

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



ISSUE DATE: February 1, 2021

CASE NO.: PL111184

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(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)

BEFORE:

S. JACOBS) Monday, the 1st
VICE-CHAIR)
) day of February, 2021

THE TRIBUNAL ORDERS that the Procedural Order, as agreed to between the Parties and attached hereto as Schedule “A”, shall be in force and effect for the purpose of governing the required procedures leading up to and including the hearing, which is scheduled to commence on Monday, March 8, 2021. The Tribunal has set aside ten (10) days for the hearing.



BECKY FONG
REGISTRAR

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

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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

SCHEDULE A

Ontario Land Tribunals

Local Planning Appeal Tribunal

655 Bay Street, Suite 1500
 Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll free: 1-866-448-2248
Website: olt.gov.on.ca

Tribunaux de l'aménagement du territoire Ontario

Tribunal d'appel de l'aménagement local
 655 rue Bay, bureau 1500
 Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Site Web : olt.gov.on.ca



Ontario

ISSUE DATE:

CASE NO(S): PL111184

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

Appellant(s):	1042710 Ontario Limited (a.k.a. Royal Centre) 1096818 Ontario Inc. 11333 Dufferin St. et al 1191621 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, including the Vaughan Metropolitan Centre Secondary Plan
Municipality:	City of Vaughan
LPAT Case No.:	PL111184
LPAT File No.:	PL111184
LPAT Case Name:	Duca v Vaughan (City)

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

Organization of the Hearing

2. The video hearing will begin on Monday, March 8th at 10 a.m. at <https://global.gotomeeting.com/join/351771709>
3. The parties' initial estimation for the length of the hearing is ten (10) days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. The parties and participants identified at the case management conference are set out in Attachment 1 (see the sample procedural order for the meaning of these terms).
5. The issues are set out in the Issues List attached as Attachment 2. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have

costs awarded against it.

6. The order of evidence shall be as set out in Attachment 3 to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.
7. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
8. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's Video Hearing Guide, available on the Tribunal's website (<https://olt.gov.on.ca/tribunals/lpat/>).

Requirements Before the Hearing

9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before Monday February 1, 2021 and in accordance with paragraph 22 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.
10. Expert witnesses in the same field shall have a meeting on or before Monday, February 22, 2021 and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting the parties must prepare and file a Statement of Agreed Facts and Issues with the LPAT case co-ordinator on or before Monday, March 1, 2021.
11. 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 paragraph [13] below. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.
12. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence as in paragraph [13] below. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph [13] below.
13. On or before Monday, February 8, 2021, the parties shall provide copies of their [witness and] expert witness statements to the other parties and to the LPAT case co-ordinator and in

accordance with paragraph 22 below.

14. On or before Monday, February 8, 2021, a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 22 below, and in accordance with the Tribunal's Decision and Order issued on March 3, 2016.
15. On or before Wednesday, February 24, 2021, the parties shall provide copies of their visual evidence to all of the other parties in accordance with section 22 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
16. Parties may provide to all other parties and the LPAT case co-ordinator a written response to any written evidence on or before Monday, February 22, 2021 and in accordance with section 22 below.
17. The parties shall cooperate to prepare a joint document book which shall be shared with the LPAT case co-ordinator on or before Friday February 26, 2021.
18. Any documents which may be used by a party in cross examination of an opposing party's witness shall be password protected and only be accessible to the Tribunal and the other parties if it is introduced as evidence at the hearing, pursuant to the directions provided by the LPAT case co-ordinator, on or before Friday, March 5, 2021.
19. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal, unless all parties consent to the change or the Tribunal orders otherwise. *See Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.*
20. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.
21. The parties shall prepare and file a preliminary hearing plan with the Tribunal on or before Monday, March 1, 2021 with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The parties shall prepare and file a final hearing plan prior to the further case management conference outlined in section 5 above. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.
22. All filing shall be electronic and in hard copy. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise

directed by the Tribunal. The delivery of documents email shall be governed by the Rule 7.

23. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

This Member is not seized.

So orders the Tribunal.

BEFORE:

Name of Member: S. Jacobs

Date: February 1, 2021

TRIBUNAL REGISTRAR

Attachment 1

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)**

Steven Ferri /Mandy Ng
Loopstra Nixon LLP
135 Queens Plate Drive, Suite 600
Toronto, Ontario M9V 6V7
Email: sferri@loonix.com / mng@loonix.com
Tel: 416-746-4757 / 416-748-4752
Fax: 416-746-8319

2. The Corporation of the City of Vaughan

Rick F. Coburn
BLG
Scotia Plaza
40 King St. W.
Toronto, Ontario M5H 3Y4
Email: rcoburn@blg.com
Tel: 416-367-6038
Fax: 416-367-6749

Gurnick Perhar
City of Vaughan
City Hall
2141 Major Mackenzie Dr.,
Vaughan, ON L6A 1T1
E-mail: gurnick.perhar@vaughan.ca
Tel: (905) 832-8585 x 8385

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

Tom Barlow / Sarah Turney
Fasken 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 Tsaksiris	Participant 180 Stonebriar Drive	M_tsaksiris@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 2**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):
 - a) Conform to the Growth Plan for the Greater Golden Horseshoe (2020) ("Growth Plan")?;
 - b) Be consistent with the Provincial Policy Statement (2020) ("PPS")?;
 - c) Conform to the Region of York Official Plan, 2010 ("YROP")?; and,
 - d) Constitute good planning?
2. 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?
3. 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?

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. Argo Lumber Inc. and Alpa Roof Trusses Inc. (Party No. U);
4. Participants (if applicable);
5. Reply: The Corporation of the City of Vaughan; and,
6. 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 to Sample Procedural Order

Meaning of terms used in the Procedural Order:

*Party is an individual or corporation permitted by the Tribunal 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 authorisation 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 case management conference (CMC), must ask the Tribunal to permit this.*

A participant is an individual, group or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Subsection 33.2 of the *Local Planning Appeal Tribunal Act* states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal. A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.

A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.

***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.*

*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 wishes to address and the submission of the participant on those issues; and a list of reports, if any, which the participant wishes to refer to in their statement.*

Additional Information

Summons: *A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons. This request must be made before the time that the list of witnesses is provided to the Tribunal and the parties. (See Rule 13 on the summons procedure.) If the Tribunal requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Tribunal 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 Tribunal;*
- *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 Tribunal.*