

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



**ISSUE DATE:** February 25, 2015

**CASE NO(S):** PL130885

**PROCEEDING COMMENCED UNDER** subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	1026046 Ontario Limited
Appellant:	Paul Chomik
Appellant:	Peggy Moulder
Appellant:	Shoreline Towers Inc.
Subject:	Proposed Official Plan Amendment No. 197
Municipality:	City of Toronto
OMB Case No.:	PL130885
OMB File No.:	PL130885

Heard: February 23, 2015 by Telephone Conference Call

**APPEARANCES:**

**Parties**

**Counsel\*/Representative**

City of Toronto

L. Forder\*, S. Haniford\*

Peggy Moulder

Self-represented

Shoreline Towers Inc. and  
1026046 Ontario Limited

P. Morley\*

Mimico Lakeshore Network

M. Gerwin

Toronto and Region Conservation  
Authority

T. Duncan\*

Lakeshore Planning Council

P. Chomik, T. Dobson

**DECISION DELIVERED BY C. CONTI AND ORDER OF BOARD**

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## **BACKGROUND**

[1] This is the decision resulting from a prehearing conference (“PHC”) held by Telephone Conference Call (“TCC”) regarding multiple appeals of City of Toronto Official Plan Amendment No. 197 (“OPA 197”), through which the Mimico by the Lake Secondary Plan would be applied to an area on the shoreline of Lake Ontario, south of Lakeshore Boulevard West in the western part of the City of Toronto (“City”). The purpose of this TCC is to discuss matters that require resolution prior to the hearing for phase 1 of the appeal scheduled to commence on March 9, 2015. The matters considered during the TCC along with the Board’s determinations and directions are provided in the sections below.

## **WITNESS LISTS**

[2] The City indicated concern about recent changes to the witness list for Ms. Moulder and the Lakeshore Planning Council whereby Ms. Moulder would be providing evidence at the hearing for the Lakeshore Planning Council and Mr. Chomik would provide evidence for Ms. Moulder. The Board understands that this is being proposed to avoid unrepresented parties from taking on the dual role of being advocates and also providing evidence. The Board advised that often unrepresented parties are allowed to provide evidence and act as advocates, but that it may affect the weight given to the evidence provided by individuals who take on both roles. However, this is a matter that would be determined by the Member presiding at the hearing.

[3] Council for the City expressed concern that testifying for each other may technically avoid taking on the dual role, but in fact it may be difficult for Ms. Moulder and Mr. Chomik to avoid advocating for their own positions through their testimony. The Board heard that this arrangement could create confusion and result in duplication of testimony, and that it would be clearer to simply allow Ms. Moulder to act as advocate and also provide testimony on her own behalf and to allow Mr. Chomik to undertake both roles on behalf of the Lakeshore Planning Council.

[4] All parties indicated their consent to the above approach and that they will not raise any objections at the hearing to allowing Ms. Moulder to provide evidence at the hearing on her own behalf and act as an advocate as well. All parties also agreed that Mr. Chomik could provide evidence and act as the advocate for the Lakeshore Planning Council. Mr. Chomik and Mr. Dobson agreed that only Mr. Chomik will fill the advocate function for the Lakeshore Planning Council.

[5] While there is agreement among the parties on the above, the final determination on these matters will be made by the Board member that hears the appeal.

### **MEDIATION RESULTS**

[6] Counsel for the City indicated that they had brought forward a confidential report to City Council on matters that had been determined among the parties through Board mediation, but that confirmation of agreement with the contents of the report had not been received from Lakeshore Planning Council. The Board heard that Ms. Moulder had provided confirmation of agreement with the report. Counsel for the City stated that they had made numerous attempts to obtain similar confirmation from the Lakeshore Planning Council. It was understood that Lakeshore Planning Council had agreed to the matters resulting from the mediation, but their final sign off was required before the contents of the report could be made public.

[7] The Board heard that Mr. Chomik and Mr. Dobson had a remaining concern about the designation of some lands identified in the report that was delaying providing their concurrence.

[8] After hearing from the parties it was determined that the City would proceed and release the document on the basis that the parties had agreed with the content after the mediation. If there is an issue with regard the designations of some lands identified in the document, the Lakeshore Planning Council needs to raise this in the evidence at the hearing and the City could also address this through the evidence.

## CHARTS

[9] The City had prepared charts identifying the parts of OPA 197 that are under appeal by the various parties and those not under appeal. The Board heard that the City will be revising the charts to include some additional items and will provide them to the parties by the end of the day on February 23. Counsel for the City requested the other parties to provide confirmation regarding the content as soon as possible. The Board directed the parties to provide their responses back to the City by Wednesday, February 25.

## OTHER MATTERS

[10] Some concerns were expressed about lack of timeliness in responses to the City in communications with the Lakeshore Planning Council. The Board also heard concerns about the complexity of documents provided in circulation and the time required for review. The Board reminds the parties to try to maintain a cooperative approach in communicating with each other and that final resolution of issues will be based upon the evidence provided at the hearing. The parties are encouraged to focus on providing their evidence in a clear and efficient manner.

[11] Some concern was raised about Mr. Dobson seeking to testify as an expert witness while he is a member of the Lakeshore Planning Council. The Board heard that the City may raise this as an issue at the hearing.

[12] Phase 1 of the hearing is scheduled to commence on **Monday, March 9, 2015, at 10 a.m. at:**

**Ontario Municipal Board  
655 Bay Street, 16th Floor  
Toronto, ON M5G 1E5**

[13] The Member is not seized.

[14] No further notice is required.

[15] The above is the direction of the Board.

*"C. Conti"*

C. CONTI  
MEMBER

**Ontario Municipal Board**

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