

ISSUE DATE:

September 19, 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:

<u>Parties</u>	<u>Counsel</u>
2054971 Ontario Inc. Paletta International (2000) Inc. Waterdown Bay Ltd.	S. Snider
Losani Homes (1998) Ltd.	C. Barnett
Hamilton Halton Homes Builders' Association	L. Townsend
City of Hamilton	R. J. Doumani, J. Johnson

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. P. ATCHESON
ON SEPTEMBER 18, 2012 AND ORDER OF THE BOARD**

This was the fourth in a series of pre-hearing conferences (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 File Nos. 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 purpose of this telephone conference call (TCC) was set out in the Board's decision of August 15, 2012, being to consider:

- a) an update on the appeals by Losani and the HHHBA; and,
- b) the proposed settlement with 2054971, Paletta, and Waterdown.

The Board, in its August 15th decision, with respect to the other outstanding matters set a one-day hearing on the status of the appeals, by Silverwood and Parkside, which is scheduled to start on **Tuesday, October 30, 2012**. The purpose of this hearing was to consider a motion, "Motion to enforce a settlement" being brought by the City to order a settlement with respect to the Silverwood Homes and Parkside appeals.

Counsel for the City advised the Board that with respect to the other appeals before this panel settlement talks were ongoing but that there was a need for finality as it appears some matters may not be able to be resolved. He suggested that the hearing set for **Tuesday, October 30, 2012**, be expanded to consider any settlement reached with the parties to this hearing or, in the alternative, that a Procedural Order be developed for the October 30th hearing for the outstanding appeals, and that this would not impact the matter of the motion scheduled for that time.

All Counsel present agreed with this approach; however, Mr. Snider indicated that he already had a hearing scheduled for that date but would attempt to secure alternative Counsel for the October 30th date. In the event that Mr. Snider cannot find alternative representation he requested that that the matter be adjourned. All Counsel present agreed with this approach and confirmed that the outstanding issues were well understood.

The Board expressed some concerns with expanding the purpose of the hearing already scheduled but also understands the parties wish to have these matters finalized and that they are of like issues that have been consolidated in the past and would represent an effective use of the Board's hearing time.

The Board directed the parties to confirm with the Board office the October 30th hearing date to consider the settlements or, in the alternative, set on consent a procedural order

and date to hear the appeals of Losani and the HHHBA; and 2054971, Paletta, and Waterdown no later than Friday, September 21, 2012.

In the event Mr. Snider's matter cannot be resolved, the parties are directed to arrange with the Board office a separate hearing date. The motion with respect to the Silverwood and Parkside will go forward as scheduled.

Counsel present concurred that the issues were well understood and that they would have available a draft procedural order for the Board's consideration for the October 30th hearing or any alternative hearing date that might be set by the Board.

The Board noted that Mr. Taylor, Counsel for Silverwood, and Parkside and Mr. Hurley, Counsel for the City of Burlington, were not present at this TCC and directed Counsel for the City to contact Mr. Taylor and Mr. Hurley to advise them and seek their concurrence in extending the matters to be considered at the October 30th hearing and to advise the Board by September 21, 2012, of his discussions.

No further notice is required

The Member is not seized.

This is the Direction and Order of the Board.

"J. P. Atcheson"

J. P. ATCHESON
MEMBER