

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



**ISSUE DATE:** March 13, 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

Appellants:	Multiple Appellants
Subject:	Proposed Official Plan Amendment No. 231; (Phase 1B - Part IV)
Municipality:	City of Toronto
OMB Case No.:	PL140860
OMB File No.:	PL140860
OMB Case Name:	A. Mantella & Sons Limited v. Toronto (City)

**Heard:** March 4, 2019 in Toronto, Ontario

**APPEARANCES:**

**Parties**

**Counsel/Representative\***

City of Toronto

Christina Kapelos

Riocan Real Estate Investment Trust

Max Reedijk

Dream Asset Management  
Corporation,  
Berkley Carlyle (Junction) Inc.,  
K2 2075 Kennedy Road Inc.

Michael Cara

David H. Green Investments Ltd.

Barry Horosko

Building Industry Land Development Association,  
Deltera Inc. John Dawson

10 QEW Inc.,  
Midland Corporate Centre Ltd.,  
Samuel Sarick Limited. Aaron Kurts

First Capital Holdings Trust (Ontario) Limited,  
Loblaw Properties Limited,  
CP REIT Ontario Properties Limited David Neligan

Revenue Properties Company Limited,  
Morguard Investments Ltd. Raj Kehar

Walmart Canada Corp.  
Costco Wholesale Canada Ltd. Joe Hoffman,  
Roslyn Houser

**MEMORANDUM OF ORAL DECISION DELIVERED BY GERALD S. SWINKIN ON  
MARCH 4, 2019**

---

[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 (the “City”) Official Plan Amendment 231 (“OPA 231”).

**The Green Motion**

[2] The Tribunal had before it a Motion Record served and filed by Barry Horosko on behalf of his client, David H. Green Investments Limited (“Green”). This was a motion brought with the consent of the City. Based upon the Affidavit of Service filed by Mr. Horosko, the Motion Record was served electronically on the Parties of record on March 1, 2019, well short of the 15 days’ notice required by the Tribunal’s *Rules of Practice and Procedure*.

[3] In addition to the substantive relief sought by the Motion, Mr. Horosko requested an Order of the Tribunal granting an abridgment of time for service of the Notice of Motion. That request was granted and the time for service was abridged to the time it

was actually served.

[4] The substantive relief sought by the Motion was to alter an aspect of the Order of the Tribunal issued January 8, 2019 with respect to the OPA 231 appeals. As part of that Order, there was a Schedule 2 appended to it, which identified properties which were still subject to site specific or scoped appeals of OPA 231, and which properties were therefore not yet fully subject to the policies of OPA 231.

[5] By reason of the use of a formal municipal address and a convenience address for 1306 The Queensway and 1310 The Queensway (the “Green lands”), although all appeals with respect to the Green lands had been withdrawn, when preparing Map 5 of Schedule 2, those lands were still identified as being subject to appeals.

[6] Green wishes the record to reflect that the lands municipally known as 1306 The Queensway and 1310 The Queensway (the Green lands) are not the subject of any outstanding appeals.

[7] Having read the Motion Record and hearing the submissions of counsel, the Tribunal is satisfied that the relief requested is appropriate, allows the Motion and hereby confirms that OPA 231 is now in effect on the Green lands as all appeals of OPA 231 relating to those lands have been withdrawn.

[8] So orders the Tribunal.

#### **Procedural Order for Phase 4 (Retail Policies) and Hearing Commencement Date**

[9] Christina Kapelos, counsel for the City, tendered a draft Procedural Order (“PO”) to govern the next hearing phase, Phase 4, relating to the Retail Policies in OPA 231. The draft was complete with the standard attachments.

[10] In Attachment 3, the Order of Evidence, it is noted that the City will call its case and then there is an entry for those in support of the City. The Tribunal canvassed with

Ms. Kapelos whether there were parties in support of the City and was advised that there were none known at this stage. The Tribunal suggested that this entry be deleted if indeed there was no expectation of such parties.

[11] Attachment 2, the Issues List, presently consists of the individual Issues Lists provided by the respective appellants. The Tribunal understands that there may be some effort to harmonize these lists so that common issues can be grouped and perhaps lead to some evidence collaboration or greater hearing efficiency, which the Tribunal encourages.

[12] At the request of the Parties, with delivery of the draft PO and an estimate of hearing time on the order of two weeks, the Tribunal fixes the hearing of the Phase 4 (Retail Policies) appeals for **nine days, starting Tuesday, May 19, 2020 at 10 a.m.** at:

**Local Planning Appeal Tribunal  
655 Bay Street, 16th Floor  
Toronto, Ontario**

[13] No further notice will be given.

[14] This Member is not seized.

[15] With the hearing commencement date now fixed, the Tribunal expects the final form of the PO to be submitted to the Tribunal within two weeks for review and, if acceptable, for issuance. This version will include reference to the hearing together with OPA 231 of Official Plan Amendment 94, as addressed in the Decision of the Tribunal issued on February 7, 2019.

[16] In the event that there are any issues in settling the final form of the PO, the Tribunal may be spoken to, in which case contact should be made with the Case Coordinator at the Tribunal in order to ascertain the appropriate method for dealing with the matter.

[17] Ms. Kapelos indicated that the City may be pursuing an initiative to have the Parties enter Tribunal-led mediation. That will be a matter for the Parties and should be pursued in accordance with Tribunal practice through the office of the Associate Chair.

### **Next Status PHC**

[18] In accordance with the practice which has developed in managing the OPA 231 appeals, a further status PHC was requested in order to be able to deal with potential settlements, motions and for general status update purposes.

[19] For this purpose, the Tribunal has fixed a PHC **for Monday, July 22, 2019 at 10 a.m.** at:

**Local Planning Appeal Tribunal  
655 Bay Street, 16th Floor  
Toronto, Ontario**

[20] As is also the custom, the Tribunal expects that counsel for the City will circulate an agenda for that PHC to the Parties and to the Tribunal prior to that session.

*“Gerald S. Swinkin”*

GERALD S. SWINKIN  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://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  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248