

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



**ISSUE DATE:** April 01, 2019

**CASE NO(S):** PL180470

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:     | Parkland Fuel Corporation                        |
| Appellant:     | Stremma Developments (St. George) Inc.           |
| Subject:       | Proposed Official Plan Amendment No. OPA-A-16-RA |
| Municipality:  | County of Brant                                  |
| OMB Case No.:  | PL180470   |
| OMB File No.:  | PL180470   |
| OMB Case Name: | Parkland Fuel Corporation v. Brant (County)      |

**Heard:** March 11, 2019 in Paris, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

County of Brant

Jyoti Zuidema / Jennifer Meader

Parkland Fuel Corporation

Christopher Sivry / Marc Kemerer

Stremma Developments (St. George) Inc.

Michael Melling / Meaghan McDermid

Losani Homes (1998) Ltd.

Denise Baker

Riverview Highlands (St. George) Holdings Ltd.

James Hitchon

## **Participants**

Empire Communities (St. George) Ltd. Kristie Jennings / Paul DeMelo

## **MEMORANDUM OF ORAL DECISION DELIVERED BY S. TOUSAW AND K.J. HUSSEY ON MARCH 11, 2019 AND ORDER OF THE TRIBUNAL**

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### **INTRODUCTION**

[1] This hearing event is the second Case Management Conference (“CMC”) in respect of two appeals filed against an Official Plan Amendment (“OPA”) adopted by the County of Brant (“County”).

[2] The first CMC was adjourned to enable the County to re-issue notice on account of an inadvertent incomplete original notification list. Notice was re-issued and the County filed an Affidavit of Service which was marked as Exhibit 1. No issues with notice were raised.

[3] The County adopted an OPA affecting the settlement area of St. George following the completion of the St. George Area Study and Addendum Report. Parkland Fuel Corporation (“Parkland” / “Appellant”) appealed the OPA as it relates to propane facilities, and Stremma Developments (St. George) Inc. (“Stremma” / “Appellant”) appealed the OPA as it relates to phasing and servicing.

[4] Under the *Local Planning Appeal Tribunal Act, 2017* (“LPATA”), proclaimed on April 3, 2018, the Tribunal must convene a CMC with the appellants and the approval authority (s. 39(1)). The CMC must explore opportunities for settlement, mediation or other dispute resolution processes (s. 39(2)) and may also address such matters as additional parties, narrowing of issues, disclosure and scheduling the hearing (s. 33(1)). The Tribunal’s *Rules of Practice and Procedure* (“Rules”) list the matters to be considered at a CMC (Rule 26.20).

## PARTIES AND PARTICIPANTS

[5] The statutory Parties are the County and the Appellants – Parkland and Stremma.

[6] Persons who are not appellants and wish to seek status at the hearing must file written submissions containing the prescribed content at least 30 days before the CMC (LPATA s. 40 and Rule 26.19).

[7] Persons requesting Party status must also satisfy the requirements of s. 17(44.1) and s. 17(44.2) of the *Planning Act* (“PA”) for adding Parties. They must have either made submissions to the County before the decision was made or satisfy the Tribunal that there are reasonable grounds to add the person as a Party.

[8] Two requests for Party status were filed in accordance with the above requirements. With consent of the statutory Parties, Party status was granted to the following:

- Losani Homes (1998) Ltd. (“Losani”) has development applications in process on its land within the area affected by the OPA, and supports the County; and
- Riverview Highlands (St. George) Holdings Ltd. (“Riverview”) has development applications in process on its land within the area affected by the OPA, and supports the County.

[9] The following request for Participant status was granted:

- Empire Communities (St. George) Ltd. (“Empire”) has development applications before the Tribunal with issues similar to the Parkland appeal.

[10] If an oral hearing is held on an appeal under s. 17(24) of the PA, only Parties may participate in the hearing (LPATA s. 42(1)). Empire wishes to make submissions at

the hearing if permitted by the Tribunal under s. 42(3) of the LPATA. In reading the two foregoing sections together, the Tribunal finds that in a s. 38(1) appeal, such as in this case, the LPATA prevents Participants from participating at an oral hearing. The Tribunal may, however, call on a Participant to provide information under s. 33(2)(b) of the LPATA.

## **REMAINING CMC MATTERS**

[11] The remaining matters to be considered at a CMC under Rule 26.20 hinged on the Parties' submissions that the Tribunal should call the affiants for examination at the hearing to understand the issues fully. Given the related procedural matters contained in the stated case to the Divisional Court arising from *Canadian National Railway Company v Toronto (City)*, 2018 CanLII 102206 (ON LPAT), the Parties recommend an adjournment until the opinion of the Court is known.

[12] Accordingly, with reference to the time period of 10 months to dispose of an appeal, an adjournment is granted for the fair and just determination of the appeals with respect to the stated case. On the authority of s. 1(2)1.ii. of Ontario Regulation 102/18, a Notice of Postponement will be issued effective from the date of this CMC to the date of the next CMC. The Notice of Postponement may be extended if the opinion of the Court is not available prior to the next CMC.

[13] The Parties agreed to have their experts meet to develop agreed statements of fact for each appeal, and to assemble a consolidated issues list for each appeal, all to be presented to the Tribunal at the next CMC. The Parties further agreed that those discussions will consider opportunities for settlement, including the use of mediation, and report same to the Tribunal at the next CMC.

## **ORDER**

[14] The Tribunal's rulings and directions in the body of this Decision are so ordered.

[15] The Tribunal grants an adjournment and orders the issuance of a Notice of Postponement, to be in effect for the period from March 11, 2019 to the date of the next CMC.

[16] The next CMC will commence at **10:30 a.m. on Monday, September 23, 2019** at:

**County of Brant Municipal Building  
Council Chambers  
7 Broadway Street West  
Paris, Ontario**

[17] No further notice will be given.

[18] This Panel is seized subject to the Tribunal's calendar.

*"S. Tousaw"*

S. TOUSAW  
MEMBER

*"K.J. Hussey"*

K.J. HUSSEY  
VICE-CHAIR

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

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