

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



**ISSUE DATE:** December 30, 2015

**CASE NO(S):** PL131355

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

Appellant: 1734141 Ontario Limited  
Appellant: Aragon (Wellesley) Developments (Ontario) Corp.  
Appellant: Building And Land Development Association  
Appellant: Catholic Children's Aid Society Of Toronto; and  
others  
Subject: Proposed Official Plan Amendment No. OPA 183  
Municipality: City of Toronto  
OMB Case No.: PL131355  
OMB File No.: PL131355  
OMB Case Name: Lee v. Toronto (City)

**Heard:** November 5 and 6, 2015, in Toronto, Ontario

**APPEARANCES:**

**Parties**

**Counsel/Representative\***

City of Toronto

S. Haniford and S. Bradley

Sebert Productions Limited

M. Winch

1734141 Ontario Limited

M. Domovich\* (absent)

KingSett Capital Inc.

E. Costello and L. Dean

Aragon (Wellesley) Development  
(Ontario) Corporation

E. Costello and L. Dean

Stancorp Properties Inc.

E. Costello and L. Dean

RML 9 Isabella Street Limited and RML 625 Yonge Street Limited	A. Frank
The Catholic Children's Aid Society of Toronto	D. Baker
Darlon Investments Corporation	D. Bronskill
Wood & Church Inc.	D. Bronskill
Building Industry and Land Development Association	J. Dawson
Plazacorp Properties Limited	C. MacDougall
Wellesley Residences Corp.	C. MacDougall
Tribute (Church Street) Limited	C. MacDougall
Paul Lee	A. Heisey
Lifetime St. Mary Inc.	A. Brown and J. Smuskowitz

**MEMORANDUM OF ORAL DECISION DELIVERED BY JAMES R. McKENZIE  
ON NOVEMBER 6, 2015, AND ORDER OF THE BOARD**

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[1] This proceeding was convened as a prehearing conference to consider a motion by the City of Toronto ("City") to compel scoping with respect to appeals filed against the adoption of Official Plan Amendment No. 183 ("OPA 183) and finalise a phased hearing structure for those appeals. (Readers are directed to prior decisions for the background relating to OPA 183.) Through collaboration among the parties, arguing the motion was ultimately deemed unnecessary; the dispositions and orders that follow are all on consent.

[2] First, each appeal—except the respective appeals filed by the Building Industry and Land Development Association ("BILD") and Kingsett Capital Inc. ("Kingsett")—is made site-specific and engages contested policies of OPA 183 only to the extent of the property/properties identified in the respective appeal. More specifically, the Board orders as is set out in Exhibit M-3 appended to this decision as Attachment 1, and, for

greater clarity, Attachment 1 is to be read and applied as a single order of the Board, with its interrelated elements to be applied in a cohesive manner.

[3] Second, a related motion filed by Aragon (Wellesley) Development (Ontario) Corporation (“Aragon”) seeking to remove its property—known municipally as 81 Wellesley Street East—from OPA 183 (and Site and Area Specific Policy No. 382) is allowed on consent. Aragon was recently successful in a separate hearing with respect to site-specific redevelopment appeals. The Board orders that OPA 183 is so modified.

[4] Third, with respect to portions of OPA 183 no longer under appeal, identified in and appended to this decision as Attachment 2, the panel observes that those policies come into effect as an operation of law pursuant to s. 17(30) of the *Planning Act*, and will be confirmed when the Board Secretary notifies the clerk as stipulated in that same subsection.

[5] Furthermore, on consent, the Board orders that:

1. The hearing of OPA 183 shall proceed on a phased basis and in the following manner: Phase 1 and Phase 2.
2. The hearing of Phase 1 shall address:
  - a. the North Downtown Yonge Site and Area Specific Policy lands with the exception of:
    - i. those lands consisting of the area subject to the Historic Downtown Yonge Heritage Conservation District Study area, as affirmed by the Toronto Preservation Board at its meeting of July 28, 2015 (“the HCD Area”); and,
    - ii. any lands subject to a deferred site-specific appeal of OPA 183; and,
  - b. the text and policies of OPA 183 consensually identified at the November 6, 2015 prehearing conference and which will be enumerated in a schedule to be filed at the next prehearing conference.

3. The Phase 1 hearing shall be without prejudice to the Phase 2 hearing and any appeals therein.
4. The Phase 2 hearing shall address:
  - a. that portion of the North Downtown Yonge Site and Area Specific Policy lands consisting of the HCD Area with the exception of any lands subject to deferred site-specific appeals of OPA 183; and,
  - b. those policies of OPA 183 not addressed in the Phase 1 hearing.
5. The Phase 2 hearing shall be coordinated with:
  - a. any appeals arising from a decision of City Council to designate the HCD Area, or any amendments or modifications thereto, or any portion of the HCD Area, or any amendments or modifications thereto, as a heritage conservation district pursuant to s. 41 of the *Ontario Heritage Act* and to adopt a plan for that heritage conservation district pursuant to s. 41.1 of the *Ontario Heritage Act*; and,
  - b. any appeals arising from a decision of City Council to amend or modify the Phase 2 portion of OPA 183 in order to implement its decision taken in clause 4.a. above.
6. OPA 183 and any partial approval of OPA 183 does not come into force and effect as it relates to the HCD Area until the completion of the Phase 2 hearing and the Board's disposition therein.

[6] Finally, a motion filed jointly by the Bay Cloverhill Community Association Inc. and the Church Wellesley Neighbourhood Association Inc. seeking party status for each organisation will be considered at the next prehearing conference.

[7] The next prehearing conference is scheduled for **January 7, 2016, at 10 a.m.** at:

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

*"James R. McKenzie"*

JAMES R. McKENZIE  
VICE-CHAIR

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**Ontario Municipal Board**

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## ATTACHMENT 1

**THE BOARD ORDERS** that the site specific appeals filed by Darlon Investments Corporation, Stancorp Properties Inc., Tribute (Church Street) Limited, Wellesley Residences Corp., RML 9 Isabella Street Limited and RML 625 Yonge Street Limited, Lifetime Developments Ltd., The Catholic Children's Aid Society of Toronto, Paul Lee, Plazacorp Properties Limited, Wood & Church Inc., Sebert Productions Limited, and 1734141 Ontario Limited are hereby deferred *sine die* and OPA 183 is not approved at this time as it applies to the subject lands of the site specific appeals.

**THE BOARD FURTHER ORDERS** that the site specific deferrals and any partial approval of OPA 183 shall be strictly without prejudice to, and shall not have the effect of limiting:

- (a) the rights of a party to seek to modify, delete or add to the unapproved policies, schedule, maps, figures, definitions, tables and associated text in OPA 183 on a site specific basis; or
- (b) the jurisdiction of the Board to consider and approve modifications, deletions or additions to the unapproved policies, schedules, maps, figures, definitions, tables and associated text in OPA 183 on a site-specific basis.

**AND THE BOARD FURTHER ORDERS** that the scoping of appeals to a specific site basis is without prejudice to the positions taken by the parties to those appeals so that if those appeals proceed to a hearing, either on their own or as may be consolidated with other site-specific appeals, the City will not take the position that the Board ought not to approve site-specific modifications to the affected policies, schedules, maps, figures, definitions, tables and associated text on the basis that they deviate from or are inconsistent with such policies, schedules, maps, figures, definitions, tables and associated text on an OPA 183-wide basis (or as approved in respect of other lands which are subject to the same policies, schedules, maps, figures, definitions, tables and associated text). However, this does not affect the City's right to assert that the approved policies, schedules, maps, figures, definitions, tables and associated text should be applied to the specific sites without modification on the basis that they are consistent with the Provincial Policy Statement (2014), conform with provincial plans and that they constitute good planning.

**AND THE BOARD FURTHER ORDERS** that notwithstanding anything ordered above, the City has not conceded that any portions of OPA 183 that have not come into effect are properly under appeal and the City has reserved the right to bring motions or take any other action to have the breadth and scope of any appeal determined by the Board at a future date;

**AND THE BOARD FURTHER ORDERS** that any site specific official plan and/or zoning by-law amendments as approved or as provided for in a Council authorized settlement, with respect to the properties subject to the appeals filed by Darlon Investments Corporation, Stancorp Properties Inc., Tribute (Church Street) Limited, Wellesley Residences Corp., RML 9 Isabella Street Limited and RML 625 Yonge Street Limited shall be deemed to conform to OPA 183, and in the event of any conflict with

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OPA 183, the respective site specific by-law shall prevail to the extent of such conflict, which shall be reflected in OPA 183.

## ATTACHMENT 2

### PROVISIONS OF OFFICIAL PLAN AMENDMENT 183 PROPOSED TO COME INTO FORCE

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Municipality: City of Toronto  
November 6, 2015

Provisions of OPA 183 proposed to come into full force and effect:

- Introduction to Site and Area Specific Policy 382;
- 1.3, 1.4 except for the word "heritage", 1.5;
- 2.1; 2.3, 2.5, 2.6, 2.9, 2.12, 2.13;
- 3~~4~~ and second paragraph;
- 4A except "Yonge Street Character Area", 4B;
- 5.1, 5.1.3 except in a) "and heritage value" in a);
- 5.2 except for "and heritage value" in the second last sentence, and except for the last sentence,
- 5.2.1 except for "in the St. Nicholas Character Area";
- 5.3 first two paragraphs and first two sentences of third paragraph except for "that reference the street's historic character" in the second line;
- 5.4, 5.4.2, 5.4.4 except in a) "and heritage value";
- 5.5 except in the second paragraph "and heritage value", 5.5.1;
- 5.6, 5.6.2 except in a) "and heritage value";
- 5.7 first four paragraphs, fifth paragraph second sentence, sixth paragraph, 5.7.1 except in a) "and heritage value", 5.7.2, 5.7.4, 5.7.6;
- 5.8, 5.8.7 except a), and except in b) "~~public~~ and open space", ~~5.8.7.1 and d)~~, 5.8.8 except for "Yonge Street and" and "Yonge Street or";
- 6.2, 6.2.2, 6.2.3, 6.2.4, 6.2.5, 6.2.6, 6.2.7, 6.2.10;
- 6.3, 6.3.1, 6.3.2, 6.3.3., ~~6.3.4, 6.3.5, 6.3.6~~, 6.3.7, 6.3.8, 6.3.9, 6.3.10, 6.3.11, 6.3.12, 6.3.14, 6.3.15, 6.3.16 except d);
- 6.4.1,
- 6.5 first paragraph and second paragraph except "and the North Downtown Yonge Urban Design Guidelines";
- 6.6.6;
- Map 1 revised to identify the lands subject to the Phase 2 hearing with added Note: Identifying that the outlined area is the boundary of the Historic Yonge Street Heritage Conservation District Study area as affirmed by the Toronto Preservation Board at its meeting of July 28, 2015; and
- Map 2 revised to identify the lands subject to the Phase 2 hearing to comprise the shaded areas identified as: Height Core Area, Height Transition Area and Height Peak Area.