

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



ISSUE DATE: March 04, 2021

CASE NO(S): PL171450

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

Appellant: 1826210 Ontario Inc.
Appellant: Centurion (Dundas) Holdings Ltd.
Appellant: Marz Homes Holdings Inc.
Appellant: Ministry of Municipal Affairs; and others
Subject: Proposed Official Plan Amendment No. 69
Municipality: City of Hamilton
LPAT Case No.: PL171450
LPAT File No.: PL171450
LPAT Case Name: Centurion (Dundas) Holdings Ltd. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1804487 Ontario Inc.
Appellant: 1826210 Ontario Inc.
Appellant: 2294643 Ontario Inc.
Appellant: 2531083 Ontario Inc.; and others
Subject: By-law No. 17-240
Municipality: City of Hamilton
LPAT Case No.: PL171450
LPAT File No.: PL171451

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Brian Arthur
Applicant: Hamilton Clifford
Subject: Minor Variance

Variance from By-law No.: 32-74
 Property Address/Description: 1286 Channelview Road
 Municipality: City of Kingston
 Municipal File No.: D13-054-2018
 LPAT Case No.: PL180835
 LPAT File No.: PL180835
 LPAT Case Name: Arthur v. Kingston (City)

Heard: January 27, 2021 by video hearing

APPEARANCES:

Parties

Counsel

City of Hamilton ("City")	P. MacDonald
64 Main Street East Hamilton Inc.	(under review)
939158 Ontario Inc.	No one appeared
1804487 Ontario Inc.	No one appeared
1826210 Ontario Inc.	A. Toumanians, J. Meader
2294643 Ontario Inc.	M. Poremba, J. Shapira
2531083 Ontario Inc.	No one appeared
Canadian Tire Real Estate Limited (CTREL)	M. Winch
Choice Properties Real Estate Investment Trust (CP REIT) and Loblaw Properties Limited	D. Neligan
King Stuart Developments Inc.	D. Baker
Marfad Holdings Inc.	A. Toumanians
Marz Homes Holdings Inc.	C. Boer, D. Ionico
Rolanco Network Inc.	D. Serwatak (<i>in absentia</i>)
Royal Connaught Inc.	J. Mahler

Slate Asset Management	M. Poremba, J. Shapira
1804482 Ontario Limited	D. Baker
CF Realty Holdings Inc.	D. Baker
Basingstoke Enterprises Inc.	K. Sutton

**MEMORANDUM OF ORAL DECISION DELIVERED BY JATINDER BHULLAR ON
JANUARY 27, 2021 AND ORDER OF THE TRIBUNAL**

[1] The Tribunal held its third Case Management Conference (“CMC”) concerning the City’s Official Plan Amendment No. 69 and Zoning By-law Amendment No. 17-240. More than two years have elapsed since the second CMC was held on November 30, 2018. Since this time several parties have withdrawn their appeals or otherwise settled with the City.

[2] The Tribunal was informed on January 25, 2021 that Rose Hamilton Homes Inc. and LJM Developments Ltd. have resolved their matters and that they will not be participating in these appeals any further. These Appellants are removed from further consideration in this matter.

[3] It is noted that in its decision from the second CMC dated December 24, 2018 the Tribunal adjourned *sine die* the appeals of 1804487 Ontario Inc., 2531083 Ontario Inc., Centurion (Dundas) Holdings Ltd., and Marfad Holdings Inc.

[4] In advance of the CMC, in a manner similar to the second CMC, the City had circulated a draft agenda, updated Appellant/Party List, a Consolidated Issues List, a draft Proposed Appellant Groupings List, a draft Procedural Order for the proposed Built Form hearing, a draft Procedural Order for the proposed Parking Hearing, and a list of proposed independent hearings, all of which was of assistance in organizing the CMC.

PRELIMINARY MATTERS

[5] During the roll call for this CMC, the Tribunal observed that at least one party has sent a representative who was not duly qualified to do so. Whereas the Tribunal is vigilant in these matters, it must be recognized by all that compliance with the Tribunal's *Rules of Practice and Procedure* (the "Rules") is a pre-requisite for any participation in any form during the processing of a matter before the Tribunal at any stage of the Appeal, inclusive of communication with the case-coordinator, the participation at a CMC, etc. Rule 1.2 defines "representative" as follows:

"representative" means a person authorized under the *Law Society Act*, R.S.O. 1990, c. L.8 (as amended) or its By-Laws to represent a person in the proceeding before the Tribunal, and this includes legal counsel or the individuals that are authorized to provide legal services;

[6] The Tribunal notes that the phrase "represent a person" in the definition applies to representing a corporation treated as person. It must be noted that the Tribunal does not provide legal advice to the parties, and the parties may approach the Law Society of Ontario regarding compliance with their By-laws or other qualified legal service providers as appropriate.

[7] It may be noted that there is the possibility of employing non-legal licensed individuals, but it is under strict conditions and authorization and may not violate the *Law Society Act*, R.S.O. 1990, c. L.8 (as amended) or its By-laws. For such scenarios the Rules assist as follows:

4.1 Appearance in Person or by an Authorized Representative A party or participant may attend a proceeding in person or with their representative. Representatives who are not legal counsel must file a written confirmation of authorization to act for the party or participant. If authorization of the representative changes, the person or the representative shall immediately notify the Tribunal and the other parties and provide particulars of any new representative.

[8] The Tribunal directs that the following parties shall, within two weeks of the issuance of this decision, explicitly inform the Tribunal case-coordinator regarding compliance of their assigned or proposed representative to the Tribunal's Rules:

- a. 64 Main Street East Hamilton Inc.;
- b. 939158 Ontario Inc.;
- c. 1804487 Ontario Inc.; and
- d. 2531083 Ontario Inc.

ISSUES LIST AND PLANNING FOR A HEARING

[9] Prior to the conduct of this CMC, the City provided a matrix of Issues List based on discussions with the Appellants. The categories proposed to the Tribunal include City-wide and site specific. The parties on consent proposed that City-wide matters should precede the site-specific appeals hearing(s).

[10] For City-wide appeals there are two parties as follows:

Canadian Tire Real Estate Limited; and

Choice Properties/Loblaws Properties

[11] The remaining parties fall in the category of site-specific appeals. There are two exceptions as the following two parties can only shelter under the issues raised by the parties in this category:

1804482 Ontario Limited; and

CF Realty Holdings Inc.

[12] The parties deliberated on procedures, including the aspect of ensuring that there were not overlaps between the categories in terms of issues. For example, issues determined under the City-wide hearing shall not be re-raised in site specific appeals. The parties agreed to further review and finalize the Issues List for review at a future

CMC.

[13] The Tribunal finds that it will be appropriate to proceed in this matter pending the finalization of the Issues List for each category. The Tribunal directs that the parties shall revise the draft PO for review and approval at the next CMC.

CMC DETAILS

[14] The Tribunal scheduled a fourth CMC to be held via video on **Thursday, April 1, 2021** starting at **10 a.m.**

[15] Parties and participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/946250869>

Access code: 946-250-869

[16] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](#) or a web application is available:

<https://app.gotomeeting.com/home.html>

[17] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **1 (647) 497-9391** or **Toll Free [1-888-455-1389](tel:1-888-455-1389)**. The **access code** is **946-250-869**.

[18] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

- [19] There will be no further notice.
- [20] The Tribunal so Orders as set out in this Decision.
- [21] I may be approached for case management purposes.

“Jatinder Bhullar”

JATINDER BHULLAR
MEMBER

If there is an attachment referred to in this document,
please visit www.olt.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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