

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: April 1, 2016

CASE NO(S).: PL111184

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1042710 Ontario Limited (aka Royal Centre)
Appellant: 1096818 Ontario Inc.
Appellant: 11333 Dufferin St et al
Appellant: 1191621 Ontario Inc.; and others
Subject: Failure to announce a decision respecting
Proposed New Official Plan
Municipality: City of Vaughan
OMB Case No.: PL111184
OMB File No.: PL111184
OMB Case Name: Duca v. Vaughan (City)

Heard: March 30, 2016 in Vaughan, Ontario

APPEARANCES:

Parties

Counsel

Holcim (Canada) Inc.
(Appeal No. 129)

S. Ferri
B. Ruddick (student-at-law)

2203012 Ontario Limited
(Appeal No. 130)

S. Ferri
B. Ruddick (student-at-law)

Blair Building Materials Inc.
(Appeal No. 131)

S. Ferri
B. Ruddick (student-at-law)

Argo Lumber Inc. and Alpa Roof
Trusses Inc.

T. Barlow
S. Turney

City of Vaughan

D. Jubb

Regional Municipality of York

P. Patterson
F. Santaguida

**MEMORANDUM OF ORAL DECISION DELIVERED BY JASON CHEE-HING ON
MARCH 30, 2016 AND ORDER OF THE BOARD**

[1] This was a further pre-hearing conference (“PHC”) held by way of a telephone conference (“TCC”) call into these matters.

[2] The Board was provided with a draft Procedural Order (“PO”) which was agreed to by all the parties except for Argo Lumber Inc. and Alpa Roof Trusses Inc. (“objecting party”). Tom Barlow, counsel for the objecting party, advised the Board that there remained a dispute over the inclusion of a land budget issue(s). His clients want this issue to be included in the List of Issues for the settlement motion hearing to which they are opposed. The other parties are opposed to the inclusion of any issue(s) related to land budget at the settlement motion hearing.

[3] The motion for settlement hearing date had already been set (July 11, 2016, for ten days) at a previous PHC held on December 2, 2015. The intent of that hearing is to hear a motion for partial approval of the Vaughan Official Plan (“VOP”) 2010 in respect of Appeals 129,130 and 131. Those Appellants had reached a settlement with the City. The objecting party is opposed to the settlement.

[4] Following considerable discussion at this TCC and given the time constraints, the Board ordered the following:

1. A motion for directions hearing date has been set for **April 28, 2016**, commencing at **10 a.m.** The purpose of that motion hearing will be to hear the motion of the objecting party to include issue(s) related to land budget matters in the List of Issues for the July 11, 2016 settlement hearing. Service of motion and response to motion hearing materials are to be in accordance with the Board’s previous directions for motions in the VOP 2010 matters.

2. The draft PO submitted by Steve Ferri will be the Board approved PO. This PO may be subject to revisions as a result of any rulings made by the Board at the April 28, 2016 motion for directions hearing. This PO is provided as Attachment 1.
 3. With respect to Issue No. 4 on the approved List of Issues, any party wishing to add additional policy language beyond what is in the proposed Official Plan Amendment must do so by May 3, 2016.
 4. The City will undertake to provide to the objecting party documentation relating to the Board's Order from a PHC on the VOP 2010 matters held on July 23, 2013.
- [5] The venue for the motion for directions hearing is:

**Vaughan City Hall
Hearing Room
2141 Major Mackenzie Drive
Vaughan, ON**

- [6] I am not seized of these matters. No further notice is required.

"Jason Chee-Hing"

JASON CHEE-HING
MEMBER

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

Ontario Municipal Board

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Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

PL111184

ONTARIO MUNICIPAL BOARD

IN THE MATTER OF subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1042710 Ontario Limited
Appellant: 1191621 Ontario Inc.
Appellant: 1529749 Ontario Inc.
Appellant: 1541677 Ontario Inc. and others
Subject: Failure of the Regional Municipality of York to announce a decision respecting the proposed new Official Plan for the City of Vaughan
Municipality: City of Vaughan
OMB File No.: PL111184
OMB Case No.: PL111184

PROCEDURAL ORDER HEARING FOR APPELLANTS 129, 130, AND 131 – MAPLE INDUSTRIAL LANDS

The Board may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

Organization of the Hearing

1. The hearing will begin on **July 11, 2016 at 10:00a.m.** at Vaughan City Hall, 2141 Major Mackenzie Drive, Vaughan, Ontario. No further notice shall be required.
2. The length of the hearing will be approximately ten (10) days.
3. The parties and participants (see Attachment 1 for the meaning of these terms) identified at the prehearing conferences are listed in Attachment 2 to this Order. The order of evidence for the hearing is listed in Attachment 3 to this Order.
4. The Issues for the hearing are set out in the Issues List attached as Attachment 4 to this Order. There will be no changes to this List unless the Board permits.
5. Any person intending to participate in the hearing shall provide a telephone number, address and e-mail address to the Board as soon as possible. Any such person who will be retaining a representative shall advise the other parties and the Board of the representative's name, telephone number, address and email address as soon as possible.
6. The Board has directed that a separate exhibit list will be maintained for this proceeding and will be included as exhibit 95 of the main exhibit List of the umbrella proceedings PL111184.

7. All written material for this proceeding will include the following title:

HEARING FOR APPELLANTS 129, 130, AND 131 – MAPLE INDUSTRIAL LANDS

Requirements Before the Hearing

8. Expert witnesses in the same discipline shall have at least one meeting prior to **Tuesday April 26, 2016** to try to resolve or reduce the issues for the hearing. The meeting may take place by phone. The experts shall prepare a list of any agreed facts and provide this list to all of the parties and the Board.
9. A party who intends to call witnesses, whether by summons or not, shall provide to the Board and the other parties a list of the witnesses and the order in which they are intended to be called. This list must be delivered on or before **Wednesday April 13, 2016**.
10. An expert witness shall prepare an expert witness statement which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 13. Instead of a witness statement, the expert may file his or her entire report if it contains the information specified in rule 21 of the Board's Rules of Practice and Procedure. If this is not done, the Board may refuse to hear the expert's testimony. In addition, each expert witness shall execute an Acknowledgement of Expert's Duty and shall provide the executed Acknowledgement together with his/her witness statement or report, as the case may be.
11. A participant shall provide a participant statement to the Board and the parties on or before **Tuesday May 3, 2016**. All participant statements are to include the information identified in Attachment 1 to this Order.
12. Witnesses who are under summons but not paid to produce a report do not have to file a witness statement; but the party calling them must file an outline of the witness' anticipated evidence, as in section 13.
13. On or before **Tuesday May 10, 2016** the parties shall provide copies of their witness and expert witness statements to the other parties. The parties shall also provide hard copies of their witness and expert witness statements to the Board, if requested.
14. On or before **Tuesday June 14, 2016**, the parties may provide to all other parties a reply to any written evidence. The parties shall also provide hard copies of any reply witness statements to the Board, if requested.
15. On or before **Tuesday June 21, 2016** the parties and participants shall provide copies of their visual evidence to all parties or, alternatively, shall arrange for a viewing of visual evidence that cannot reasonably be transmitted.
16. A person wishing to change written evidence, including witness statements, must make a written motion to the Board (see Rules 34 and 35 of the Board's Rules, which require that

the moving party provide copies of the motion to all other parties at least ten (10) days before the Board hears the motion).

17. Unless the Board orders otherwise, a party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the other parties and the Board at least seven (7) days before the hearing that the written evidence is not part of their record.
18. Service of documents or any other matters pertaining to this specific proceeding will be limited to those parties and participants which are listed in Attachment 2. Documents may be delivered by personal delivery, e-mail, facsimile, courier, registered or certified mail, or otherwise as the Board may direct. For documents delivered by e-mail, a hard copy shall also be delivered if the recipient party requests a hard copy. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification. Participants will not be provided with a hard copy of materials, however, all parties are required to provide the City with a hard copy of all materials for the use of participants and the City will make the necessary arrangements to ensure that the hard copy is available for use by participants.
19. No adjournments or delays will be granted before or during the hearing except in accordance with rules 61 to 65 of the Board's Rules of Practice and Procedure.

This Member is not seized.

So orders the Board.

Attachment 1

PURPOSE OF THE PROCEDURAL ORDER AND MEANING OF TERMS

Meaning of terms used in the Procedural Order:

Party is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an unincorporated group wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorization from the party.

***NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board to permit this.*

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing these statements.

***NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.*

Written and Visual Evidence: **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material.

Visual evidence includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

Witness Statements: A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing.

An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing.

A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant

will refer to at the hearing.

Additional Information:

Summons: A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties (see Rules 41 and 42 on the summons procedure.) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- direct examination by any party of similar interest, in the manner determined by the Board;
- cross-examination by parties of opposite interest;
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Board.

ATTACHMENT 2

LIST OF PARTIES/PARTICIPANTS

PARTIES

1. **CRH Canada Group Inc. (formerly Holcim (Canada) Inc.) (Appellant no. 129), 2203012 Ontario Limited (Appellant no. 130), and Blair Building Materials Inc. (Appellant no. 131)**

Quinto Annibale / Steven Ferri
Loopstra Nixon LLP
135 Queens Plate Drive, Suite 600
Toronto, Ontario
M9V 6V7

Email: qannibale@loonix.com / sferri@loonix.com
Tel: 416-746-4757 / 416-748-4752
Fax: 416-746-8319

2. The Corporation of the City of Vaughan

Dawne Jubb
The Corporation of the City of Vaughan
Vaughan City Hall, Legal Service Dept.
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Email: dawne.jubb@vaughan.ca
Tel: 905-832-8585 ext. 8385
Fax: 905-832-8538

3. **Region of York**

Pitman Patterson
BLG
Scotia Plaza
40 King St. W.
Toronto, Ontario
M5H 3Y4

Email: ppatterson@blg.com
Tel: 416-367-6109
Fax: 416-361-2459

4. **Argo Lumber Inc. and Alpa Roof Trusses Inc. (Party No. U)**

Tom Barlow / Sarah Turney
 Faskin Martin DuMoulin LLP
 333 Bay Street, Suite 2400
 Toronto, Ontario
 M5H 2T6

Email: tbarlow@fasken.com / sturney@fasken.com
 Tel: 416-865-4542
 Fax: 416-364-7813

PARTICIPANTS

Jef Nikitin	Participant 24 Arco Circle, Maple, ON L6A 3Z6	Jef.Nikitin@gmail.com
Raman Chaudhari	Participant 36 Cassia Crescent, Maple, ON L6A 3M3	Rchad3@yahoo.com
Wamid Shamon	Participant 62 Falvo Street, Maple, ON L6A 4A5	Wshamonadam@gmail.com
Tony Toste	Participant 184 Stonebriar Drive	Tony.peo@gmail.com
Mary Tsaktsiris	Participant 180 Stonebriar Drive	M_tsaktsiris@rogers.com
Rose Comisso	Participant 69 Corkwood Crescent, Maple, ON L6A 3B4	marcocomisso@rogers.com
Marco Comisso	Participant 69 Corkwood Crescent, Maple, ON L6A 3B4	marcocomisso@rogers.com
Charles Menezes	Participant 50 Falvo Street	Charles.menezes@live.ca
Ali Sadeghi-Naini	Participant 24 Topaz Court, Maple, ON L6A 2X2	Ali_sadeghi_naini@yahoo.com Tel: 416-730-8071
Zahra Jahedmotlagh	Participant 24 Topaz Court, Maple, ON L6A 2X2	Zahra.jahedm@gmail.com Tel: 416-730-8071

ATTACHMENT 3

ORDER OF EVIDENCE

1. CRH Canada Group Inc. (formerly Holcim (Canada) Inc.) (Appellant no. 129), 2203012 Ontario Limited (Appellant no. 130), and Blair Building Materials Inc. (Appellant no. 131);
2. The Corporation of the City of Vaughan;
3. Region of York;
4. Argo Lumber Inc. and Alpa Roof Trusses Inc. (Party No. U);
5. Participants;
6. Reply: The Corporation of the City of Vaughan; and,
7. Reply: CRH Canada Group Inc. (formerly Holcim (Canada) Inc.) (Appellant no. 129), 2203012 Ontario Limited (Appellant no. 130), and Blair Building Materials Inc. (Appellant no. 131).

ATTACHMENT 4

ISSUES LIST

1. Would approval of the amendments ("Proposed Amendments") to the as adopted Vaughan Official Plan, 2010 ("VOP 2010") proposed by the Moving Party for the Employment Triangle (as that term is defined in the Moving Parties Motion Materials), except for Policy 12.13.2.3(a):
 - a) Conform to the Growth Plan for the Greater Golden Horseshoe ("Growth Plan")?;
 - b) Be consistent with the Provincial Policy Statement (2014) ("PPS")?;
 - c) Conform to the Region of York Official Plan, 2010 ("YROP")?; and
 - d) Constitute good planning?
2. Does proposed policy 12.13.2.3(a) meet the spirit and intent of the Planning Act, conform with the Growth Plan and the 2010 YROP, and is it consistent with the PPS?
3. Are the current policies in the VOP 2010 adequate to address compatibility issues with existing and proposed land uses in the Employment Triangle or do the Proposed Amendments better address compatibility issues?
4. If the Employment Triangle is designated as set out in the Proposed Amendments, should policies be added to the VOP 2010 to contemplate and support a future re-designation of the Employment Triangle, or parts thereof, to residential in addition to those already Proposed?