

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



**ISSUE DATE:** February 13, 2018

**CASE NO(S):** PL170991

**PROCEEDING COMMENCED UNDER** subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	1520866 Ontario Limited (Losani Homes)
Subject:	Failure of the City of Hamilton to announce a decision respecting Proposed Official Plan Amendment No. UHOPA-16-20
Municipality:	City of Hamilton
OMB Case No.:	PL170991
OMB File No.:	PL170991
OMB Case Name:	1520866 Ontario Limited v. Hamilton (City)

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	1520866 Ontario Limited (Losani Homes)
Subject:	Application to amend Zoning By-law No 3692 - 92- Neglect of City of Hamilton to make a decision
Existing Zoning:	ND - Neighbourhood Development Zone
Proposed Zoning:	Site specific RM3 Zone, Modified, Residential Multiple Zone
Purpose:	To permit a residential subdivision and Local Commercial uses
Property Address/Description:	157 Upper Centennial Parkway
Municipality:	City of Hamilton
Municipality File No.:	ZAC-16-056
OMB Case No.:	PL170991
OMB File No.:	PL170992

**Heard:** February 9, 2018 in Dundas, Ontario

**APPEARANCES:****Parties**

1520866 Ontario Limited  
(Losani Homes)  
(the “Applicant/Appellant”)

City of Hamilton (the “City”)

**Counsel**

K. Mullin for J. Meader, counsel of record

P. MacDonald for M. Kovacevic, counsel of  
record

**MEMORANDUM OF ORAL DECISION DELIVERED BY S. TOUSAW ON FEBRUARY 9, 2018 AND ORDER OF THE BOARD**

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**PROCEEDINGS**

[1] This Pre-hearing Conference (“PHC”) was held to organize a hearing on the merits of appeals by the Applicant to the City’s failure to make a decision on applications for Official Plan Amendment and Zoning By-law Amendment within the statutory time periods.

[2] The Applicant proposes to establish 95 townhouse dwelling units on a 1.87 hectare property at 157 Upper Centennial Parkway (the “site”) in the City.

[3] Counsel for the Applicant and the City advised the Board that discussions were continuing on the applications and requested that a second PHC be scheduled in September at which time a settlement could be considered or a Procedural Order (“PO”) and Issues List (“IL”) could be approved. The Board advised the parties that if a hearing is necessary, hearing dates would not be scheduled at the next PHC unless the PO and IL are finalized and approved at the PHC.

[4] Party status was requested by Anna Toumanians, co-counsel with Scott. Snider for Penta Properties Inc. and Upper Centennial Developments Ltd., owners of the abutting properties under development to the north and west of the site. These owners

are not opposed to the development but want to ensure that arrangements are put in place that are consistent with their existing servicing agreements with the Applicant.

[5] Counsel for the Applicant argued that it was premature to add a party given the potential for a settlement and that the request could be revisited at the next PHC.

[6] The Board granted party status to Penta Properties Inc. and Upper Centennial Developments Ltd. based on their legitimate interests as abutting developers with existing servicing agreements with the Applicant, and to ensure they are kept informed of the proceedings.

[7] Party status was requested by Michael Tellerd, who's company - 660439 Ontario Inc. - owns a furniture manufacturing and retail business abutting the south side of the site. Mr. Tellerd has several concerns including the land elevation, drainage, setbacks, servicing and fences. Although Patrick MacDonald advised that the City's practice is to hold a public meeting for appealed files such as this, the Board encouraged Mr. Tellerd to satisfy himself that his concerns are known to the City's planning department in the event that a settlement is reached between the Applicant and the City. The Board granted party status to 660439 Ontario Inc. on consent.

## **ORDER**

[8] Party status was granted to the companies as noted above.

[9] The next PHC (or settlement conference if possible) will be held at **10 a.m.** on **Monday, September 24, 2018** at:

**Dundas Town Hall  
2<sup>nd</sup> Floor Auditorium  
60 Main Street, Dundas  
Hamilton, Ontario**

[10] No further notice will be given.

[11] This Board Member is not seized.

*“S. Tousaw”*

S. TOUSAW  
MEMBER

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please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

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