

ISSUE DATE:

Jan. 29, 2010



PL050647

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant/ Applicant: Magnolia Tree Holdings Ltd.
Subject: Consent
Property Address/Description: Part Lot 6 Conc. 10
Municipality: Municipality of Dutton-Dunwich
OMB Case No.: PL050647-C050222
OMB File No.: PL050647-C050222
Municipal No. E 53/05

APPEARANCES:

Parties

Counsel*/Agent

Magnolia Tree Holdings Ltd.

W. Houghton

County of Elgin

S. Gibson*

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. CHEE-HING ON
JANUARY 15, 2010 AND ORDER OF THE BOARD**

The purpose of this hearing conducted by teleconferencing ("TCC") was to get an update on the status of the outstanding appeal filed by Magnolia Tree Holdings Ltd. (the "Applicant and Appellant") on a consent application. The Appeal was filed with the Board in July of 2005. The Applicant sought consent to sever a parcel of land approximately 1,495.2 m² to add to an adjoining residential lot. The application was denied by the Land Division Committee ("LDC") of the County of Elgin ("County").

Since the filing of the Appeal in 2005, there has been a dispute over the land title of the subject lands. The Applicant made an application for First Registration under the *Land Titles Act*. There were objections to the application for First Registration. The objectors were the same individuals who objected to the consent application. The Board adjourned the hearing date set for October 19, 2005, pending a resolution of the land titles dispute. Since that time the Board has communicated with the Applicant on the status of its application for First Registration with the Registry Office. The County of

Elgin has also raised some concerns over the years about the lack of resolution of the land titles dispute and wished to set a hearing date concerning this appeal.

At today's TCC, Mr. Houghton advised the Board that the application for First Registration was put in abeyance by the Registry Office pending a lawsuit that was filed against the Applicant that related to the subject lands. That lawsuit was only settled in 2009 and the Applicant has attempted to diligently move his application forward with the Registry Office. It is his position that the OMB Appeal can only be dealt with after the land title dispute has been resolved by the Registry Office. It appears that there has been some progress with the review of the Applicant's file by the Registry Office and a date will be set in the near future for a pre-hearing conference with officials from the Registry Office. Mr. Houghton advised that he has completed an up to date survey of the subject lands at the request of the Registry Office which is to be submitted this month.

The Board notes the County's desire to have this matter resolved and a hearing date for the Appeal set. However, the Board also appreciates the Applicant's attempts to resolve the land titles dispute at the Registry Office. The Board is satisfied that the Applicant is using its best efforts to resolve its application for First Registration with the Registry Office.

Mr. Houghton will undertake to inform the Board and Mr. Gibson in writing of the dates of the proceedings with the Registry Office/Ministry of the Attorney General on or before the end of this month. Another TCC is set for April 19, 2010 at 9:00 a.m., at which time the Board may proceed to set a hearing date into this Appeal. The Parties are to contact the Board's Planner for the call in number for the next TCC. No further notice is required and this Member is seized of the next TCC.

So Orders the Board.

"J. Chee-Hing"

J. CHEE-HING
MEMBER