

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



ISSUE DATE: January 21, 2020

CASE NO(S): PL130350

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 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: 1077022 Ontario Inc. et al
Appellant: Baif Developments Limited
Appellant: Jason Properties Inc. and others
Subject: Proposed Official Plan Amendment No. OPA 8
Municipality: City of Mississauga
OMB Case No.: PL130350
OMB File No.: PL130350
OMB Case Name: A & W Food Services of Canada Inc. v.
Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: 1077022 Ontario Inc. et al
Appellant: Baif Developments Limited
Appellant: Jason Properties Inc. and others
Subject: By-law No. 0050-2013
Municipality: City of Mississauga
OMB Case No.: PL130350
OMB File No.: PL130351

Heard: January 8, 2020 in Mississauga, Ontario

APPEARANCES:

Parties

Counsel

City of Mississauga (“City”)

P. DeMelo

OMERS Realty Management Corporation

M. Noskiewicz/M. Laskin

156 Square One Limited

M. Noskiewicz/M. Laskin

Amacon Development (City Centre) Corp.

Z. Fleisher (Student at Law)

BAIF Developments

I. Andres

Walmart Canada Inc.

I. Andres

Morguard Investment Limited

D. Wood

MEMORANDUM OF ORAL DECISION BY BLAIR S. TAYLOR ON JANUARY 8, 2020 AND INTERIM ORDER OF THE TRIBUNAL

INTRODUCTION

[1] In or about March of 2013 City Council adopted Mississauga Official Plan Amendment No. 8 (“MOPA 8”) and Zoning By-law No. 0050-2013 (“ZBA”) with regard to the City’s Downtown Core.

[2] There were numerous appeals to the Tribunal.

[3] Over the course of years, the list of appellants has been reduced to about a handful.

[4] As a legacy matter, the Tribunal sought an update for this matter and a status hearing in September of 2019.

[5] At the request of the City due to on-going settlement discussions, the proposed hearing did not proceed.

[6] What did proceed was a City Motion Record for approval of proposed modifications to MOPA 8 and the ZBA based on the affidavit of its land use planner Marianne Cassin, and to dismiss the appeal of Kereva Grove Estates Inc.

[7] The Tribunal held a hearing on the motion and dealt with affidavit of service issues, further modifications to MOPA 8 and the ZBA, heard submissions from counsel, gave an interim decision in principle approving the further revised MOPA and ZBA and gave direction for further notice by the City, all for the reasons set out below.

DECISION

[8] Exhibit 1 is the Motion Record of the City containing the affidavit of its land use planner Ms. Cassin.

[9] The Motion was received at the Tribunal on December 23, 2019 and it seeks approval of a revised MOPA 8 and a revised ZBA and the dismissal of the appeal by Kereva Grove Estates Inc.

[10] In the lead up to the hearing, the Tribunal received a letter from the counsel for Kereva Grove Estates Inc. withdrawing its appeal (Exhibit 2).

[11] At the hearing, the Tribunal was provided with copies of a further revised version of MOPA 8 (Exhibit 3A) and the ZBA (Exhibit 3B). The Tribunal was advised that the further revised version of MOPA 8 had been electronically sent to the parties on January 7, 2020, but that the further revised version of the ZBA was made on January 8, 2020 and the parties were seeing it for the first time.

[12] What was not provided to the Tribunal was the affidavit of service for the Notice of Motion.

[13] The Tribunal was advised that service had been effected electronically and the counsel for the City gave his undertaking that an affidavit of service would forthwith be provided to the Tribunal's Case Coordinator with regard to the service of Exhibit 1.

[14] Inasmuch as the Tribunal did not have the affidavit of service at this time, the Tribunal only provided an Interim Decision and this Interim Decision is specifically without prejudice to the appeal rights of any party who may not have been served.

[15] Counsel for the City reviewed for the Tribunal and the parties the most recent revisions to MOPA 8 in Exhibit 3A and the ZBA in Exhibit 3B, which appear largely to be housekeeping matters.

[16] The Tribunal, having read the affidavit of the City's land use planner in Exhibit 1, canvassed all counsel at the hearing as to whether they wished to hear *viva voce* evidence with regard to the most recent modifications to MOPA 8 and the ZBA as found in Exhibits 3A and 3B from the City's planner. All counsel indicated that they were content with the information and materials they had received and were supportive of the City's position and the revised materials.

[17] Based on the affidavit of the City's land use planner, the Tribunal found that the modifications to MOPA 8 and the ZBA as in Exhibits 3A and 3B: had due regard for the matters of Provincial Interest as set out in s. 2 of the *Planning Act*, were consistent with the Provincial Policy Statement, 2014; conformed to the Growth Plan of the Greater Golden Horseshoe, 2019; and met the intent and purpose of the City's Official Plan.

[18] Accordingly, on an interim basis, the Tribunal allowed the City's motion in part and approved MOPA 8 in principle as modified by Exhibit 3A.

[19] Secondly on an interim basis, the Tribunal allowed the City's motion in part and approved the ZBA in principle as modified by Exhibit 3B.

[20] In an abundance of caution, as the Tribunal did not have before it an affidavit of

service for the Motion Record (Exhibit 1) and as MOPA 8 has been modified as of January 7, 2020 and the ZBA modified as of January 8, 2020, the Tribunal directed:

- a. The City will forthwith serve, on all the remaining parties, copies of Exhibit 3A and 3B;
- b. That the said service shall include a direction that if there are any objections to Exhibit 3A or 3B, that party or parties shall have until Monday, February 10, 2020 to make such objection;
- c. Time shall be of the essence;
- d. The City shall provide forthwith an affidavit of service with regard to the service of Exhibit 3A and 3B to the Case Coordinator;
- e. In the event that there are no objections by any parties to Exhibit 3A and Exhibit 3B, counsel to the City shall then provide to the Case Coordinator;
 - i. A Draft Order for consideration by the Tribunal;
 - ii. The final version of MOPA 8 from Exhibit 3A; and
 - iii. The final version of the ZBA from Exhibit 3B.

[21] This is the Interim Order of the Tribunal.

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
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