

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



**ISSUE DATE:** January 28, 2021

**CASE NO(S):** PL180548

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: Brown Wharf Development Corp. et al  
Subject: Proposed Official Plan Amendment OPA 102  
Municipality: City of Hamilton  
LPAT Case No.: PL180548  
LPAT File No.: PL180548  
LPAT Case Name: Brown Wharf Dev. Corp.et al v. Hamilton (City)

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

Appellant: Brown Wharf Development Corp. et al  
Subject: By-law No. BL 18-114  
Municipality: City of Hamilton  
LPAT Case No.: PL180548  
LPAT File No.: PL180549

**Heard:** January 20, 2021 by video hearing

**APPEARANCES:**

**Parties**

**Counsel**

Brown Wharf Development Corp. et al Richard Minster

City of Hamilton Patrick MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY JATINDER BHULLAR ON  
JANUARY 20, 2021 AND ORDER OF THE TRIBUNAL**

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[1] The matter before the Local Planning Appeal Tribunal (the “Tribunal”) was with respect to the appeals of the passing of the Official Plan Amendment 102 (“OPA 102”) which is in the City of Hamilton (“the City”) Downtown secondary Plan, and Zoning By-Law No.18-114 that amends the Hamilton Zoning By-Law No. 05-200.

[2] The purpose of this Case Management Conference (“CMC”) was to receive status updates from both parties and to plan for the merits hearing of these appeals.

[3] The City informed the Tribunal that these appeals originated under Bill 139 and had limited scope but were converted to be heard under Bill 108. The City added that issues underlying the appeals since conversion to Bill 108 have never been thoroughly documented.

[4] The Appellant advised that whereas they were planning to submit site specific studies to the City before this CMC, they have encountered delays primarily rising out of Covid-19 pandemic impacts. The Appellant added that they are following the methodology previously adopted in the Fengate settlement. The Fengate appeals arose out of same enactments by the City as this appeal and were processed through site specific issues resolution and a subsequent settlement hearing before the Tribunal.

[5] Based on submissions by the parties, the following elements were established for further processing of this matter;

- a. The Appellant will submit all required reports and studies agreed to with the City by **February 28, 2021**;
- b. The Appellant will update the issues list and submit it to the City by **February 28, 2021**; and,

- c. The City plans to complete staff reviews of the reports and studies by the second week of April 2021.

[6] The setting of a merits hearing was assessed. Both parties submitted that at present such is not possible as the outstanding issues have not been fully established in order to assess the presentation of witnesses and their possible evidence. The City reiterated that they would like to reach a point of a settlement or a contested merits hearing. The City and the Appellant added that they will decide on the possibility of a settlement coincident with the completion of City's review of Appellant reports.

[7] The parties jointly requested that a follow-up CMC be set in late April 2021 to review the progress and to conduct a settlement hearing or set up a merits hearing. If a settlement is not reached leading up to the next CMC, the parties also jointly committed to providing the Tribunal with a draft Procedural Order.

[8] Based on the submissions of the parties, the Tribunal determined that it was appropriate to set up a follow-up CMC and scheduled it for **Tuesday, April 27, 2021**, with the connection details provided allow.

### **CMC TECHNICAL DETAILS**

[9] The Parties 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/281568653>

**Access Code: 281-568-653**

[10] 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](https://app.gotomeeting.com/home.html) or a web application is available:

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

[11] 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: **Toll-Free 1-888-299-1889 or +1 (647) 497-9373**. The **access code** is **281-568-653**.

[12] 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 CMC 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.

## **ORDER**

[13] The draft Procedural Order shall be submitted to the Tribunal on or before **Tuesday, April 20, 2021**.

[14] The Tribunal sets a CMC to be held as a video conference on **Tuesday, April 27, 2021** commencing at **10 a.m.**

[15] No further notice will be given.

[16] This Member is not seized for the conduct of a merits hearing but 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](http://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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