

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



ISSUE DATE: December 23, 2020

CASE NO(S): LC200011

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:	City Park (Dixie Rd.) Inc.
Respondent:	Ministry of Transportation
Subject:	Land Compensation
Property Address/Description:	Various Addresses
Municipality:	City of Mississauga
LPAT Case No.:	LC200011
LPAT File No.:	LC200011
LPAT Case Name:	City Park (Dixie Rd.) Inc. v. Ontario (Ministry of Transportation)

Heard: December 9, 2020 by telephone conference call

APPEARANCES:

Parties

City Park (Dixie Rd.) Inc.

Ministry of Transportation

Counsel

Adriana Di Biase

Jonathan Sydor

DECISION DELIVERED BY R.A. BECCAREA AND ORDER OF THE TRIBUNAL

[1] The Decision and Order is issued following the first Case Management Conference (“CMC”) convened to organize for the hearing of the merits of the Claimants.

[2] City Park (Dixie Rd.) Inc. (the “Claimants”) claim compensation for its interest as owners of 2212 and 2116 Dixie Road, and 1351 and 1357 Wealthy Place, and 2107, 211 and , 2119 Primate Place (collectively the “Property”) in the City of Mississauga.

[3] The Ministry of Transportation (the “Respondent”) admits it expropriated parts of three parcels of the Claimants lands as part of implementing highway construction and improvements required along the Queen Elizabeth Way (“QEW”) between Cawthra Avenue and Etobicoke Creek.

[4] The Respondent made s. 25 of the *Expropriation Act* offers of compensation on April 5, 2019 for all three parcels, which the Claimant accepted on a without prejudice basis.

[5] The Respondent in its Reply to the Claimant’s claim dated April 22, 2020, states that the claim is excessive and denies any injurious affection is reflected in the offer, and further denies any entitlement to disturbance damage or alternatively the claimed damages are excessive and are not recoverable in law.

[6] The Respondent further submits it acted reasonably toward the Claimants, who it submits failed to mitigate any alleged losses.

[7] Counsel asked the Tribunal to schedule a five-day hearing in December 2021.

[8] Counsel further advised the Tribunal that they were not in a position to complete any of the procedural requirements including the identification of witnesses, the formation of an agreed upon issues list, or dates for examinations for discovery.

[9] When asked why, in spite of not being able to complete a procedural order, Jonathan Sydor, counsel for the Respondent, acknowledged that the Respondent has had challenges getting the required information and the necessary witnesses together.

[10] Counsel, however, did ask that the Tribunal set a hearing date, which it did for **Monday, December 13, 2021 at 10 a.m.** for five-days.

[11] Counsel did indicate that another CMC may become necessary.

ORDER

[12] The Tribunal Orders that a five-day hearing is scheduled to proceed by a video hearing commencing on **Monday, December 13, 2021 at 10 a.m.**

[13] The Parties 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/432357141>

Access Code: 432-357-141

[14] Parties 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](#)** or a web application is available:

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

[15] 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: **Toll-Free 1-888-455-1389 or +1 (647) 497-9391**. The **access code** is **432-357-141**.

[16] 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.

[17] This Member is not seized.

"R.A. Beccarea"

R.A. BECCAREA
MEMBER

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Local Planning Appeal Tribunal

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