

ISSUE DATE:

August 15, 2012



DC090025
DC110008

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF section 14 of the *Development Charges Act*, S.O. 1997, c. 27

Appellant: 2054971 Ontario Inc.
Appellant: Losani Homes (1998) Ltd.
Appellant: Paletta International (2000) Inc.
Appellant: Parkside Hills Inc.; and others
Subject: Development Charges By-law No. 09-143
Municipality: City of Hamilton
OMB Case No.: DC090025
OMB File No.: DC090025

IN THE MATTER OF section 14 of the *Development Charges Act*, S.O. 1997, c. 27

Appellant: 2054971 Ontario Inc.
Appellant: Paletta International (2000) Inc.
Appellant: Parkside Hills Inc.
Appellant: Silverwood Homes Limited; and others
Subject: Development Charges By-law No. 09-144
Municipality: City of Hamilton
OMB Case No.: DC090025
OMB File No.: DC090026

IN THE MATTER OF section 14 of the *Development Charges Act*, S.O. 1997, c. 27

Appellant: Losani Homes (1998) Ltd.
Appellant: Paletta International (2000) Inc.
Appellant: Parkside Hills Inc.
Appellant: Silverwood Homes Limited
Subject: Development Charges By-law No. 11-173
Municipality: City of Hamilton
OMB Case No.: DC110008
OMB File No.: DC110008

IN THE MATTER OF section 14 of the *Development Charges Act*, S.O. 1997, c. 27

Appellant: Losani Homes (1998) Ltd.
 Subject: Development Charges By-law No. 11-174
 Municipality: City of Hamilton
 OMB Case No.: DC110008
 OMB File No.: DC110009

IN THE MATTER OF section 14 of the *Development Charges Act*, S.O. 1997, c. 27

Appellant: Hamilton Halton Home Builders' Association
 Appellant: Losani Homes (1998) Ltd.
 Appellant: Paletta International (2000) Inc.
 Appellant: Parkside Hills Inc.; and others
 Subject: Development Charges By-law No. 11-175
 Municipality: City of Hamilton
 OMB Case No.: DC110008
 OMB File No.: DC110010

APPEARANCES:

Parties

Counsel*/Agent

2054971 Ontario Inc.
 Paletta International (2000) Inc.
 Waterdown Bay Ltd.

S. Snider

Silverwood Homes Limited
 Parkside Hills Inc.

B. Taylor

Losani Homes (1998) Ltd.

C. Barnett

Hamilton Halton Homes Builders'
 Association

L. Townsend

City of Hamilton

R.J. Doumani, J. Johnson

City of Burlington

B. Hurley

**MEMORANDUM OF ORAL DECISION FROM A PREHEARING
CONFERENCE HELD ON JULY 30, 2012, DELIVERED BY M.C. DENHEZ
AND ORDER OF THE BOARD**

This was the third pre-hearing conference (PHC) to address appeals in the City of Hamilton (City), against Development Charge By-laws Nos. 09-143, 09-144, 11-173, 11-174, and 11-175, in consolidated Board Files DC090025 and DC110008. The appeals were by 2054971 Ontario Inc. (2054971), Paletta International (2000) Inc. (Paletta), Waterdown Bay Ltd. (Waterdown), Silverwood Homes Limited (Silverwood), Parkside Hills Inc. (Parkside), Losani Homes (1998) Ltd. (Losani), and the Hamilton Halton Home Builders' Association (HHHBA).

The Ontario Municipal Board (Board) was told that consensus had been reached on some but not all the issues:

- In the appeals by 2054971, Paletta and Waterdown, the Board was advised of "settlement in principle". Work was underway to commit the terms to writing. The Board was asked to schedule a further PHC, once this was done, i.e. a Telephone Conference Call to address that proposed settlement.
- In the appeals by Losani and the HHHBA, the Board was told that some matters remained in dispute. Negotiations were continuing; but if unsuccessful, the Board was asked to hear those matters together.
- The very status of the appeals by Silverwood and Parkside was disputed. The City claimed that there had been a settlement, but that the appellants then refused to comply. Counsel for those appellants replied that there had been discussions without prejudice, but that there remained "one outstanding issue", which they were "trying to resolve". Counsel for the City disagreed with that interpretation, and sought a date at which the City would bring forward what he called a "Motion to enforce a settlement". Aside from the scheduling, the Board makes no comment at this time, except to

observe that any Motion and any response thereto, should be in accordance with the Board's *Rules of Practice and Procedure*.

The Board disposes of these matters as follows. First, it will schedule a Telephone Conference Call to (a) update the files on the appeals by Losani and the HHHBA, and (b) to address the proposed settlement with 2054971, Paletta and Waterdown. Counsel for the City of Burlington advised that it will not take part in that call, since its interest focuses instead on the Silverwood and Parkside appeals. As for those last appellants, the Board will also schedule a date for a hearing on the Motion mentioned by the City. The arrangements are as follows:

1. The Board fixes **Friday, September 18, 2012 at 9:00 A.M.**, for the next Prehearing Conference. The PHC shall be by Telephone Conference Call:
 - a) The parties shall call **(416) 212-8012** or Toll Free **1(866) 633-0848** at the correct time. When prompted, they will enter the **code 4779874#** to be connected to the call.
 - b) If assistance is required at any time, one may press '0' for the operator.
 - c) Cellular telephones are not permitted for the call. It is the responsibility of the persons participating to ensure that they are properly connected to the call and at the correct time.
2. The above Prehearing Conference will address:
 - a) An update on the appeals by Losani Homes (1998) Ltd. and the Hamilton Halton Home Builders' Association; and

- b) The proposed settlement with 2054971 Ontario Inc., Paletta International (2000) Inc., and Waterdown Bay Ltd.

3. The one-day hearing on the status of the appeals, by Silverwood Homes Limited and Parkside Hills Inc., is scheduled to start on **Tuesday, October 30, 2012 at 10:30 A.M. at:**

McMaster Downtown Centre
OMB Courtroom #6
50 Main Street East
Hamilton ON L8N 3V9

4. No further notice will be given for the matters currently before the Board.

5. This Member is not seized.

It is so Ordered.

“M.C. DENHEZ”

M.C. DENHEZ
MEMBER