

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** November 02, 2021

**CASE NO(S):** PL210198

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates  
Subject: Request to amend the Official Plan - Failure of Township of The Archipelago to adopt the requested amendment  
Purpose: To create 4 new, non-waterfront affordable housing lots fronting a privately maintained road within the Woods Bay Neighbourhood.  
Property Address/Description: 11 Woods Bay Lane  
Municipality: Township of The Archipelago  
Approval Authority File No.: OP01-02  
OLT Case No.: PL210198  
OLT File No.: PL210198  
OLT Case Name: Gates v. The Archipelago (Township)

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

Applicant and Appellant: Richard Gates  
Subject: Application to amend Zoning By-law No. A2000-07 - Refusal or neglect of Township of The Archipelago to make a decision  
Existing Zoning: General Residential (GR) and Environmentally Sensitive (ES)  
Proposed Zoning: Site Specific (To be determined)  
Purpose: To permit to create 4 new, non-waterfront affordable housing lots fronting a privately maintained road within the Woods Bay Neighbourhood.  
Property Address/Description: 11 Woods Bay Lane  
Municipality: Township of The Archipelago  
Municipality File No.: Z02-20  
OLT Case No.: PL210198

OLT File No.: PL210199

**PROCEEDING COMMENCED UNDER** subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates  
 Subject: Application for Consent - Failure of Township of The Archipelago to make a decision  
 Property Address/Description: 11 Woods Bay Lane  
 Municipality: Township of The Archipelago  
 Municipal File No.: B16-20  
 OLT Case No.: PL210198  
 OLT File No.: PL210200

**PROCEEDING COMMENCED UNDER** subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates  
 Subject: Application for Consent - Failure of Township of The Archipelago to make a decision  
 Property Address/Description: 11 Woods Bay Lane  
 Municipality: Township of The Archipelago  
 Municipal File No.: B17-20  
 OLT Case No.: PL210198  
 OLT File No.: PL210209

**PROCEEDING COMMENCED UNDER** subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates  
 Subject: Application for Consent - Failure of Township of The Archipelago to make a decision  
 Property Address/Description: 11 Woods Bay Lane  
 Municipality: Township of The Archipelago  
 Municipal File No.: B18-20  
 OLT Case No.: PL210198  
 OLT File No.: PL210210

**PROCEEDING COMMENCED UNDER** subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates  
 Subject: Application for Consent - Failure of Township of The Archipelago to make a decision  
 Property Address/Description: 11 Woods Bay Lane  
 Municipality: Township of The Archipelago

Municipal File No.: B19-20  
 OLT Case No.: PL210198  
 OLT File No.: PL210211

**Heard:** October 25, 2021 by telephone conference call

**APPEARANCES:**

**Parties**

**Counsel**

Richard Gates

Marc Kemerer

Township of The Archipelago

Christopher J. Tzekas

**DECISION DELIVERED BY S. BRAUN AND ORDER OF THE TRIBUNAL**

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[1] This Telephone Conference Call (“TCC”) was convened by the Ontario Land Tribunal (“OLT”) to obtain a status update in the matter of appeals by Richard Gates (“Applicant/Appellant”), who owns the property located at 11 Woods Bay Lane (“subject property”). Mr. Gates applied to the Township of The Archipelago (“Township”) for an Official Plan Amendment (“OPA”), Zoning By-law Amendment (“ZBLA”) and consents to sever four new residential lots (collectively, the “Applications”). The Township failed to make a decision on the Applications and, pursuant to s. 22(7), s. 34(11) and s. 53(14) of the *Planning Act* (“Act”), Mr. Gates appealed to this Tribunal.

[2] The purpose of the proposed OPA is to add a new paragraph to s. 16, Special Provisions of the Official Plan for the Township, in order to allow for the creation of four new, non-waterfront lots on Woods Bay Lane, fronting on a privately maintained road. The purpose of the proposed ZBLA is to rezone Lot 40, Concession 3 in the geographic Township of Conger, now in the Township, from the General Residential (GR) zone to a site specific General Residential (GR) zone so as to allow for the creation of four new non-waterfront lots that will be eligible for building permits.

[3] At a previous Case Management Conference on September 14, 2021,

(“the September CMC”), Counsel for the Township indicated his client had yet to take a position on the appeals and he was without instructions, but would provide an update at this TCC.

[4] Counsel for the Township advised that, although the matter continues to be debated by Township Council, a position on the appeals has yet to be taken. The parties also advised that discussions aimed at resolution would occur in the near future, in the hopes of avoiding a hearing altogether.

[5] In light of the foregoing, the Tribunal scheduled a **3-day** video hearing commencing **Monday, February 14, 2022**, as well as a TCC at **9 a.m. on Thursday, December 16, 2021**. The purpose of the TCC is to provide the Tribunal with an update on the Township’s position and whether the number of days scheduled for the hearing can be reduced, as well as for the parties to finalize a Procedural Order (“PO”) and Issues List (“IL”), if necessary.

## **PARTICIPANT REQUESTS**

[6] At the September CMC, the Tribunal granted provisional participant status to a list of individuals who were directed to file written requests for participant status by October 8, 2021. The Tribunal noted an individual’s failure to do so would result in their removal from the list of participants.

[7] The Tribunal did not receive written requests in advance of the deadline from the following individuals, who accordingly, will not have participant status in the proceeding: Larry Cronkwright; Louis Giavedoni and Monica Balla; and Kelly Walsh and Bryan Dyck. The remaining individuals named at paragraph 8 of the Tribunal’s previous Order retain status as participants.

[8] Senator Victor Brunelle of the Metis Nation of Ontario Moon River Metis Council (“Metis Council”) was granted participant status as an individual at the September CMC.

Based on documentation received thereafter evidencing the Metis Council's status as an incorporated entity and authorization for the Senator to represent the organization, on the consent of the parties, the Tribunal removed the Senator as an individual participant and granted participant status to the Metis Council, represented by Senator Brunelle.

[9] Jeff Hendrycks, an area resident, appeared at the September CMC seeking status as a participant, but had not filed a written request detailing the nature of his concerns. As such, the Tribunal directed him to do so and indicated it would consider his request at this TCC. On the consent of the parties, Mr. Hendrycks' request was granted.

[10] Finally, although a written request for participant status had been filed by Eric Armour on behalf of the incorporated Sans Souci & Copperhead Association in advance of the September CMC, he did not appear to speak to the request. He did attend this TCC and, on the consent of the parties, the Tribunal granted his request.

[11] All participants are reminded that their written statements must be submitted in accordance with the deadline set out in a future ("PO") governing the hearing. The participants are further reminded that, for the sake of efficiency, statements should avoid repetition of concerns and, as such, they may wish to work together to file a joint co-signed statement(s) addressing common areas of concern.

## **SUBSEQUENT TCC AND HEARING**

[12] A TCC is scheduled on **Thursday, December 16, 2021 at 9 a.m.** Individuals are directed to call **416-212-8012** or toll-free **1-866-633-0848** on the assigned date at the correct time. When prompted, enter the code **4779874#** to be connected to the call.

[13] It is the responsibility of the person(s) participating in the call to ensure that they are properly connected to the call and at the correct time. Questions prior to the call may be directed to the Tribunal's Case Coordinator having carriage of this case.

[14] A video hearing is scheduled to commence at **10:00 a.m. on Monday, February 14, 2022 for three days**. No further notice will be given. 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/452805629>

Access Code: **452-805-629**

[15] Parties 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>.

[16] 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](tel:+16474979391) or (Toll Free): [1 888 455 1389](tel:18884551389). The access code is **452-805-629**.

[17] 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.

**OTHER MATTERS**

[18] The Tribunal inquired as to whether there were any other matters to be addressed which might assist in the fair, just and expeditious resolution of this matter. The parties indicated there were none.

[19] This Member is not seized, but will remain available for case management and will preside over the TCC on **Thursday, December 16, 2021**. The Tribunal expects the parties to be in a position to present an Issues List and determine the extent to which a full and formal PO is required, given the limited number of days that have been allocated for the hearing on the merits. If it is determined that a full PO is not required, the parties should focus on items such as: the names and number of expert witnesses required; the exchange dates for the witness statements, including a date for the submission of the participant statements and; a discussion over the formulation of a Document Book and hearing plan prior to the hearing on the merits .

[20] The Tribunal so orders.

*“S. Braun”*

S. BRAUN  
MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.