

ISSUE DATE:

August 1, 2013



PL130269

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: Proposed Official Plan Amendment No. OPA 7
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130269

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: By-law No. 0028-2013
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130270

1429036 Ontario Inc. & Benisasia Funeral Home Inc. have 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 neglect to enact a proposed amendment to the Official Plan for the City of Mississauga to redesignate land at 3263 Derry Road East from "General Commercial" to "General Commercial Special Site" to permit a crematorium in addition to the existing funeral home

Approval Authority File No. OZ 09/012 W5
OMB File No.: P130280

1429036 Ontario Inc. & Benisasia Funeral Home Inc. have 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 neglect to enact a proposed amendment to Zoning By-law 0225-2007 of the City of Mississauga to rezone lands respecting 3263 Derry Road East from "C-3" (General Commercial) to "C3-Exception" (General Commercial) to permit a crematorium in the existing funeral home

OMB File No.: PL130279

APPEARANCES:

<u>Parties</u>	<u>Counsel</u>
1429036 Ontario Inc. & Benisasia Funeral Home Inc.	G. Swinkin
City of Mississauga	R. Kehar
Region of Peel	R. Maciver

MEMORANDUM OF ORAL DECISION DELIVERED BY JASON CHEE-HING ON JULY 5, 2013 AND ORDER OF THE BOARD

[1] This is the first pre-hearing conference (“PHC”) event into these proceedings. There are four appeals before this Board. 1429036 Ontario Inc. and Benisasia Funeral Home Inc. (the “Applicant/Appellant” and “Proponent”) have appealed the City of Mississauga (“City”) proposed Official Plan Amendment (“OPA”) No. 7 and its implementing Zoning by-law (“ZBL”) 0028-2013. These proposed amendments relate to efforts by the City to permit crematoriums within lands designated Industrial in the Gateway and Northeast Employment Character Areas and prohibit this use on lands designated Parkway Belt West.

[2] Additionally, the Proponent has appealed City Council’s failure to make a decision on its site specific OPA and ZBL to permit the establishment of a crematorium in the Proponent’s existing funeral establishment located at 3263 Derry Road East.

[3] A number of residents and ratepayer groups/coalitions sought and were granted participant status by the Board (Attachment 1). These participants are all opposed to the Proponent’s applications to permit a crematorium at the subject site.

[4] Orlando Corporation (“Orlando”) has significant land holdings within the area that would be subject to the City’s proposed OPA No. 7. For the time being, Orlando is seeking party status in the appeals of the Proponent against the City’s proposed amendments. Orlando takes no position on the Proponent’s site specific appeals. Given Orlando’s interest in these matters and the location of its lands within OPA No. 7, the Board granted party status.

[5] Ultimately, Orlando will be seeking appellant status for the appeals of the City's proposed OPA and ZBL. Mr. Longo submitted that Orlando participated in the City's planning approval process for the OP and the implementing ZBL, which included oral and written communications to the City, attendance at the public meeting and deputations to Council on these proposed planning instruments. However, it did not receive written notice of Council's intentions to adopt OPA No. 7 and the implementing ZBL. Orlando maintained that improper notice has been provided by the City. Orlando is hopeful that it will resolve its Appellant status with the City prior to the next PHC. If it does not then it would be asking the Board to determine its status at the next scheduled PHC.

[6] The Proponent requested that all of its appeals be heard together in one hearing but not consolidated. The other parties did not object to this request and there was agreement on the order of evidence to be given with respect to the appeals to the City initiated OPA and ZBL and the site specific OPA and ZBL all within the ambit of one hearing.

[7] Finally, the issue of the *Funeral, Burial and Cremation Services Act* ("FBSCA") was raised by the Proponent as it relates to its applications. The Proponent submitted that as required by the FBSCA, it has by letter dated March 5, 2013 to the City Clerk, requested approval of the establishment of a crematorium on the premises of the funeral establishment. This requirement under this Act is apart from the land use planning approvals required for the same use under the *Planning Act*. Counsel for the Proponent submitted that the City has been given ample time to consider and respond to its request. If the City does not issue its decision as required under the FBSCA before the next scheduled PHC, it will request the Board to determine the status of its request made under this Act. Pursuant to s. 85(1) of the FBSCA, the applicant can appeal the decision of the municipality to this Board (OMB).

[8] The next PHC is set for **Monday, October 21, 2013 commencing at 10 a.m.** The City will undertake to confirm the venue with the Board's Case Coordinator, Nazma Ramjaun, and inform the parties and participants of same. Matters to be addressed at the next PHC will include the determination of appellant status for Orlando and the disposition of the Proponent's request for approval of a crematorium under the FBSCA.

[9] I am not seized of these matters. No further notice is required.

“Jason Chee-Hing”

JASON CHEE-HING
MEMBER

Attachment 1

List of Participants

Alan Gilbert

Joseph Leering

Eunice Peterson

Roberto Buosi

Charles Barclay/Concerned Citizens of Malton

Dianne Douglas

Marjorie Austin

Dorothy Tomiuk

Sue Shanley/MIRANET

Eric Doharty

Anthony Lancaster