

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



**ISSUE DATE:** November 14, 2018

**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  
OMB Case No.: PL171450  
OMB File No.: PL171450  
OMB 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  
OMB Case No.: PL171450  
OMB File No.: PL171451

**Heard:** October 10, 2018 in Hamilton, Ontario

**APPEARANCES:****Parties****Counsel/Representative\***

City of Hamilton (“City”)	Joanna Wice
64 Main Street East Hamilton Inc.	Pete Waters*
939158 Ontario Inc.	Nick DeFilippis*
1804487 Ontario Inc.	Peter Tice
1826210 Ontario Inc.	Sam Esposito*
2294643 Ontario Inc.	Johanna Shapira and Yvonne Choi
2531083 Ontario Inc.	Peter Tice
Canadian Tire Real Estate Limited (CTREL)	Signe Leisk and Melissa Winch
Centurion (Dundas) Holdings Ltd.	Scott Snider and Anna Toumanians
Choice Properties Real Estate Investment Trust (CP REIT) and Loblaw Properties Limited	David Neligan and Eileen Costello
Hamilton-Halton Home Builders’ Association	Suzanne Mammel*
King Stuart Developments Inc.	Marc Kemerer
LJM Developments Inc.	Russell Cheeseman
Marfad Holdings Inc.	Nancy Smith and Jennifer Meader
Marz Homes Holdings Inc.	David Ionico
Ministry of Municipal Affairs	Claire Young and Ugo Popadic
MM Green Development (Stoney Creek) Inc.	Nancy Smith and Jennifer Meader
Rolanco Network Inc.	David Serwatuk*
Rose Hamilton Homes Inc.	Russell Cheeseman

Royal Connaught Inc.

Joseph Speranzini

Slate Asset Management

Johanna Shapira and Yvonne Choi

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR ON  
OCTOBER 10, 2018 AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] The City had passed Official Plan Amendment No. 69 (“OPA”) and Zoning By-law Amendment No. 17-240 (“ZBA”).

[2] There were appeals to both instruments.

[3] The Tribunal set down a Pre-hearing Conference (“PHC”) to organize the hearings for the appeals.

[4] In the lead up to the PHC, the City brought a Motion seeking partial approval of both instruments.

[5] At the PHC, the Tribunal dealt with: requests for party status, a request for participant status, dealt with some housekeeping matters, gave direction with regard to the City’s Motion, gave direction with regard to the submission of issue lists, gave direction with regard to submissions for additional party status, and set a second PHC all for the reasons outlined below.

**DECISION**

[6] There were requests for party status from: 1804482 Ontario Limited, CF Realty Holdings Inc., Waterdown Bay Ltd., and Legatt Automotive Group. Additionally, by email received on the day of the PHC, there was a request for party status for Basingstroke Enterprises Inc. Counsel for the City consented to the request for party status to Waterdown Bay Ltd., but in all other cases requested that additional

information be provided by the prospective parties, and in particular what appeals they would propose to shelter under, and what appellant issues they had an interest in. The Tribunal deferred consideration of those requests pending that process, but on consent did grant party status to Waterdown Bay Ltd.

[7] There was one request for participant status from Marjorie Cooke with regard to the property known municipally as 1655 Upper James Street. This request was deferred so as to enable the City and Ms. Cooke to communicate to see if this hearing was the appropriate process in which to become involved or whether there was another on-going development appeal. If this is the appropriate process, Ms. Cooke may make her request again at the next PHC.

[8] As a matter of housekeeping, the City recommended that the appeal by MM Green Development (Stoney Creek) Inc. in this matter be consolidated to the development appeal in file PL180355 which is set to be heard on February 26, 2019. On consent of counsel for MM Green Development (Stoney Creek) Inc., the appeal in this matter was separated from this appeal process for the purpose of being consolidated to the appeal of PL180355.

[9] With regard to the Motion by the City seeking an Order for partial approval of the OPA 69 and the ZBA, the Tribunal in reviewing Motion Record found that it did not have in evidence a copy of either the OPA or ZBA for which the City sought partial approval.

[10] The Tribunal required the OPA and ZBA be in evidence before the Tribunal, before considering such a Motion.

[11] The Tribunal adjourned the hearing of the Motion and directed that the City could process its Motion in writing upon the production of the OPA and ZBA to the Tribunal and all parties. Subsequent to the PHC on October 10, 2018, the City filed with the Tribunal (and copied the parties) an affidavit of Joanne Hickey-Evans dated October 26, 2018.

[12] The Tribunal will consider that matter separately.

[13] The Tribunal set a second PHC date for **Friday, November 30, 2018 at 10 a.m.** to be held at:

**Municipal Building  
Hearing Room 101  
50 Main Street East  
Hamilton, ON**

[14] The Tribunal directed that, in preparation for the second PHC, the parties were to prepare and finalize their issues and communicate them to the City on or before Friday November 2, 2018.

[15] The City was to have until Friday, November 9, 2018 to prepare and circulate a Consolidated Issues List, and a listing of Proposed Appellant Groupings to all parties and those who have made requests for party status.

[16] Those who are making requests for party status, were to have until Friday, November 16, 2018 to communicate with the City and advise which appeals they propose to shelter under and which appellant issues on the Consolidated Issues List are of interest to them.

[17] It has been brought to the attention of the Tribunal that some parties have not complied as of yet with the direction of the Tribunal. In light of the impending second PHC, the Tribunal will further direct that any appellants that have not yet complied with the Tribunal's direction to provide their draft issues to the City shall have until November 16, 2018 to do so, and the City shall have until November 23, 2018 to finalize its position on appellant groupings, and with regard to the draft Procedural Order and draft Issues List.

[18] There will be no further notice of the second PHC.

[19] I am not seized.

[20] Scheduling permitting, I may be available for case management purposes.

[21] This is the Order of the Tribunal.

*"Blair S. Taylor"*

BLAIR S. TAYLOR  
MEMBER

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**Local Planning Appeal Tribunal**

A constituent tribunal of Environment and Land Tribunals Ontario

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