

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: November 18, 2016

CASE NO.: 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)

Board Rule 107 states:

107. Effective Date of Board Decision A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

Pursuant to Board Rule 107, this decision takes effect on the date that it is e-mailed by Board administrative staff to the clerk of the municipality where the property is located.

BEFORE:

J. de P. SEABORN)
VICE CHAIR)
)
) Friday, the 18th
) day of November, 2016

THE BOARD ORDERS that the Procedural Order, as agreed to between the Parties and attached hereto as Attachment "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, January 9, 2017 at 10 a.m., at the City of Vaughan Municipal Building, OMB Hearing Room, 2nd Floor, 2141 Major Mackenzie Drive, Vaughan, Ontario. The Board has set aside twenty (20) days for the hearing.

A handwritten signature in black ink, appearing to read "Ma Hunwicks". The signature is written in a cursive, flowing style.

SECRETARY

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

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

SCHEDULE A

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 including the Vaughan Metropolitan Centre Secondary Plan

Municipality: City of Vaughan
OMB Case No.: PL111184
OMB File No.: PL111184

PROCEDURAL ORDER- VMC PHASE 1

1. 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

2. The hearing will begin on **Monday, January 9, 2017** at 10 a.m., at the City of Vaughan Municipal Building, OMB Hearing Room, 2nd Floor, 2141 Major Mackenzie Drive, Vaughan, Ontario.
3. The length of the hearing will be 20 days.
4. The parties and participants identified at the prehearing conference are listed in **Attachment 1**.
5. The Issues are as set out in the Issues List attached as **Attachment 2**. There will be no additions to this list unless the Board permits, and a party who asks for changes may have costs awarded against it.
6. Any person intending to participate in the hearing should provide a telephone number to the Board as soon as possible. Any such person who will be retaining a representative should advise the other parties and the Board of the representative's name, address and phone number as soon as possible.

Requirements Before the Hearing

7. A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties and to the Clerk a list of the witnesses, their professional qualifications, their areas of expertise, completed Acknowledgement of Expert's Duty, the precise area and discipline in which they will seek to be qualified to provide expert testimony, and the intended order in which the witnesses will be called during the hearing. This information must be delivered on or before **Thursday, November 24, 2016**. Any challenge by a Party to the qualifications or expertise of a witness must be filed with the Board with supporting reasons within 30 days.
8. 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 11. 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 Board may refuse to hear the expert's testimony. For greater certainty, each expert witness statement must comply with the minimum content requirements specified in Rule 21 of the Board's *Rules of Practice and Procedure*. If the expert witness has prepared any report(s) that he/she intends to rely on at the hearing, and which did not form part of the submissions made to the City such report(s) shall be provided to the other parties at the same time as the delivery of expert witness statements, as in section 11.
9. A participant must provide to the Board and the parties a participant statement consisting of 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, on or before **Tuesday, December 13, 2016**, or the participant may not give oral evidence at the hearing.
10. 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 section 11.
11. On or before **Tuesday, December 13, 2016**, the parties shall provide copies of their witness and expert witness statements to the other parties and to the Clerk.
12. On or before **Thursday, December 22, 2016**, the parties shall provide copies of their visual evidence to the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
13. On or before **Thursday, December 22, 2016**, the parties shall provide any reply witness statements responding to any written evidence received to the other parties.
14. A person wishing to change written evidence, including witness statements, must make a written motion to the Board. Such a motion shall be in accordance with

the Board's Rules 34 to 38, which require that the moving party provide copies of the motion to all other parties 10 days before the Board hears the motion.

15. A party who provides a witness' evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Board at least 7 days before the hearing that the written evidence is not part of the record.
16. Documents may be delivered by e-mail, personal delivery, facsimile, courier or registered or certified mail or otherwise as the Board may direct. The delivery of documents by fax shall be governed by the Board's Rules [26 – 31] on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
17. The Board's file number PL111184 is to be clearly marked on all documents served by the parties or filed with the Board.
18. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.
19. The order of evidence shall be in accordance with **Attachment 3**.
20. The purpose of the Procedural Order and the meaning of the terms used in the Procedural Order are set out in **Attachment 4**.

This Member is not seized

So orders the Board.

ATTACHMENT 1

LIST OF PARTIES

Appellant / Party	Appeal/ Party No.	Representative	Contact Information
City of Vaughan	-	Bruce Engell	WeirFoulds LLP Toronto Dominion Centre 66 Wellington Street West, Suite 4100 Toronto ON M5K 1B7 (t) (416) 947-5081 / (f) (416) 365-1876 bengell@weirfoulds.com
1042710 Ontario Ltd. (Royal Centre)	1	Patricia A. Foran / Patrick Harrington	Aird & Berlis LLP Brookfield Place 181 Bay Street, Suite 1800, Box 754 Toronto, ON M5J 2T9 (t) (416) 865-3425 / (f) (416) 863-1515 pforan@airdberlis.com / pharrington@airdberlis.com
1834371 Ontario Ltd. (Liberty Development Corporation)	30	Barry A. Horosko	Horosko Planning Law 300 North Queen St. Suite 101 Toronto, ON M9C 5K4 (t) (416) 551-8534 ex. 339 bhorosko@horoskoplanninglaw.com
Hollywood Princess Convention and Banquet Centre Ltd.	50	Quinto M. Annibale / Steven Ferri	Loopstra Nixon LLP Woodbine Place 135 Queens Plate Drive, Suite 600 Toronto, ON M9W 6V7 (t) (416) 748-4757 / (f) (416) 748-8319 qannibale@loonix.com / sferri@loonix.com
First Vaughan Investments Inc., Ruland Properties Inc. and Skyrange Investments Inc.	72	Michael Stewart / Roslyn Houser / Joseph Hoffman	Goodmans LLP Bay Adelaide Centre 333 Bay St., St. 3400 Toronto, ON M5H 2S7 (t) (416) 597-6284 / (f) (416) 979-1234 mstewart@goodmans.ca / rhouser@goodmans.ca/ jhoffman@goodmans.ca
Calloway REIT (Sevenbridge) Inc. (SmartCentres)	73	Michael Stewart / Roslyn Houser / Joseph Hoffman	Goodmans LLP Bay Adelaide Centre 333 Bay St., St. 3400 Toronto, ON M5H 2S7 (t) (416) 597-6284 / (f) (416) 979-1234 mstewart@goodmans.ca / rhouser@goodmans.ca/ jhoffman@goodmans.ca
Royal 7 Developments Ltd.	84	Quinto M. Annibale /	Loopstra Nixon LLP Woodbine Place

Appellant / Party	Appeal/ Party No.	Representative	Contact Information
		Steven Ferri	135 Queens Plate Drive, Suite 600 Toronto, ON M9W 6V7 (t) (416) 748-4757 / (f) (416) 748-8319 qannibale@loonix.com / sferri@loonix.com
Luigi Bros. Paving Company Ltd. (Peelar)	91	Gerard C. Borean	Parente, Borean LLP 3883 Highway 7, Suite 207 Vaughan, ON L4L 6C1 (t) (905) 850-6066 / (f) (416) 850-6069 gborean@parenteborean.com
2117969 Ontario Inc. (Zzen)	106	John Alati / Matthew Di Vona	Davies Howe Partners LLP 99 Spadina Avenue, 5th Floor Toronto, ON M5V 3P8 (t) (416) 977-7088 / (f) (416) 977-8931 johna@davieshowe.com / matthewd@davieshowe.com
Midvale Estates Ltd.	107	John Alati / Matthew Di Vona	Davies Howe Partners LLP 99 Spadina Avenue, 5th Floor Toronto, ON M5V 3P8 (t) (416) 977-7088 / (f) (416) 977-8931 johna@davieshowe.com / matthewd@davieshowe.com
2431247 Ontario Limited (Zzen 2)	108	John Alati / Matthew Di Vona	Davies Howe Partners LLP 99 Spadina Avenue, 5th Floor Toronto, ON M5V 3P8 (t) (416) 977-7088 / (f) (416) 977-8931 johna@davieshowe.com / matthewd@davieshowe.com
Mr. Antonio Di Benedetto	109	Self	141 Sharpcroft Boulevard Toronto, ON M3J 1P6
Toromont Industries Ltd.	114	Michael B. Miller	Dickinson Wright 222 Bay Street, 18th Floor PO Box 124 Toronto, ON M5K 1H1 (t) (416) 777-4007 / (f) (416)865-1398 mmiller@dickinson-wright.com
1034933 Ontario Ltd. (Royal Overhead)	120	Gerry Borean	Parente, Borean 207 – 3883 Highway 7 Vaughan, ON L4L 6C1 (t) 905-850-6066 / (f) 905-850-6069 (t) 416-798-7077 gborean@parenteborean.com
York Condominium Corporation 499	139	Robert G. Miller	Rueter Scargall Bennett LLP 2200 – 250 Yonge Street Toronto, ON M5B 2L7 (t) 416-869-9090 / (f) 416-869-3411 Robert.miller@rslawyers.com

Appellant / Party	Appeal/ Party No.	Representative	Contact Information
350 Creditstone Investments Inc.	143	Steven A. Zakem	Aird & Berlis Brookfield Place 181 Bay Street, Suite 1800, Box 754 Toronto, ON M5J 2T9 (t) (416) 865-3440 / (f) (416) 863-1515 szakem@airdberlis.com
Lorwood Holdings Incorporated	158	Steve Zakem	Aird & Berlis Brookfield Place 181 Bay Street, Suite 1800, Box 754 Toronto, ON M5J 2T9 (t) (416) 865-3440 / (f) (416) 863-1515 szakem@airdberlis.com
1406284 Ontario Inc. (Hilton Garden Inn)	164	Patrick Harrington	Aird & Berlis Brookfield Place 181 Bay Street, Suite 1800, Box 754 Toronto, ON M5J 2T9 (t) (416) 865-3440 / (f) (416) 863-1515 pharrington@airdberlis.com
Regional Municipality of York	A	Pitman Patterson Gabriel Szobel	Borden Ladner Gervais Scotia Plaza 40 King Street West Toronto, ON M5H 3Y4 (t) (416) 367-6109 / (f) (416) 361-2459 ppatterson@blg.com The Regional Municipality of York 17250 Yonge Street, 4th Floor Newmarket, ON L3Y 6Z1 (t) (905) 830-4444 ex. 01433 / (f) (905) 895-3768 gabe.szobel@york.ca
Ministry of Municipal Affairs and Housing	B	Kenneth G. Hare / Flynn Paquin / Ugo Popadic	Ministry of the Attorney General 777 Bay Street, 16th Floor Toronto, ON M5G 2E5 (t) (416) 585-6404 / (416) 585-6545 / (f) (416) 585-4003 ken.hare@ontario.ca / flynn.paquin@ontario.ca / ugo.popadic@ontario.ca
Toronto Region Conservation Authority	C	June Little Jonathan H. Wigley	Manager Development Planning & Regulation Toronto and Region Conservation Authority 5 Shoreham Drive Toronto, ON M3N 1S4 (t) (416) 661-6600 / (f) (416) 661-6898 jlittle@trca.on.ca

Appellant / Party	Appeal/ Party No.	Representative	Contact Information
			Gardiner Roberts LLP Scotia Plaza 3100 – 40 King Street West Toronto, ON M5H 3Y2 (t) 416-865-6600 / (f) 416-865-6636 jwigley@gardiner-roberts.com
York Region Catholic District School Board	G	Thomas McRae	Shibley Righton 250 University Avenue, Suite 700 Toronto, ON M5H 3E5 (t) (416) 214-5206 / (f) (416) 214-5400 thomas.mcrae@shibleyrighton.com

ATTACHMENT 2

ISSUES LIST

Royal Centre (Appellant 1)

1. Does the Secondary Plan (policies and schedules) appropriately plan for and identify the appropriate amount of parkland? Are the proposed parkland locations appropriate?
2. Is parkland appropriately distributed in the Secondary Plan, including the Northwest Quadrant?
3. In the Northwest Quadrant of the Secondary Plan Area, are the Major Parks and Open Space or Urban Parks Designations appropriate? Is a redesignation of the Royal Centre lands to a parkland designation appropriate?
4. In the Northwest Quadrant of the Secondary Plan Area, are the proposed streets shown on Schedule C appropriate?
5. What arrangements should be in place prior to approval of the realigned extension of New Park Place west of Edgeley Boulevard, as illustrated on Schedule C?

Hollywood Princess Convention and Banquet Centre Ltd. and Royal 7 Developments Limited (Appellants 50 and 84)

6. Is the road network as shown on Schedule C appropriate as it relates to the Hollywood Princess Convention and Banquet Centre Ltd. and Royal 7 Developments Limited lands?
7. Should the extension of McLeary Court west of Creditstone Road be a public or private road?
8. Should the signals at McLeary Court and Creditstone Road be relocated to the Barnes Road and Creditstone Road intersection?

350 Creditstone Investments Inc. (Appellant 143)

9. Is a Neighborhood Park required in the Northeast Quadrant? If so, is it appropriate to identify the location in the Secondary Plan? If so, where should it be located?
10. What is the appropriate system of roads within the Northeast Quadrant?

1304933 Ontario and Luigi Bros (Appellants 91 and 120)

11. Is it appropriate to require the continuation of the local street network through the subject properties to connect to Peelar Road?
12. Is it appropriate that intersections in Schedule C that include a major or minor collector street or arterial street are required to be maintained in their general location (Policy 4.3.1)?
13. Is it appropriate for Schedule D to have indeterminate parks designations for lands outside the existing floodplain?
14. Is it appropriate for the Black Creek Renewal EA to determine the final land use designations of lands outside the existing floodplain?

2431247 Ontario Ltd. - ZZen 2 (Appellant 108)

15. Is the mews south of Avenue 7 and east of Jane Street, necessary?
16. If the mews is necessary:
 - (a) Is the mews appropriately sized?
 - (b) Who are the appropriate users of the mews?
 - (c) Is the size of the mews dependent on intended users of the mews (*i.e.* vehicular and pedestrian, or pedestrian only)?
 - (d) What is the appropriate location of the mews (*vis-a-vis* the Zzen 2 property)?
17. Can the Zzen 2 lands be appropriately accessed and serviced absent any final determination on the parameters and details of the mews, and if so, subject to what conditions, if any?

18. Is it the responsibility of the abutting Owner to provide access to the Zzen 2 lands?

Lorwood Holdings Incorporated (Appellant 158)

19. With respect to the north/south road shown on Schedule C that is proposed extend south from Highway 7 between Creditstone Road and Maplecrete Road:
- (a) Should this north south road be deleted?
 - (b) If the answer to (a) is "no", should this north/south road be classified as "mews or local street"?

1406284 Ontario Inc. (Hilton Garden Inn) (Appellant 164)

20. Are the proposed new roads to the south and to the east of the Hilton Garden Inn lands as shown on Schedule C appropriately located?

ATTACHMENT 3
ORDER OF EVIDENCE

1. Overview Evidence - City of Vaughan

North West Quadrant

2. City of Vaughan
3. Parties In Support - First Vaughan Investments Inc., Ruland Properties Inc. and Skyrange Investments Inc. (Appellant 72); Calloway REIT (Sevenbridge) Inc. (SmartCentres) (Appellant 73); Region of York
4. Royal Centre (Appellant 1)
5. City of Vaughan Reply, if any

North East Quadrant

6. City of Vaughan
7. Parties in Support – York Catholic District School Board; Region of York
8. Hollywood Princess Convention and Banquet Centre Ltd. and Royal 7 Developments Limited (Appellants 50 and 84)
9. 350 Creditstone Investments Inc. (Appellant 143)
10. City of Vaughan Reply, if any

South East Quadrant

11. City of Vaughan
12. Parties in Support - 1834371 Ontario Ltd. (Liberty Development Corporation) (Appellant 30); York Condominium Corporation 499 (Appellant 139); Region of York; Toronto and Region Conservation Authority
13. 1304933 Ontario and Luigi Bros (Appellants 91 and 120)
14. 2431247 Ontario Ltd. - ZZen 2 (Appellant 108)
15. Lorwood Holdings Incorporated (Appellant 158)
16. City of Vaughan Reply, if any

South West Quadrant

17. City of Vaughan
18. Parties in Support - Region of York; Toromont Industries Ltd. (Appellant 114)
19. Hilton Garden Inn (Appellant 164)
20. City of Vaughan Reply, if any

ATTACHMENT 4

Purpose of the Procedural Order and Meaning of Terms

The Board recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Board to order following the conference. The Board will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Ontario Municipal Board, and the Board's Rules, from the Board Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-326-6800, or from the Board website at www.omb.gov.on.ca.

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 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 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 45 and 46 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.