

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



ISSUE DATE: February 07, 2019

CASE NO(S): PL140860

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

Appellant:	Multiple Appellants
Subject:	Proposed Official Plan Amendment No. 231
Municipality:	City of Toronto
OMB Case No.:	PL140860
OMB File No.:	PL140860
OMB Case Name:	A. Mantella & Sons Limited v. Toronto (City)

Heard: January 30, 2019 in Toronto, Ontario

APPEARANCES:

Parties

City of Toronto

Toronto Industry Network
Atlantic Packaging Products Ltd.
Campbell Company of Canada
The Industrial Group Inc.
Redpath Sugar Ltd.
Canadian Propane Association

Menkes 225 Birmingham Street Inc.
Northern Realty Advisors
150 Eglinton Avenue Ltd.

Riocan REIT

Counsel

Andrew Biggart and Christina Kapelos

Jonathan Cheng

Naomi Mares

Max Reedijk

Rothmans Benson and Hedges	Peter Gross
First Capital Corporation Loblaws Properties Ltd. Choice Properties Limited REIT Kingsett Capital Inc.	Meaghan Barrett
Dream Asset Management Corporation Berkley Carlyle (Junction) Inc. K2 2075 Kennedy Road Inc.	Michael Cara
2129152 Ontario Inc. Parkway Automotive Investments Ltd. 2130254 Ontario Inc.	Jamie Cole (student-at-law)
Leslie-Lakeshore Developments Inc. Satin Finish Hardwood Floors M+S Investments	Patrick Harrington
Midland Corporate Centre Ltd. Samuel Sarick Ltd. 10 QEW Inc.	Aaron Kurts
Revenue Properties Co. Ltd. Morguard Investments Ltd.	Johanna Shapira
Building Industry and Land Development Association Delterra Inc.	John Dawson

**MEMORANDUM OF ORAL DECISION DELIVERED BY GERALD S. SWINKIN ON
JANUARY 30, 2019 AND ORDER OF THE TRIBUNAL**

[1] This hearing event was a further Pre-hearing Conference (“PHC”) before the Local Planning Appeal Tribunal (the “Tribunal”) in the ongoing case management of City of Toronto Official Plan Amendment 231 (“OPA 231”).

[2] The Tribunal had before it a Motion Record served and filed by the City of Toronto (the “City”). The City was seeking consolidation of the appeals of Official Plan Amendment 94 (“OPA 94”) into the hearing of the retail phase of the OPA 231 appeals.

[3] OPA 94 was adopted by City Council on August 27, 2010. It dealt with retail commercial uses in Mixed Use Areas. Two appeals were filed with respect to it, one on behalf of Revenue Properties Company Ltd. and Morguard Investments Ltd. and the other on behalf of Delterra Inc.

[4] The predecessor tribunal to the Tribunal, the Ontario Municipal Board, opened Case No. PL101120 to manage those appeals. At the first PHC to deal with that case, the appellants and the City agreed to request an adjournment of that appeal proceeding on the basis that it could be addressed in the municipal comprehensive review and five year official plan review with respect to employment land policies which was then being commenced. The matter was then adjourned *sine die*.

[5] The Motion Record discloses that there is a considerable overlap between the policies of OPA 94 and that which is in OPA 231 now before the Tribunal in this case. The City argument is that through the adjudication of the retail policies in OPA 231, the policies under appeal in OPA 94 can effectively be dealt with and disposed of.

[6] The OPA 94 appellants are appellant parties in the OPA 231 appeals and counsel for those appellants are consenting to the request being made by the City at this time.

[7] On questioning by the Tribunal as to the actual process being sought by the City, the City, with the assent of counsel for the OPA 94 appellants, altered the request so that what is being sought is the hearing together of the OPA 94 appeals with the OPA 231 appeals, with specific reference to the Retail phase of this hearing.

[8] There being no objection by way of Notices of Response being filed or by oral submission at this PHC, the Tribunal allows the modified motion and orders the hearing together of the OPA 94 appeals under Case No. PL101120 with the OPA 231 appeals, to be heard during the Retail phase.

[9] This PHC date, as referenced in the disposition of the Tribunal issued October 9,

2018, was potentially to be available to speak to any issues which might be extant with respect to the Phase 3 portion of this hearing, regarding Conversion and Forecasting, and settlement of the Procedural Order regarding the hearing of that phase currently scheduled to commence on September 16, 2019.

[10] Mr. Biggart advised that, happily, the Procedural Order has been settled and submitted to the Tribunal for issuance on consent. It will issue imminently, and therefore nothing further was required to be done on that at this time.

[11] At the request of Mr. Biggart, for the purpose of moving the Phase 4 hearing along, which concerns the Retail policies, he requested that the Tribunal underline by way of notice to the Parties through this disposition that he will be asking the Parties with issues in the Phase 4 segment to provide a draft to him of their issues by no later than **Friday, February 15, 2019**. With these inputs, he will compose a composite draft Issues List for circulation and a request for consent to the finalization of that List of Issues.

[12] Failing full consent, the resolution of that Issues List could be an item to be dealt with at the previously scheduled status PHC on March 4, 2019 (as fixed by the Tribunal's decision issued on October 9, 2018).

[13] In keeping with the management of the appeals under this case, a further status PHC date was requested by the City in order to deal with possible settlements and any necessary practice and scheduling matters regarding the outstanding appeals.

[14] For that purpose, the Tribunal fixes **Thursday, May 16, 2019 at 10 a.m.** at:

**Local Planning Appeal Tribunal
655 Bay Street, 16th Floor
Toronto, ON M5G 1E5**

for a **status PHC** regarding the hearing and to accommodate such motions as may be associated with the hearing or with settlement of any appeals presently pending, which

settlements should be brought before the Tribunal by way of notice of motion in accordance with the Tribunal's *Rules of Practice and Procedure*.

[15] It is expected that Mr. Biggart will circulate to the Parties and to the Tribunal in advance of that session an agenda indicating the matters to be addressed at the PHC.

[16] There will be no further notice of this hearing event.

[17] This Member will remain seized of case management matters.

"Gerald S. Swinkin"

GERALD S. SWINKIN
MEMBER

If there is an attachment referred to in this document,
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Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
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