

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: November 24, 2021

CASE NO(S): DC210001

PROCEEDING COMMENCED UNDER subsection 22(1) of the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended

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|----------------|--|
| Appellant: | Alphabet Self Storage Victoria Inc. |
| Subject: | Development Charges By-law No. 19-142 |
| Municipality: | City of Hamilton |
| OLT Case No.: | DC210001 |
| OLT File No.: | DC210001 |
| OLT Case Name: | Alphabet Self Storage Victoria Inc. v. Hamilton (City) |

Heard: November 19, 2021 by video hearing ("VH")

APPEARANCES:

Parties

Counsel

Alphabet Self-Storage Victoria Inc.
("Appellant")

C. deSereville

City of Hamilton ("City")

P. MacDonald

**MEMORANDUM ORAL DECISION DELIVERED BY BLAIR S. TAYLOR ON
NOVEMBER 19, 2021 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The Tribunal held a Case Management Conference ("CMC") with regard to an appeal from the City's Special Audit, Finance and Administration Committee upholding the City's decision for a development charge of \$924,705.00 for the development of the property located at 391 Victoria Avenue.

[2] In the lead up to the CMC the parties had agreed upon the outstanding issue, prepared an Agreed Statement of Facts and a Joint Document Book, and the Appellant had filed its written submissions.

[3] For the reasons set out below, the Tribunal gave directions setting out a process for the completion of the written submissions in terms of form, content, and timing, and set a date for oral submissions for **Monday, January 31, 2022 commencing at 10 a.m.** by V H).

DECISION

[4] The Appellant and the City have narrowed the scope of the hearing to a single issue: is a self-storage facility an “industrial development” under the City of Hamilton’s DC By-law No. 19-142?

[5] With the single issue agreed upon, the parties had prepared an Agreed Statement of Facts, and a Joint Document Book, and the Appellant had filed its written submissions in the hope that the Tribunal might simply proceed to hearing submissions, once the City had filed its Response.

[6] It is trite to say that the Tribunal’s decision in this matter is very important to both parties, and thus the Tribunal set out directions with regard to the form, content, and timing of the written submissions, leading up to a hearing of oral submissions.

[7] The Tribunal’s objective with these directions is to allow the Tribunal to have all the materials available well before the hearing to enable the Tribunal’s review, thus placing the Tribunal in the best position possible to hear the oral submissions of counsel.

[8] Thus, the Tribunal suggested this approach: the Appellant having the opportunity within the next 20 days to file a written submission up to 30 pages in length in 12 point Arial font and with 1 ½ spaces between the lines, the City filing its Response within 20

days thereafter capped at 30 pages and with the same font and spacing, and with its book of authorities, and thereafter if the Appellant wished, it could file a brief Reply within 10 days which would be capped at 5 pages in the same font and spacing. Then with all these materials filed and before the Tribunal, the Tribunal would have a one day hearing for oral submissions only, that would be limited to 75 minutes per party, with a brief reply by the Appellant up to 15 minutes.

[9] The parties were generally agreeable with this: counsel for the Appellant indicated that her client was satisfied with the written submissions that it had filed, and that the Appellant was desirous an early hearing date. Counsel for the City concurred with the approach.

[10] Accordingly, the Tribunal directed the following:

- a. As the Appellant is content with its written submission, the City shall serve and file its Response on or before **Friday, December 10, 2021**, (which response shall be capped at 30 pages using the 12 point Arial font and 1 ½ spaces between the lines), along with its book of authorities.
- b. The Appellant shall, if it wishes, serve and file a Reply on or before **Monday, December 20, 2021** (which shall be capped at 5 pages using the font and spacing noted above).
- c. All materials filed with the Tribunal shall be in both electronic and hard copy.
- d. The hearing event shall be restricted to oral submissions of up to 75 minutes per party with the Appellant having up to 15 minutes for reply.

[11] The Tribunal then set the hearing date for **Monday, January 31, 2022 commencing at 10 a.m. by VH.**

[12] Parties and participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/780169821>

Access code: 780-169-821

[13] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](https://gotomeeting.com) or a web application is available:

<https://app.gotomeeting.com/home.html>

[14] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **(647) 497-9373** or **Toll Free 1-888-299-1889**. The access code is **780-169-821**.

[15] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[16] For the record the Tribunal has marked the following Exhibits:

Exhibit #1: The Issues List;

Exhibit #2: The Agreed Statement of Facts;

Exhibit #3: The Joint Document Book;

Exhibit #4: The Appellant's written submissions, and

Exhibit #5: The Appellant's Book of Authorities.

[17] There will be no further notice.

[18] I am not seized of this matter.

[19] Scheduling permitting, I may be available for case management purposes.

[20] This is the Order of the Tribunal.

"Blair S. Taylor"

BLAIR S. TAYLOR
MEMBER

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.