



Davies  
Howe  
Partners  
LLP

Lawyers

The Fifth Floor  
99 Spadina Ave  
Toronto, Ontario  
M5V 3P8

T 416.977.7088  
F 416.977.8931  
davieshowe.com

Please refer to: **Michael Melling**  
e-mail: michaelm@davieshowe.com  
direct line: 416.263.4515  
File No. 702420

April 12, 2017

**By E-Mail Only to *regional.clerk@york.ca***

Mr. Christopher Raynor  
Regional Clerk  
Regional Municipality of York  
17250 Yonge Street  
Newmarket, Ontario  
L3Y 6Z1

Dear Mr. Raynor:

**Re: Request for Referral pursuant to ss. 17(11) and 51(15) of the  
Planning Act, R.S.O. 1990, c. P. 13, as in force on March 27,  
1995 (the "1995 Planning Act")  
Applications to Amend the Official Plan and for Draft Plan of  
Subdivision Approval  
Municipal File Nos. OPA.89.12 and 19T-90068  
Town of East Gwillimbury (the "Town")**

We are counsel to 669276 Ontario Ltd. and 651965 Ontario Ltd., the owners of approximately 71 hectares of land in the Town (the "Subject Lands").

In May of 1989, our clients submitted concurrent applications to amend the Town's Official Plan and Zoning By-law to permit the development of a 72-lot residential subdivision on the Subject Lands (the "OPA Application" and the "ZBLA Application"). The Applicants submitted a corresponding application for Draft Plan of Subdivision to the Region in 1990 (the "Subdivision Application", and collectively with the "OPA Application" and the "ZBLA Application", the "Applications").

The purpose of this letter is to request that Regional Council refer the OPA Application and the Subdivision Application to the Ontario Municipal Board (the "Board") pursuant to Subsections 17(11) and 51(15) of the 1995 *Planning Act*.

### **Background**

On August 13, 1990, Town Council approved the OPA Application and adopted OPA 76 to re-designate the Subject Lands for residential uses. The Town submitted OPA 76 to the Ministry of Municipal Affairs (the "MMA") for approval



Davies  
Howe  
Partners  
LLP

on August 14, 1990. The Town decided not to enact the requested Zoning By-law amendment until after the OPA Application had been approved by the MMA.

In 1993, the Applicant revised its proposal following completion of Phase Two of the Town's Estate Residential Study. The revised proposal reduced the number of lots from 72 to 33, increasing the amount of land to remain designated for environmental protection. On August 23, 1993, the Town wrote to the MMA to advise of these revisions and request that OPA 76 be modified and approved accordingly. The Subdivision Application was similarly revised to reduce the number of proposed lots to 33.

OPA 76 was not approved by either the MMA or the Region. Accordingly, the ZBLA Application was never approved by the Town and the Subdivision Application never decided upon by the Region.

In March of 2016, our firm filed Notices of Appeal with the Board respecting the Applications. An initial Pre-Hearing Conference took place on August 9, 2016. The Town and the Region are Parties to this proceeding.

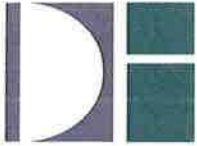
The Parties have since determined that, by operation of s. 74.1 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended to date, the OPA Application and the Subdivision Application should have come before the Board by way of a referral by Regional Council rather than an appeal. The Parties are agreed that the ZBLA Application is properly before the Board by way of appeal by virtue of ss. 34(11) of the 1995 *Planning Act*.

### **Applicable Legislation**

#### ***The OPA Application***

The applicable Subsections 17(11) and (12) of the 1995 *Planning Act* read:

- (11) The Minister may refer the plan or any part of the plan to the Municipal Board and where the council or any person or other body requests the Minister to refer the plan or any part of the plan to the Municipal Board, the Minister shall refer the plan or such part to the Board, together with the statement mentioned in subsection (12), unless in the Minister's opinion, such requests is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay.



Davies  
Howe  
Partners  
LLP

- (12) Where a person submits a request to the Minister under subsection (11), the person shall include therewith a statement in writing setting out the reasons for the request.

### ***The Subdivision Application***

The applicable Subsections 51(15) and (16) of the 1995 *Planning Act* read:

- (15) At any time before the Minister has given or has refused to give approval to a draft plan of subdivision, the Minister may, and upon application therefor shall, refer the draft plan of subdivision to the Municipal Board unless, in the Minister's opinion, such request is not made in good faith, or is frivolous or vexatious or is made only for the purpose of delay and where the draft plan is referred to the Board the Board shall hear and determine the matter.
- (16) Where an application is made under subsection (15), the application shall be accompanied by written reasons in support thereof.

The Minister's authority to refer the OPA Application and Subdivision Application to the Board was delegated to the Region by Ontario Regulations 476/83 and 156/96. Copies of these Regulations are enclosed for ease of reference.

### **Reasons for the Request**

The reasons for our clients' request are as follows:

1. The OPA Application and Subdivision Application would permit development on the Subject Lands which represents good land use planning, is appropriate for the Subject Lands and is in the public interest;
2. The OPA Application and Subdivision Application would contribute to the Town and Region's supply of a full range of housing types in order to meet residential development demand;
3. The OPA Application and Subdivision Application would appropriately protect and enhance natural heritage features and functions on the Subject Lands and in the immediate surrounding area;
4. The OPA Application and Subdivision Application are consistent with the applicable *Provincial Policy Statements* issued under Subsection 3(1) of the



Davies  
Howe  
Partners  
LLP

1995 *Planning Act*, meet the requirements of all applicable Provincial policy, and conform to all applicable Regional policy; and

5. The request is made in good faith and is not frivolous, vexatious, or made for the purpose of delay.

### **Conclusion**

For the foregoing reasons, we respectfully request that the Region proceed to refer the OPA Application and Subdivision Application to the Board at this time.

We would appreciate receiving confirmation of receipt of our request for referral. Please do not hesitate to contact us if you require clarification.

Yours sincerely,

**DAVIES HOWE PARTNERS LLP**

Michael Melling

MWM:kf

encls. As above

copy: Ms. Barbara Montgomery, Associate Counsel, York Region  
Mr. Bruce Ketcheson, Counsel, Town of East Gwillimbury  
Clients

**Planning Act**  
**Loi sur l'aménagement du territoire**

**ONTARIO REGULATION 156/96**

**DELEGATION OF AUTHORITY OF MINISTER TO REGIONAL MUNICIPALITY OF YORK:  
AMENDMENTS TO OFFICIAL PLANS**

**Consolidation Period:** From April 22, 1996 to the [e-Laws currency date](#).

No amendments.

*This Regulation is made in English only.*

1. All authority of the Minister in respect of those amendments to the official plans for the local municipalities of the Regional Municipality of York that are set out in the Schedule is hereby delegated to the Council of the Regional Municipality of York. O. Reg. 156/96, s. 1.

2. All authority of the Minister in respect of applications for amendments to the official plans for the local municipalities of the Regional Municipality of York that were made to the local municipalities before March 28, 1995 and that were not adopted by the councils of the local municipalities before the day this regulation comes into force is hereby delegated to the Council of the Regional Municipality of York. O. Reg. 156/96, s. 2.

3. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 156/96, s. 3.

SCHEDULE

**City of Vaughan**

19-OP-1500-291

19-OP-1500-399

19-OP-1500-457

19-OP-1500-464

19-OP-1500-465

**Town of Markham**

19-OP-0015-040

19-OP-0016-001

19-OP-0016-015

19-OP-0016-019

19-OP-0016-020

**Town of Richmond Hill**

19-OP-0182-009

19-OP-0182-104

19-OP-0182-105

19-OP-0182-144

19-OP-0182-151

19-OP-0182-154

**Town of East Gwillimbury**

19-OP-3200-062

19-OP-3200-070

19-OP-3200-072

19-OP-3200-073  
19-OP-3200-076  
19-OP-3200-080  
19-OP-3200-081  
19-OP-3200-087  
19-OP-3200-088  
19-OP-3200-092

**Town of Whitchurch-Stouffville**

19-OP-0032-008  
19-OP-0032-034  
19-OP-0032-047  
19-OP-0032-054  
19-OP-0032-055  
19-OP-0032-070  
19-OP-0032-078  
19-OP-0032-082  
19-OP-0032-083  
19-OP-0032-089  
19-OP-0032-090

**Town of Aurora**

19-OP-0025-034  
19-OP-0026-012  
19-OP-0026-014

**Town of Georgina**

19-OP-0033-068  
19-OP-0033-070  
19-OP-0033-071  
19-OP-0033-072  
19-OP-0033-074

O. Reg. 156/96, Sched.

[Back to top](#)

6. This Order comes into force on the 1st day of August, 1983. O. Reg. 475/83, s. 6.

CLAUDE BENNETT  
Minister of Municipal Affairs  
and Housing

Dated at Toronto, this 28th day of July, 1983.

(3140)

33

### PLANNING ACT, 1983

O. Reg. 476/83.

Delegation of Authority of Minister  
Under Section 4 of the Planning Act,  
1983—Subdivision Plans.

Made—July 28th, 1983.

Filed—July 29th, 1983.

### ORDER MADE UNDER THE PLANNING ACT, 1983

#### DELEGATION OF AUTHORITY OF MINISTER UNDER SECTION 4 OF THE PLANNING ACT, 1983—SUBDIVISION PLANS

1. Subject to sections 2 and 3, all authority of the Minister under subsection 49 (7) and under section 50 of the Act is hereby delegated to the council of each of the following municipalities in respect of land situate in the municipality:

1. The Municipality of Metropolitan Toronto.
2. The County of Oxford.
3. The District Municipality of Muskoka.
4. The Regional Municipality of Durham.
5. The Regional Municipality of Halton.
6. The Regional Municipality of Hamilton-Wentworth.
7. The Regional Municipality of Niagara.
8. The Regional Municipality of Ottawa-Carleton.
9. The Regional Municipality of Peel.
10. The Regional Municipality of Sudbury.
11. The Regional Municipality of Waterloo.
12. The Regional Municipality of York.

O. Reg. 476/83, s. 1.

2. The delegation made in section 1 does not apply

(a) any application for approval under subsection 49 (7) or subsection 50 (1) of the Act or a predecessor thereof received by the Minister before the day the Minister's authority with respect to the relevant municipality was delegated by a predecessor of this Order; or

(b) any matter referred to in subsections 50 (20), (21) and (22) of the Act, unless the matter relates to lands that are within a draft plan approved by the council under subsection 50 (13) of the Act. O. Reg. 476/83, s. 2.

3.—(1) Each council, in exercising the authority delegated by section 1 in respect of section 50 of the Act, shall comply with the following conditions:

1. The council shall adopt an application form that is approved by the Ministry of Municipal Affairs and Housing for the receipt of applications under subsection 50 (1) of the Act.
2. The council shall assign to each application received under subsection 50 (1) of the Act a file number consisting of the appropriate code used by the Ministry of Municipal Affairs and Housing, the letter "T", the last two figures of the year in which the application is received and a number corresponding to the order in which the application is received, commencing with "001", and a new series of numbers shall be commenced each year.
3. The council shall send to the Ministry of Municipal Affairs and Housing one copy of each application received by the council under subsection 50 (1) of the Act and one copy of the draft plan that is the subject of the application, and the copies shall be sent not later than ten days after the receipt of the application.
4. Where the council decides to confer as referred to in subsection 50 (3) of the Act in respect of an application, the council shall send to the Ministry of Municipal Affairs and Housing a list of the officials of municipalities and ministries of the public service, commissions, authorities or other persons conferred with or to be conferred with on the application, and shall send a copy of the application and of the draft plan to which it relates to the clerk of the area municipality in which the land that is the subject of the application is situate, and to such other officials of municipalities and ministries of the public service, commissions, authorities and other persons as the Minister may direct.
5. Where the council decides not to confer as referred to in subsection 50 (3) of the Act in respect of an application, the council shall send notice in writing to the applicant, the

clerk of the area municipality in which the land that is the subject of the application is situate and the Ministry of Municipal Affairs and Housing, giving the reason or reasons why the council has decided not to confer.

6. Where an application under subsection 50 (1) is withdrawn, the council shall send notice, in writing, to the clerk of the area municipality in which the land that is the subject of the application is situate and the Ministry of Municipal Affairs and Housing, giving the reason or reasons why the application was withdrawn, if known.
7. Where an application is revised or altered, a copy of the revised or altered application shall be sent to the applicant, the clerk of the area municipality in which the land that is the subject of the application is situate and the Ministry of Municipal Affairs and Housing.
8. In conferring, as referred to in paragraph 4, the council shall allow sixty days for the making of written comments in respect of the application for approval, commencing from the date that a copy of the application is sent to the party conferred with, but the time for making comments may be extended by the council where the council is satisfied that there is good reason to do so.
9. Where the council has not given or refused approval of an application made under subsection 50 (1) of the Act within ninety days of receipt of the application, the council shall forthwith provide the applicant, the clerk of the area municipality in which the land that is the subject of the application is situate and the Ministry of Municipal Affairs and Housing with a report on the status of the application.
10. Where the council gives approval or proposes to refuse to give approval to a draft plan under subsection 50 (13) or (14) of the Act, the council shall send notice to the applicant, the clerk of the area municipality in which the land that is the subject of the application is situate, the Ministry of Municipal Affairs and Housing and any other person or agency that has requested notification, and where approval is given to a draft plan the notice shall be accompanied by a copy of the draft plan and of the conditions imposed on the approval thereof.
11. Where land that is the subject of an application made under subsection 50 (1) of the Act is affected by a proposed amendment to an official plan incorporating policies and designations relating to the land, the council shall not make any decision concerning the application until the amendment to the official

plan has been approved or not approved by the Minister or the Municipal Board, as the case may be.

12. Where a matter is referred to the Municipal Board under subsection 50 (15) or (17) of the Act, the council shall notify the applicant, the clerk of the area municipality in which the land that is the subject of the application is situate and the Ministry of Municipal Affairs and Housing.
13. Where the council gives approval to a draft plan under subsection 50 (13) of the Act, the approval shall be shown on the draft plan in the following form:
 

Subject to the conditions, if any, set forth in our letter dated....., 19... , this draft plan is approved under section 50 of the *Planning Act, 1983* this..... day of....., 19...
14. Where, after approval of a draft plan and before approval of a final plan, the council varies substantially any condition of the draft plan or withdraws its approval of the draft plan, the council shall send notice thereof within fifteen days to all parties that were sent notice under paragraph 10.
15. Where conditions are imposed on the approval of a plan of subdivision, approval of a final plan for registration shall not be given until the area municipality in which the land is situate has advised the council, in writing, that all the requirements of the area municipality have been satisfied.
16. Where the council gives approval to a final plan under subsection 50 (20) of the Act, the approval shall be shown on the final plan in the following form:
 

Approved under section 50 of the *Planning Act, 1983* this .....day of....., 19...
17. Where the final plan is to be registered under the *Land Titles Act*, the council shall not approve the final plan for registration until the examiner of surveys appointed under the *Land Titles Act* has advised that the plan is accepted for registration.
18. The original of the final plan as approved together with all copies required for registration under the *Registry Act* or the *Land Titles Act*, as the case may be, shall be forwarded by the council to the appropriate Land Registry Office.



19. The council shall forward one copy of each final plan approved for registration to the Ministry of Municipal Affairs and Housing.

(2) The Director of the Plans Administration Branch of the Ministry of Municipal Affairs and Housing having jurisdiction in a municipality named in section 1 may in respect of the municipality waive in writing any requirement imposed by paragraph 3, 4, 5, 6, 7, 9, 10, 14 or 16 in so far as it applies to the Ministry of Municipal Affairs and Housing.

(3) The delegation of authority set out in this Order is not terminated by reason only that a council has failed to comply with a condition set out in subsection (1). O. Reg. 476/83, s. 3.

4. Where any of the authority delegated by section 1 is in turn delegated by a council to a committee of council or an appointed officer under subsection 5 (1) of the *Planning Act, 1983* the council shall cause to be forwarded to the Minister a certified copy of the delegating by-law within fifteen days of its passing. O. Reg. 476/83, s. 4.

5.—(1) Ontario Regulations 890/80 and 78/82 are revoked.

(2) Notwithstanding any other provision of this Order, any application received before the day this Order comes into force by a council authorized to receive the application by section 1 of Ontario Regulation 890/80 or a predecessor thereof shall be governed and dealt with as if that Regulation or its predecessor had not been revoked. O. Reg. 476/83, s. 5.

6. This Order comes into force on the 1st day of August, 1983. O. Reg. 476/83, s. 6.

CLAUDE BENNETT  
Minister of Municipal Affairs  
and Housing

Dated at Toronto, this 28th day of July, 1983.

(3141)

33

### PLANNING ACT, 1983

O. Reg. 477/83.

Delegation of Authority of Minister  
Under Section 4 of the Planning Act,  
1983—Official Plans.

Made—July 28th, 1983.

Filed—July 29th, 1983.

### ORDER MADE UNDER THE PLANNING ACT, 1983

### DELEGATION OF AUTHORITY OF MINISTER UNDER SECTION 4 OF THE PLANNING ACT, 1983—OFFICIAL PLANS

1. Subject to sections 2 and 3, all authority of the Minister under,

(a) section 17, except subsections 17 (19) and (21), subsection 20 (1), subsections 22 (1) and (3) and section 64 of the *Planning Act, 1983* is hereby delegated to the council of The Regional Municipality of Waterloo in respect of official plans for the local municipalities within that regional municipality; and

(b) section 17, except subsections 17 (19) and (21), subsection 20 (1) and section 64 of the *Planning Act, 1983* is hereby delegated to the council of The Regional Municipality of Ottawa-Carleton in respect of official plans for the local municipalities within that regional municipality. O. Reg. 477/83, s. 1.

2.—(1) A council, in exercising the authority delegated by section 1, shall comply with the following conditions:

1. The council shall send to the Ministry of Municipal Affairs and Housing one copy of each official plan or official plan amendment received by the council for approval, not later than ten days after the receipt of the application for approval.

2. The council shall request comments from those departments or ministries of the public service, commissions and authorities that, in the council's opinion, have an interest in an official plan or official plan amendment as well as from such other public authorities and agencies as the Minister may direct, and shall submit to the Ministry of Municipal Affairs and Housing a list thereof, and shall not make a decision in respect of the official plan or official plan amendment until thirty days after all requests for comments have been sent or until all comments have been received, whichever period of time is shorter.

3. Where the council has not approved or referred to the Ontario Municipal Board an official plan or an official plan amendment within ninety days of the receipt of the application for approval, the council shall forthwith provide the clerk of the local municipality and the Ministry of Municipal Affairs and Housing with a report on the status of the application.

4. The council shall send to the Ministry of Municipal Affairs and Housing one copy of each comment received under paragraph 2 as well as one copy of all modifications that are proposed for an official plan or official plan amendment and shall likewise send a copy of all modifications that are proposed to such other public authorities and agencies that the council considers are affected thereby.