

ISSUE DATE:

Aug. 30, 2011



PL050408

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Harbour West Neighbours Inc., Michael Poworoznyk, Shawn Selway and John Mattinson have appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 23 to the (former) Regional Official Plan for the City of Hamilton
Approval Authority File No. ROPA No. 23
OMB File No. O050065

The TDL Group Corp, the Harbour West Neighbours Inc., the Canadian National Railway, 687224 Ontario Inc. et al. have appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 198 to the Official Plan for the City of Hamilton
Approval Authority File No. OPA No. 198
OMB File No. O050066

Rheem Canada Ltd., the Harbour West Neighbours Inc., the Canadian National Railway, 687224 Ontario Inc. et al. have appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, against Zoning By-law 05-073 of the City of Hamilton
OMB File No. R050077

APPEARANCES:

Parties

City of Hamilton

1255717 Ontario Ltd.

Harbour West Neighbours Inc.

Canadian National Railway

Counsel

Brian Duxbury
David Marshall

Anthony Powell

Herman Turkstra

Alan Heisey

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN ON
AUGUST 22, 2011 AND ORDER OF THE BOARD**

Introduction

The matters before the Board were scheduled for a further pre-hearing conference, the purpose of which was first, to hear from the City of Hamilton (City) with respect to modifications it proposes to the official plan under appeal; and second, to review the terms of a draft procedural order to govern the conduct and organization of the hearing.

Issues and Directions

The official plan under appeal is known as the Setting Sail Secondary Plan, part of the West Harbour. A separate Board hearing dealing with the plan for the north end area has recently concluded. The North End Neighbours (NEN), represented by Mr. Turkstra in that hearing, do not propose to continue in these proceedings, but rather require time to engage the Barton-Tiffany neighbourhood, the enclave closest to the area covered by the policies set out in the Setting Sail Secondary Plan. In an attempt to resolve issues, the City has proposed modifications to the official plan with the result that the position of the neighbours is no longer substantially aligned with that of the City. Canadian National Railway (CNR), as appellant, requires time to consider the modifications proposed by the City as does Mr. Powell's client. Nonetheless, each is prepared to participate in a mediation and continue to prepare for the hearing, set to commence in December, 2011.

As a result of the proposed modifications and shift in the City position, Mr. Turkstra filed an affidavit requesting particular relief from the Board and in light of the lack of notice, Mr. Duxbury requested time to respond. The Board accepts that the City requires time to respond. Mr. Turkstra's request that the Board require the City to first, provide certain documents to the NEN and second, provide the neighbours with access to an independent planner and lawyer is adjourned and will be dealt with by the Board at the next pre-hearing, scheduled for September 22, 2011.

The Board directs as follows:

1. The next pre-hearing is scheduled for September 22, 2011 at 10:30 a.m., City of Hamilton, McMaster Learning Centre (OMB Hearing

Room). There shall be no further notice. The purpose of the pre-hearing is to allow the City an opportunity to respond to Mr. Turkstra's request for relief set out in the affidavit filed on August 22, 2011. Second, the Board will review the proposed procedural order to govern the organization and conduct of the hearing.

2. A Mediation is scheduled for October 3, 2011 at 10:30 a.m., at a location in Hamilton to be confirmed to Board staff.
3. The commencement of the hearing, previously set at the request of and with the consent of the parties, is confirmed for December 5, 2011, 10:30 a.m., City of Hamilton, McMaster Learning Centre (OMB Hearing Room).

This is the Order of the Board.

"J. de P. Seaborn"

J. de P. SEABORN
VICE CHAIR