

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: November 18, 2021

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
OLT Case No.: PL111184
OLT File No.: PL111184
OLT Case Name: Duca v. Vaughan (City)

Heard: November 8, 2021 by Video Hearing

APPEARANCES:

Parties

Counsel

Regional Municipality of York

B. Ogunmefun (in *absentia*)

City of Vaughan

G. Perhar

Toronto and Region Conservation
Authority

T. Duncan

Tien De Religion Canada

A. Heisey

**MEMORANDUM OF ORAL DECISION DELIVERED BY S. TOUSAW ON NOVEMBER
8, 2021 AND ORDER OF THE TRIBUNAL**

[1] This settlement hearing was convened to address a resolved appeal from Tien De Religion Canada (“Appellant”) to the City of Vaughan (“City”) 2010 Official Plan (“VOP”).

[2] Numerous appeals were filed to the Regional Municipality of York’s (“Region”) absence of approval to the VOP. This appeal was numbered “Appeal 141.”

[3] The City filed a Motion seeking the Tribunal’s approval of modifications to the VOP mapping and site-specific policies arising from the settlement. No Responses to Motion were received.

[4] The sworn Affidavit of David Marcucci, Registered Professional Planner with the City, was marked as Exhibit 1. Mr. Marcucci has been qualified and affirmed previously in these VOP proceedings.

MODIFICATIONS

[5] With reference to the written and oral evidence of Mr. Marcucci, the Tribunal approved the requested modifications on the following facts and opinions.

[6] At 5859 Rutherford Road, the Appellant’s property consists of 5.3 hectares (“property”) largely bounded by the Humber River on three sides. The property contains a dwelling, accessory structures, an agricultural use of food gardening, natural features and the river.

[7] The Appellant has withdrawn its original request on appeal that sought permission for a place of worship and related facilities on the property. The Appellant will now be content with permission for the continued residential and agricultural use of the property, and the potential expansion of same.

[8] Certain existing accessory structures on the property are the subject of an outstanding issue of legality related to whether Toronto and Region Conservation Authority

("TRCA") and City permits were issued for those structures. The Parties agree that such legal matter is independent of the proposed modifications given their agreement on the proposed VOP designation and site-specific policy to resolve Appeal 141.

[9] In the City Zoning By-law No. 1-88, a majority of the property is zoned as Open Space, including where the buildings are situated, and a small area of Agricultural zone in the northeast portion of the property.

[10] The Parties support the following designations and policy modifications to the VOP for this property:

- Schedule 1, Urban Structure: Natural Areas and Countryside
- Schedule 2, Natural Heritage Network: Core Features
- Schedule 13, Land Use: Natural Areas
- Schedule 14-C, Areas Subject to Site Specific Plans: Item 63 – 5859
Rutherford Road
- Volume 2, s. 13: site-specific policies to identify and regulate this property.

[11] The proposed site-specific policy 13.64 permits a detached dwelling and agricultural uses on the property within the Natural Areas designation. Any future development will be subject to site plan control, required permit(s) from the TRCA, and if necessary, an application to achieve zoning compliance (e.g., zoning amendment, minor variance, expanding a legal non-conforming use).

[12] On the uncontested planning evidence of Mr. Marcucci, the Tribunal finds that the requested modifications satisfy all statutory tests: regard for the provincial interests of s. 2 of the *Planning Act*, including orderly development and the protection of ecological systems and natural resources; consistent with similar policy direction in the Provincial Policy Statement, 2020; conformity with same in A Place to Grow, Growth Plan for the

Greater Golden Horseshoe, 2020; and conformity with the Region Official Plan. In addition, the designations and site-specific policies fit with the structure and approach of the in-force schedules and policies of the VOP. The modifications to settle this appeal represent good planning in the public interest.

[13] The Tribunal approved the Motion to implement the Parties' settlement through modifications to the VOP.

ORDER

[14] The City of Vaughan's Motion is granted as follows.

[15] The Tribunal Orders, pursuant to s. 17(50) of the *Planning Act*, in respect of the City of Vaughan Official Plan 2010, as adopted by the City of Vaughan on September 7, 2010, subject to Council modifications on September 27, 2011, March 20, 2012, and April 17, 2012, and modified and endorsed by the Regional Municipality of York on June 28, 2012, that:

- a. Appeal 141 to the City of Vaughan Official Plan is allowed in part;
- b. The City of Vaughan Official Plan is hereby modified, and approved as modified, as set out in Schedule 8 of Exhibit 1 (p. 76 – 81 inclusive) and forming part of this Order;

- c. The balance of Appeal 141 to the City of Vaughan Official Plan is hereby dismissed.

“S. Tousaw”

S. TOUSAW
MEMBER

Ontario Land Tribunal

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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.