

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: February 18, 2020

CASE NO(S): DC190019

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 257.65 of the *Education Act*, R.S.O. 1990, c. E.2, as amended

Appellant:	Indwell Community Homes
Subject:	Education Development Charges By-law 2019
Municipality:	City of Hamilton
LPAT Case No.:	DC190019
LPAT File No.:	DC190019
LPAT Case Name:	Indwell Community Homes v. Hamilton-Wentworth Catholic District School Board

Heard: February 3, 2020 in Hamilton, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Indwell Community Homes

Graham Cubitt and Jeff Neven

Hamilton Wentworth Catholic
District School Board

Mark Abradjian*

**MEMORANDUM OF ORAL DECISION DELIVERED BY DAVID BROWN ON
FEBRUARY 3, 2020 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The matter before the Tribunal is an appeal under s. 257.65 of the *Education Act*, R.S.O. 1990, c.E.2, as amended, of the Hamilton-Wentworth Catholic District School Board ("HWCDSB") Education Development Charges By-law 2019 by Indwell Community Homes (the "Appellant").

[2] The hearing is a Case Management Conference ("CMC") conducted pursuant to Section 33(1) of the *Local Planning Appeal Tribunal Act, 2017*.

[3] At the commencement of the hearing, Michael Kovacevic appeared on behalf of the City of Hamilton ("City") and advised that the City received notice of the proceedings. He explained that the City is not a Party to the proceedings and has no interest in participating in the matter. Mr. Kovacevic requested the Tribunal to excuse the City from the proceedings.

[4] The Tribunal received a draft Procedural Order (the "DPO") from Mr. Abradjian, which was filed as Exhibit 1. He explained that the DPO has been circulated to the Appellant for review and he has not received a response.

[5] In response to questions from the Tribunal, Mr. Cubitt advised that the Appellant has one issue, the lack of scaling of the Development Charges to the residential unit type. Mr. Cubitt advised that he has been unable to secure legal representation to date and is unable to confirm the length of time required to consider the merits of the appeal.

[6] The Tribunal directed the Appellant to seek out such assistance as is necessary to aid them in determining how they intend to advance their case before the Tribunal. The Tribunal explained that a CMC is set for the purpose of determining, among other matters; the issues, the nature of witnesses that are intending to be called and the anticipated length of the hearing.

[7] The Tribunal having considered the submissions of the Parties, the request to release the City as Party directs that the Appellant initiate discussions with the HWCDSB to negotiate a DPO and Issues List to be presented before the Tribunal at the next CMC.

[8] The Tribunal sets a further one day Case Management Conference to consider a DPO and Issues List for a hearing of the merits of the appeal for the reasons set out below.

DECISION

[9] The Tribunal released the City from the proceedings. The City is not a statutory Party and has no interest in participating in the proceedings.

[10] The Tribunal reviewed the CMC process and the Tribunal's expectations of the Parties as it relates to preparing for a CMC and preparation for a hearing of the merits of the appeal.

[11] The Tribunal sets a one-day hearing for a CMC on **Wednesday, May 13, 2020, commencing at 10 a.m.**, at the:

**City of Hamilton,
Hearing Room 101,
50 Main Street East,
Hamilton, Ontario**

[12] The Tribunal directs that the Parties negotiate a DPO for presentation to the Tribunal at the CMC.

[13] There will be no further notice.

[14] The Member is seized of this matter for case management purposes only.

[15] Scheduling permitting, the Member may be spoken to for case management purposes.

[16] This is the Order of the Tribunal.

"David Brown"

DAVID BROWN
MEMBER

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Local Planning Appeal Tribunal

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