

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



**ISSUE DATE:** May 14, 2018

**CASE NO(S):** PL090114  
PL110331

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.

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellants:	See below
Subject:	Rural Hamilton Official Plan
Municipality:	City of Hamilton
OMB Case No.:	PL090114
OMB File No.:	PL090114
OMB Case Name:	Cartwright v. Hamilton (City)

**List of Appellants**

- | No. | Appellant  |
|-----|--|
| 1   | Ontario Stone, Sand & Gravel Association (OSSGA) |
| 2   | Paletta International Corporation                |
| 3   | P&L Livestock Limited                            |
| 9   | St. Marys Cement (Canada) Inc.                   |
| 10  | Demik Developments                               |
| 11  | 1694408 Ontario Inc.                             |
| 13  | Artstone Holdings Limited                        |
| 14  | Artstone Holdings Limited                        |
| 15  | Weizer Investments Limited                       |
| 16  | Corpveil Holdings Limited                        |

- 18 Ancaster Christian Reform Church  
456941 Ontario Ltd., 1263339 Ontario Ltd. and Lea Silvestri
- 19 ("Silvestri Investments")
- 20 Angelo Giacomelli and Mario Nesci
- 22 Keith Pickles and Brenda Pickles  
John Paolini, Gino DalBello, Olindo DalBello, Luigi DeTina, Peter
- 23 Djeneralovic, Jim Swick and Quinto Simone
- 24 New Country Investors Limited
- 25 1507565 Ontario Inc.
- 27 Lafarge Canada Inc.
- 28 Peter Cartwright
- 29 City of Hamilton
- 30 Dr. Tom Nugent
- 32 DiCenzo (Golf Club Road) Holdings Inc.
- 33 Dufferin Aggregates (a division of Holcim (Canada) Inc.)
- 35 David E. Mercer
- 36 Multi-Area Developments Inc.
- 37 Paletta International Corporation (Elfrida Lands)  
2101510 Ontario Inc. (subsumed by Paletta International
- 39 Corporation)
- 40 2000963 Ontario Inc.
- 41 Mud & First Inc.
- 42 2084696 Ontario Inc.
- 43 2188410 Ontario Inc.

The Ontario Municipal Board has received appeals under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the City of Hamilton to approve Official Plan Amendment No. 35 to the Region of Hamilton-Wentworth Official Plan  
OMB File No. PL090779 (See Schedule "1")  
OMB Case No. PL090779

The Ontario Municipal Board has received appeals under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the City of Hamilton to approve Official Plan Amendment No. 128 to the Town of Ancaster Official Plan (PL090780); Official Plan Amendment No. 18 to the Town of Dundas Official Plan (PL090781); Official Plan Amendment No. 118 to the Town of Flamborough Official Plan (PL090782); Official Plan Amendment No. 75 to the Township of Glanbrook Official Plan (PL090783); Official Plan Amendment No. 220 to the City of Hamilton Official Plan (PL090784); Official Plan Amendment No. 149 to the City of Stoney Creek Official Plan (PL090785)  
OMB File Nos. PL090780-PL090785 (See Schedule "1")  
OMB Case No. PL090779

The Ontario Municipal Board has received appeals under subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from the failure of the Minister of Municipal Affairs and Housing to announce a decision respecting the City of Hamilton Urban Official Plan

OMB File No. PL101381 (See Schedule “2”)

OMB Case No. PL101381

The Ontario Municipal Board has received appeals under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from the decision of the Minister of Municipal Affairs and Housing to approve the new City of Hamilton Urban Official Plan

OMB File No. PL110331 (See Schedule “3”)

OMB Case No. PL110331

Auburn Developments Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council’s refusal to enact a proposed amendment to Zoning By-law 6593 of the City of Hamilton to rezone lands respecting 17 Ewen Road from “J” (Light and Limited Heavy Industrial, etc.) District to the “E-3” (High Density Multiple Dwellings) District to permit a 10 storey student residential building

Approval Authority File No. ZAC-07-062

OMB File No. PL120574

OMB Case No. PL120574

Auburn Developments Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal to enact a proposed amendment to the Official Plan for the City of Hamilton to redesignate land at 17 Ewen Road from “Industrial” to “High Density Residential” to permit a 10 storey student residential building

Approval Authority File No. OPA-07-016

OMB File No. PL120575

OMB Case No. PL120574

### **Schedule “1”**

Appellants to the amendments to the in-force Official Plans of the former Region of Hamilton-Wentworth, Towns of Ancaster, Dundas and Flamborough, Township of Glanbrook and Cities of Hamilton and Stoney Creek (OMB Case No. PL090779)

**OMB FILE NO.**

PL090784

**APPELLANT NAME**

Shawcor Ltd.

**Schedule "2"**

Appellants to the failure of the Minister of Municipal Affairs and Housing to announce a decision respecting the City of Hamilton Urban Official Plan (OMB Case No. PL101381)

**OMB FILE NO.**  
PL101381

**APPELLANT NAME**  
A. DeSantis Developments Ltd.  
LIUNA Group Corp.  
St. Joseph's Villa

**Schedule "3"**

Appellants to the new City of Hamilton Urban Official Plan (OMB Case No. PL110331)

**OMB FILE NO.**  
PL110331

**APPELLANT NAME**  
2000963 Ontario Inc.  
2051206 Ontario Inc.  
2084696 Ontario Inc.  
2188410 Ontario Inc.  
456941 Ontario Ltd., 1263339 Ontario Ltd., and Lea Silvestri  
909940 Ontario Inc.  
Artstone Holdings Limited  
Carmen Chiaravelle, 1694408 Ontario Ltd., John Edward Demik, Peter Demik, Demik Brothers Hamilton Ltd., and Elaine Vyn  
City of Hamilton  
Corpveil Holdings Limited  
Flamborough Power Centre Inc.,  
Flamborough South Centre Inc.,  
Clappison Five Six Properties Inc.  
Freeland Developments Limited  
Gino and Olindo DalBello  
Lynmount Developments Limited  
Mondelēz Canada Inc. (formerly Kraft Canada Inc.)  
Mud and First Inc.  
Multi-Area Developments Inc.  
Norman Vartanian  
Paletta International Corporation  
Paletta International Corporation (re: Elfrida)  
Spallacci & Sons Limited  
Sullstar Twenty Limited

Twenty Road Developments Inc.  
Upper Centennial Developments Ltd.  
Waterdown Bay Ltd.

**Heard:** May 2, 2018 in Hamilton, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

City of Hamilton

M. Kovacevic  
J. Wice

Ministry of Municipal Affairs

U. Popadic  
C. Young

1507565 Ontario Inc.

J. Doherty

Demik Developments  
Carmen Chiaravalle  
1694408 Ontario Inc.  
Demik Brothers Hamilton Ltd.  
John Edward Demik  
Peter Demik  
Elaine Vyn  
(together known as "Twenty Road  
Landowners East")

D. Baker  
S. Rosenthal

Sullstar Twenty Limited , Twenty  
Limited, 909940 Ontario Inc.,  
Lynmount Developments Limited,  
Twenty Road Developments Inc.,  
Spallacci & Sons Ltd, 2051206  
Ontario Inc. and Yehezkel Zahavy  
(together known as "Twenty Road  
West Landowners")

J. Farber

2000963 Ontario Inc.  
2084696 Ontario Inc.  
2188410 Ontario Inc.  
Mud & First Inc.  
Multi-Area Developments Inc.  
Paletta International Corporation  
(together known as "Elfrida

J. Hoffman

Landowners”)

456941 Ontario Ltd.  
1263339 Ontario Ltd.  
Lea Silvestri  
Lea Silvestri Investments Limited  
(together known as “Silvestri”)

P. Pickfield

Artstone Holdings Limited  
Corpveil Holdings Limited  
LIUNA Group Corp.  
Weizer Investments Limited

N. Smith for S. Snider

DiCenzo (Golf Club Road ) Holdings  
Inc.

G. Bell

DiCenzo Construction Company  
Limited

L. Dean

**DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND ORDER OF  
THE TRIBUNAL**

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[1] The City of Hamilton (“City”) has adopted two official plans: the Rural Hamilton Official Plan (“RHOP”) and the Urban Hamilton Official Plan (“UHOP”). The RHOP is case PL090114 and the UHOP is case PL110331.

[2] Parties in each of these cases have been grouped according to the subject area of the issues in which they have an interest. Both of these cases have been the subject of pre-hearing conferences and several hearings that have resulted in the disposition of a large number of the matters in various issue groups. This pre-hearing was scheduled to consider necessary next steps. With a large overlap in the parties, issues and evidence that may be called in the remaining matters in each of these files, this pre-hearing dealt with both cases. Although they have been grouped to be heard together at this point, the cases are not consolidated.

**DiCenzo Construction Company Limited, 313 Stone Church Road**

[3] The January 20, 2016 decision of the Ontario Municipal Board (“Board”) in case

PL110331 ordered certain matters regarding the DiCenzo Construction Company Limited (“DCCL”) appeal regarding 313 Stone Church Road. One of the Board’s requirements, agreed to between DCCL and the City, was that DCCL undertake an Environmental Impact Study (“EIS”), to be peer reviewed by the City’s expert consultant.

[4] The Tribunal was advised that the EIS has been completed and filed with the City but that the City’s peer reviewer has not yet completed the peer review. It is unknown at this point whether the City will require any additional work on the EIS.

[5] Rather than schedule a further appearance for this matter at this time, the Tribunal orders that DCCL and the City file a joint statement of Readiness to Proceed (“RTP”). The RTP is to indicate whether the parties are ready to proceed to a settlement hearing or whether they are ready to proceed to a disputed hearing of the merits. The Tribunal will then determine the most appropriate format for dealing with this matter.

[6] If no RTP is filed by November 2, 2018, the Tribunal orders that DCCL and the City are to file a jointly agreed upon status report on this matter. On receipt and review of a status report without an RTP having been filed, the Tribunal will make such other directions as it considers appropriate.

### **LIUNA Group Corp., James Street North**

[7] LIUNA Group Corp. (“LIUNA”) and the City have been engaged in further discussions. The Tribunal orders that LIUNA and the City are to file a jointly agreed upon status report on this matter not later than November 2, 2018. On receipt and review of the status report, the Tribunal will make such other directions as it considers appropriate. If the LIUNA and the City find that they are ready to proceed, they are free to file a joint agreed upon RTP. As with DCCL, if an RTP is filed the parties are to indicate whether a settlement has been reached or whether the matter should proceed to a disputed hearing of the merits.

## **Application of the Growth Plan for the Greater Golden Horseshoe 2017**

[8] An issue has arisen regarding the correct application of transition regulations dealing with the applicability of the Growth Plan for the Greater Golden Horseshoe 2017 (“GGH 2017”). Specifically, the parties known as Silvestri, Twenty Road West Landowners and Twenty Road East Landowners assert that they are subject to the Growth Plan for the Greater Golden Horseshoe 2006 (“GGH 2006”) and not the GGH 2017. The City disagrees and intends to bring a motion. The Tribunal is persuaded that this question needs to be decided before these, and the other remaining appeals not dealt with above, are scheduled for hearing.

[9] Certain parties to these cases were also parties to a hearing regarding the City’s Airport Employment Growth District Secondary Plan (“AEGD”). The AEGD is case PL101300. The decision in that matter was issued April 10, 2015. The City advised the Board that it is of the view that, as a result of Minutes of Settlement reached with Silvestri and Twenty Road West Landowners in that proceeding, the appeals of these two parties were to have been withdrawn in these proceedings now before the Tribunal. If the City intends to pursue this matter at the Tribunal, it is to bring a formal motion to dismiss these appeals.

[10] The Tribunal sets a two-day motion hearing to commence at **10 a.m. on Wednesday, October 24, 2018**. The City’s hearing facilities are currently under renovations which may be complete by the time of this motion hearing. The City is directed to advise the Tribunal and all parties of the location of the motion hearing. This advice from the City is to come to the Tribunal and to the parties at the earliest possible opportunity and, in any event, not later than August 30, 2018.

[11] This motion hearing will deal with any motions brought to deal with the question of the applicability of the GGH 2017 and any motion the City may bring to dismiss certain appeals.

[12] The Tribunal orders that motions, responses and replies are to be served and



filed in accordance with Tribunal *Rules of Practice and Procedure* 10.04, 10.05, 10.06, 10.07 and 10.08 **except** that the notice of motion is to be served and filed **20** days prior to the motion hearing, the notice of response is to be served and filed **10** days prior to the motion hearing, and reply submissions, if any, are to be served and filed **5** days before the motion hearing. The filing of these materials with the Tribunal is to be in both hard and electronic form and the deadlines for the Tribunal to receive these materials is the same for both hard and electronic copies.

*“Susan de Avellar Schiller”*

SUSAN de AVELLAR SCHILLER  
VICE-CHAIR

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://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  
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