association’s appeal and its planning concerns related to the City-initiated OPA. Mr. Kettel’s suggestion for mediation assessment was not accepted by the City solicitor Steven Bradley although the possibility for a future assessment might arise following the late-2015 second PHC.

[3] The Board also asked the representative of CORRA and ARECA to identify the nature of their appeals of the OPA and the two By-laws. CORRA’s agent, Eileen Denny expressed this Appellant’s concerns surrounding due process at the municipal level only but she added that there are also planning grounds for this Appellant’s appeals. These were not identified, however. The Board advised Ms. Denny that CORRA’s appeal and its involvement in the Board’s process must be based on planning grounds – matters for which this Board is legislated to adjudicate. Ms. Denny also represented ARECA (its agent Patrick Smyth was unavailable for these proceedings). The Board afforded Ms. Denny an opportunity to meet with the Member and the City’s counsel Mr. Bradley briefly in chambers so that the Board could ascertain the planning nature of its appeals. Ms. Denny advised the Board that she would prefer that the Appellant’s counsel William Roberts relay this information to the Board as well as attend the next two-day PHC. This was acceptable to the Board. The Board now offers to the Appellants CORRA and ARECA until Friday, July 31, 2015 to meet with its/their counsel and to communicate with the Board in writing (electronic correspondence is sufficient) to identify the planning grounds for their appeals. The Board asked Ms. Denny to advise her counsel once formally retained to also communicate to Mr. Bradley for the City the planning grounds for the ratepayers’ appeals to this Board.

[4] The Board also notes that two ratepayer groups are the only Appellants to the second of the two implementing By-laws: CORRA and Swansea Ratepayers' Association ("Swansea"). The Board called twice for the representative of Swansea to appear but no person answered this request at the hearing. The Board directs that this Appellant must advise the Board in writing no later than Friday, July 31, 2015 of its intentions related to its status and its intended future participation at the Board so that the Board might make an appropriate determination. All Appellants are required to attend the Board proceedings related to their appeals.

Other Parties

[5] D. A. Trinaistich was retained only recently to represent 346-350 Eglinton Avenue West Holdings Ltd and 352-356 Eglinton Avenue West Holdings Ltd. These two entities are Appellants to one of the Zoning By-law appeals for now. The Board registered Mr. Trinaistich's expression of his clients' future interest in becoming parties to the OPA as well although Mr. Bradley cautioned that he would have to consult with the City and consider the nature of these parties' possible future site-specific development applications before agreeing to party status for these Appellants. The Board offered to Mr. Trinaistich that should the City agree to the request, a request to the Board via electronic communication would be sufficient for the Board's granting of party status to the OPA for his clients. Otherwise, a motion can be made at the future two-day PHC. Mr. Trinaistich also made known the possibility of his clients seeking an adjournment of the 2016 full hearing process (dates provided at the end of these reasons).

[6] The Board ordered all parties to begin to draft their issues for the aforementioned full hearing in anticipation of preparing a consolidated issues list for the Board at the forthcoming two-day PHC. Issues must be focused and directly relevant and as always, the Board reserves its right to consider and revise that list for its adjudicative purposes. Mr. Bradley noted that further information might be available following City Council's late-September 2015 meeting. It was his hope that ongoing discussions between the

City and all Appellants might enable them to resolve and/or narrow issues and in one or more instances, to settle their issues. To this end, the Board was also amenable to consider in the future a request without motion to bring into force those portions and lands of these City-initiated instruments not under appeal noting that this would not impact or prejudice ongoing appeals in this case and their future adjudication by the Board.

[7] The Board also notes that several of these Appellants as identified at the hearing have or will soon have site-specific applications for the City's consideration, which might affect the nature of their appeals at the Board. Lastly, the Board also accepts Mr. Bradley's intention to introduce motions where necessary related to dismissal of some appeals that might not be based on planning grounds or other matters the City wishes to raise in this vein.

[8] At the second PHC, the Board expects the City and the Appellants to use the two days profitably by raising any motions as required, identifying their witnesses, agreeing on the exchange of witness statements and as stated, finalization of a consolidated issues list. The Board will lead portions of the PHC while providing the City and Appellants time to meet to discuss whatever items are of interest to them. At the end of this process, it is expected that a draft Procedural Order might be produced and furnished to the Board with this and other matters disposed of therein.

[9] On consent, the Board will hold a two-day PHC commencing at **10 a.m.** on **Monday, November 23, 2015** and **Tuesday, November 24, 2015** at:

**Ontario Municipal Board
655 Bay Street,
16th Floor
Toronto, ON**

No further notice will be given and the Member is seized for administrative carriage of these matters only.

[10] On consent, the Board will hold a 16-day full hearing into these appeals commencing at **10 a.m. on Monday, May 16, 2015 and ending on or before Tuesday, June 7, 2015 at:**

**Ontario Municipal Board
655 Bay Street
16th Floor
Toronto, ON**

"R. Rossi"

R. ROSSI
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board
A constituent tribunal of Environment and Land Tribunals Ontario
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