

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



ISSUE DATE: August 28, 2018

CASE NO(S): LC140008
LC140009

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 26(b) of the *Expropriations Act*, R.S.O. 1990, c. E.26, as amended

Claimant: Eva Wilkin
Claimant: John Wilkin
Respondent: Hydro One Networks Inc.
Subject: Land Compensation
Property Address/ Description: Part of Lots 19 and 20, Concession 9
Municipality: Municipality of Brockton
OMB Case No.: LC140008
OMB File No.: LC140008
OMB Case Name: Wilkin v. Hydro One Networks Inc.

PROCEEDING COMMENCED UNDER subsection 26(b) of the *Expropriations Act*, R.S.O. 1990, c. E.26, as amended

Claimant: Wilkin Farms Ltd.
Claimant: John Wilkin
Respondent: Hydro One Networks Inc.
Subject: Land Compensation
Property Address/ Description: Part of Lot 20, Concession 8
Municipality: Municipality of Brockton
OMB Case No.: LC140009
OMB File No.: LC140009
OMB Case Name: Wilkin v. Hydro One Networks Inc.

PROCEEDING COMMENCED UNDER subsection 12(1) of the *Local Planning Appeal Tribunal Act, 2017*, S.O. 2017, c. 23, Sched. 1, and Rule 17.05 of the Tribunal's Rules of Practice and Procedure

Request by: Hydro One Networks Inc.
Request for: Adjournment of a hearing event

Heard: May 31, 2018, via telephone conference

APPEARANCES:

Parties

Eva and John Wilkin
Wilkin Farms Ltd.

Hydro One Networks Inc.

Counsel

Bob Ackerman

Sean Foran

**MEMORANDUM OF ORAL DECISION DELIVERED BY SHARYN VINCENT ON
JUNE 1, 2018 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] On the motion brought for adjournment by Hydro One Networks Inc. ("HONI") on the basis, the Tribunal, having considered the facts, the implications and the authorities, grant the motion to adjourn.

[2] The Tribunal cannot find sufficient grounds to warrant the bifurcation of the hearing, which clearly is best heard as a consolidated matter.

[3] Based on the uncontradicted facts, the adjournment is a direct response to the claimants failure to comply with the Tribunal's direction, particularly in light of the fact that consideration had previously been granted by the Board to allow the claimant to prepare a revised business loss strategy.

[4] The Tribunal is persuaded by Counsel for HONI, and by the facts of the claimant's failure to attempt to mitigate against their non-compliance with the deadlines directed in the Procedural Order ("PO").

[5] Receipt of data directed to be provided some four months earlier, and more importantly, approximately two weeks before the scheduled hearing, constitutes prejudice to the respondent and ultimately, the presiding tribunal member's ability to render a decision on best evidence.

[6] Any hardships arising from further delay are, in this instance, attributable directly to the actions or inactions of Counsel for the claimants.

ORDER

[7] The motion for adjournment is therefore granted.

[8] HONI is hereby directed to complete and exchange their report responding to the revised business loss strategy report in accordance with the timeframe stipulated in the original PO.

[9] The parties are directed to contact the case coordinator and request a new hearing date.

"Sharyn Vincent"

SHARYN VINCENT
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248