

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



**ISSUE DATE:** June 12, 2018

**CASE NO(S):** PL160771

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:     | 100 Broadway Developments Inc.                  |
| Appellant:     | 100 Ranleigh Inc.                               |
| Appellant:     | 117 Broadway Holdings Inc.                      |
| Appellant:     | 1330192 Ontario Inc.; and others                |
| Subject:       | Proposed Official Plan Amendment No. OPA<br>320 |
| Municipality:  | City of Toronto                                 |
| OMB Case No.:  | PL160771                                        |
| OMB File No.:  | PL160771                                        |
| OMB Case Name: | Akbari v. Toronto (City)                        |

**Heard:** June 1, 2018 in Toronto, Ontario

**APPEARANCES:**

**Parties**

**Counsel/Representative\***

City of Toronto

Kelly Matsumoto

RioCan, Toronto Industry Network and  
Canadian Propane Association

Calvin Lantz

Preston Group, H-M Moccasin Inc.,  
and Starlight Group Property Holdings

Mark Flowers

Pabs Ltd. Partnership and others

David Bronskill (for Joe Hoffman)

|                                                                                                       |                                   |
|-------------------------------------------------------------------------------------------------------|-----------------------------------|
| Trans County Development Corp. and Conben Holdings Inc.                                               | Michael Connell                   |
| BILD, Greater Toronto Apartments Association, TDSB and Minto Communities Canada Inc./ Properties Inc. | John Dawson                       |
| Babak Sarshar and Parkset Developments Inc.                                                           | Ira Kagan                         |
| Dunpar Developments Holdings Inc. and BILD                                                            | Mary Flynn-Guglietti              |
| CAPREIT Ltd.                                                                                          | Rajan Kehar (for Johanna Shapira) |
| Small Builders Group                                                                                  | Amber Stewart                     |
| Graywood Developments Ltd.                                                                            | Chris Tanzola                     |
| Edithvale Yonge Residents Association                                                                 | George Belza*                     |
| Swansea Area Ratepayers Group                                                                         | Veronica Wynne*                   |

### **DECISION OF THE TRIBUNAL DELIVERED BY GERALD S. SWINKIN**

[1] This fourth Pre-hearing Conference (“PHC”) was intended to formalize the Procedural Order (“PO”) meant to govern the hearing which is scheduled to commence on September 24, 2018.

[2] At the outset of the session, Kelly Matsumoto provided an update to the Local Planning Appeal Tribunal (the “Tribunal”) on events since the last PHC on March 2, 2018.

[3] As was briefly touched upon in the disposition issued on March 19, 2018 from that PHC, a mediation initiative was further pursued by the City of Toronto (“City”) and various appellants and has apparently led to some fruitful sessions. There are further

sessions scheduled for mid-June. If the sessions produce the resolution of some or all of the appeals, it is the intent of City staff to take a report to City Council at its meeting scheduled to commence on June 26, 2018 in order to make recommendations as to settlement of some or all of the appeals and to receive direction from Council on the matter.

[4] If there is settlement of some or all of the appeals, this will have an effect on the identification of outstanding issues and the amount of time that may be required for the hearing of the matter.

[5] As the status of potential settlement will not be known until after the June Council meeting, it is premature to attempt today to finalize the Issues List which would be appended to the PO.

[6] In this regard, Ms. Matsumoto requested that the Tribunal fix a further PHC in mid-August to then deal with finalization of the PO and associated hearing procedural matters.

[7] The Tribunal canvassed counsel present and there was no objection to this course of action.

[8] Ms. Matsumoto undertook on behalf of the City that there would be a communication from the City's counsel (which may be someone other than Ms. Matsumoto) to the other Parties after the June 26 Council meeting as to Council's action and direction regarding these appeals. The Parties will then understand whether some or all of the appeals are directed to be settled and the nature of the proposed settlements. This communication will preferably transmit the formal minutes of Council as prepared by the City Clerk regarding this matter. If, for some reason, those minutes are not available in the first week of July, the City's counsel will provide advice by e-mail to the Parties by no later than July 16, 2018 as to the substance of the Council action and direction.

[9] There was discussion about the contingencies of how Pre-hearing actions would be addressed in light of this standing down of the finalization of the PO. The March 19 Tribunal disposition sets out in paragraph 9 a Summary of Dates. It was agreed that it was not inappropriate to maintain the date for the first event, being July 26, 2018, for service of the list of witnesses which each Party proposes to call. The Tribunal hereby directs the Parties to observe that obligation.

[10] The Tribunal exhorted the Parties to work on finalizing an Issues List and draft PO prior to the next PHC in mid-August. In the event that a consensus Issues List and PO can be achieved amongst the Parties, presumably the dates and events set forth in the Summary of Dates referred to above can continue to be used. However, if the Parties believe that adjustments to those dates are appropriate and there is consensus on such changes, that may be done.

[11] In the event that a consensus Issues List and PO cannot be achieved, the mid-August PHC will be utilized to fix the Issues List and the final form of the PO by the Tribunal.

[12] In this contingency, there clearly would be impacts on the events and dates set out in the Summary of Dates. The Tribunal would deal with adjustment of those dates at the mid-August PHC. And further to the discussion between the Tribunal and counsel at this session, fully reserving the discretion of the Tribunal as a result of submissions at the mid-August PHC, the general expectation should be that the service of witness statements and reports will be fixed to occur three weeks prior to commencement of the hearing (which is presently scheduled to commence on September 24 but could be set at a later date in the event that settlements will abridge the time required for hearing, all of which will be spoken to at the mid-August PHC) and service of reply statements will occur one week prior to commencement of the hearing.

[13] The Tribunal trusts that counsel will make an effort to settle an Issues List and PO in advance of the mid-August PHC. If that has not occurred, the Tribunal will fix the Issues List and settle the PO at the mid-August PHC as well as any corollary matters

which must be dealt with in order to facilitate the commencement and progress of the hearing of these appeals.

[14] Chris Tanzola rose to advise the Tribunal that one of his clients, i2 Developments Inc., has a site specific appeal relating to property at 150 Bronoco Avenue, which will be the subject of a PHC on June 5, 2018. As his client has apparently achieved a settlement with the City, some effort is being made to convert that session to a settlement hearing. If that is to occur, there is likely to be some scoping of his client's appeal in this proceeding. This submission was made simply to apprise the Tribunal of this possibility.

[15] In the result, the mid-August PHC will be fixed for **Wednesday, August, 15, 2018 at 10 a.m.** at:

**Local Planning Appeal Tribunal  
655 Bay Street, 16<sup>th</sup> Floor  
Toronto, Ontario**

[16] There will be no further notice of this next PHC.

[17] This Member will be seized of the next PHC but not necessarily of the hearing.

*"Gerald S. Swinkin"*

GERALD S. SWINKIN  
MEMBER

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**Local Planning Appeal Tribunal**  
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