

ISSUE DATE:

December 12, 2012



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

DC090025

DC110008

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

City of Hamilton

R. Doumani
J. Johnson

Hamilton Halton Home Builders' Association

L. Townsend

Losani Homes (1998) Ltd

C. Barnett

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

S. Snider

Silverwood Homes Ltd.
Parkside Hills Inc.

M. McQuaid

MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN ON NOVEMBER 30, 2012 AND ORDER OF THE BOARD

INTRODUCTION

[1] The purpose of the prehearing, held by way of telephone conference call ("TCC"), was first, to confirm the settlement reached between the City of Hamilton ("City") and

Parkside Hills Inc. (“Parkside”) and Silverwood Homes Limited (“Silverwood”); and second, to provide a status update with respect to the balance of the appeals.

STATUS OF APPEALS

[2] Several appeals were filed against development charges by-laws (2009 and 2011) enacted by the City. The Board has convened a number of pre-hearing conferences and the various appeals are either settled or discussions continue. It appears that each appeal will be resolved, on consent. However, Counsel require instructions from their respective clients and minutes of settlement remain to be executed.

[3] With respect to the appeals by Parkside and Silverwood, executed Minutes of Settlement (“Minutes”) were filed (Exhibit 2), which are the same in form and content as the minutes filed at the October 30, 2012 pre-hearing (Exhibit 1). The Minutes resolve the appeals and as set out in paragraphs 17 to 20, each of the City, Parkside and Silverwood consent to the Board issuing an order dismissing the appeals, without costs.

[4] With respect to the appeals filed by Losani Homes (1998) Ltd. and the Hamilton Halton Home Builders’ Association, discussions have resulted in a proposed settlement. Ms. Townsend has received instructions and her client’s appeal will be resolved. Mr. Barnett requires instructions from his client, which he anticipates receiving shortly. On this basis, and once the appropriate documents are prepared, Counsel will request a further hearing to implement any agreement reached.

[5] The appeals by Mr. Snider’s clients are close to resolution and once the settlements are finalized, Counsel will request a hearing which it is hoped will coincide with implementation of agreements reached with the other appellants.

ORDER

[6] The Board orders, at the request of and with the consent of the parties, and in accordance with paragraphs 17 to 20 of the Minutes (Exhibit 2), as follows:

- I. The Parkside 2009 and 2011 appeals are dismissed without costs.
- II. The Silverwood 2009 and 2011 appeals are dismissed without costs.

[7] The Board orders that the balance of appeals be adjourned, *sine die*. Counsel will contact the Board and arrange a settlement hearing, either by way of telephone conference call or an appearance in Hamilton. I will continue to case manage these appeals.

“J. de P. Seaborn”

J. de P. SEABORN
VICE CHAIR