

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** November 26, 2015

**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 Official Plan Amendment No. New  
Official Plan  
Municipality: City of Vaughan  
OMB Case No.: PL111184  
OMB File No.: PL111184  
OMB Case Name: Duca v. Vaughan (City)

**Heard:** October 28, 2015 in Vaughan, Ontario

**APPEARANCES:**

**Parties**

See Attachment 1

**DECISION DELIVERED BY JASON CHEE-HING AND ORDER OF THE BOARD**

[1] This decision contains both oral dispositions made at a pre-hearing conference ("PHC") and motion settlement hearing held on October 28, 2015 and a reserved decision on a motion brought by the Appellant, Camelot On 7 Inc. (Appeal No. 93).

[2] At this PHC, the Board was provided with an update on the status of the multiple appeals of the Vaughan 2010 Official Plan ("VOP 2010"). The Board also dealt with a number of administrative issues and disposed of a number of settlement motions as referenced in this decision.

[3] To date 148 appeals have been filed against the VOP 2010. Attachment 2 provides in a flowchart format the status of the 148 appeals.

[4] Separate PHCs have been scheduled for a number of appeals that are proceeding to hearings.

**Appeal No. 76 (Appellant Traci Shatz)**

[5] Both Bruce Engell and Steven Zakem advised that Appellant Traci Shatz intends to withdraw her appeal. Mr. Engell advised that the City will be addressing the status of this appeal at the next PHC.

**City's Motion and Supplementary Motion – Request for Partial Approval of VOP 2010**

[6] The Board had before it a motion and supplementary motion from the City (Exhibits 88A and G) respecting the partial approval of the VOP 2010. As well, the Board had responding motions from Appellant No. 113 (John Duca), and No. 148 (Liberata D'Aversa) (Exhibits 88C and E). The Board adopted and relied on the affidavit planning evidence from the respective planners for the City and Appellants No. 113 and No. 148 and granted the relief sought in the City's supplementary motion for:

- a) The partial approval of the VOP 2010 to bring the Kipling Avenue and Highway Area Specific Plan into full force and effect, save and except the lands that are subject to a site-specific appeal by Appellant No. 113, and Appellant No. 148.

- b) Modifying the VOP 2010 policies applicable to the Kipling/Highway 7 Area specific Plan to include certain specific polices applicable to the Duca lands.
- c) An Order to adjourn the City's Original Motion *sine die* as it applies to the lands that are subject to a site-specific appeal by D'Aversa.
- d) An Order directing the Appellant, D'Aversa, to scope its appeal by no later than January 22, 2016.

[7] The requested relief was supported by Appellants Duca and Liberata D'Aversa. The Board will withhold its Order pending receipt of the appropriate draft wording from the City.

**Appeal No. 52 (Novagal Development Inc.)**

[8] The Board allowed the appeal in part as it relates to the Appellant's lands within the West Vaughan Employment Area ("WVEA") Secondary Plan and granted a motion to modify the Vaughan VOP 2010 in accordance with the proposed modifications outlined in Exhibits "J", "K", and "L" to the affidavit of Roy Mason (Exhibit 82B). The Board adopted and relied on the affidavit planning evidence of Mr. Mason.

[9] Caterina Facciolo, counsel for the appellant noted that certain aspects of the appeal with respect to lands outside the WVEA remain to be resolved and as such the appeal is still alive. Dawne Jubb, counsel for the City confirmed this understanding.

[10] The Board will withhold its Order pending receipt of the appropriate wording from Ms. Facciolo to be vetted by the City. Additionally, the Board will withhold its Order with respect to proposed modification "L" until the City brings a motion to approve Schedule 2 of the VOP 2010.

**Appeal No. 90 (Anna Greco)**

[11] The Board allowed the appeal in part and granted the Appellant's motion to approve the proposed site-specific modifications found in Schedule J of the motion filings (Exhibit 90A). The proposed modifications sought a redesignation of the appellant's lands with respect to an increase in height and density. The proposed modifications resolve all of the Appellant's appeal. The City supported the motion. The Board adopted and relied on the affidavit planning evidence of Alfonso Ruggero.

**Appeal No. 93 (Camelot On 7 Inc., Elia Breda)**

[12] With respect to Appeal No. 93, the Board had reserved its decision. The Board's decision follows.

[13] The Appellants brought a motion to modify the VOP 2010 in accordance with the site specific modifications found in its motion filings (Exhibit 91A) and partially approving the VOP 2010 as modified on a site specific basis for the lands known municipally as 4902 and 4908 Hwy 7 ("subject lands").

[14] Contained in the motion filings was the affidavit planning evidence of Kurt Franklin. The proposed modifications would modify Schedule 13 of the VOP 2010 to re-designate the subject lands from Mid-Rise Mixed use with a maximum height of six storeys and maximum density of 2.0 FSI to Mid-Rise Mixed use with maximum height of seven storeys and maximum density of 2.5 FSI.

[15] The City filed a notice of response to motion (Exhibit 91C). Settlement discussions between the City and the Appellants resulted in a revised proposal for the site which the City supported and is reflected in the proposed modifications. City planning staff is in support of the proposed site specific modifications and the City supported the Appellants' motion.

[16] Two residents (Mary Marti and Elisa Testa) who reside in the residential subdivision immediately north of the subject lands were opposed to the proposed modifications. The Board granted them participant standing as it relates to Appeal 93.

[17] The Board heard that the original proposal dating back to 2012 was for a 12 storey mixed use residential building. Through a series of discussions including pre-consultation meetings with City planning staff, the proposal was eventually reduced to seven storeys and having a FSI of 2.5. A revised application based on this height and density was submitted to the City on February 6, 2015. Ms. Jubb confirmed that Vaughan Council considered the revised proposal *in camera*, and instructed its staff to settle the matter in accordance with the Appellants' revised proposal.

[18] It was the affidavit planning evidence of Mr. Franklin that a statutory public meeting was held on November 4, 2013 with respect to an Official Plan Amendment ("OPA") for the subject lands. Mr. Franklin also testified that the in-force OPA 640 as amended by OPA 661 permits a maximum height of seven storeys and a maximum density of 2.5 FSI. However, development within 30m of lands designated Low Density residential is limited to a maximum height of four storeys.

[19] Ms. Jubb confirmed that the statutory public meeting was held for the site specific OPA and it is the City's procedure that if the OPA has been subsequently revised by the proponent, the City does not hold a further public meeting.

[20] Both Ms. Marti and Ms. Testa are opposed to the proposed modifications. In their view the proposal would still be an overdevelopment of the site and would result in unacceptable adverse impacts to their neighbourhood especially with respect to local traffic generated from the proposed development. They were particularly concerned that in their opinion, the City did not follow due process in its support of the revised proposal. It is their contention that City Council should have a public meeting to discuss the revised proposal. They sought an adjournment of the Board's consideration of this

motion until after the revised proposal is brought to a City Council meeting for discussion. The City took no position on the participants' request for an adjournment.

[21] The Board considered all of the evidence and submissions including the lay testimony of the participants in making its findings.

[22] The affidavit evidence before the Board is that there was a settlement reached between the City and the Appellants which resulted in the Appellants' motions. City planning staff reviewed the revised proposal. The response to motion filed by the City indicates that planning staff are satisfied that the revised proposal represented good planning and met the requirements of the *Planning Act* ("Act").

[23] The Board is reluctant to interfere with a settlement between the parties unless there is compelling evidence that the settlement does not meet the requirements of the Act or it is not in the public interest. In this particular circumstance, the Board is satisfied based on the evidence of the planners for the proponent and the City and the submissions of respective counsel that the relief requested by the proponent meet the requirements of the Act. The Board is also satisfied that the statutory public review process was followed.

[24] The Board is mindful of the participants' concerns which were well articulated. However, the Board is satisfied that the City met the requirements for a statutory public meeting with respect to the Appellants' OPA. The Board is mindful of the participants' concerns that the revised proposal was not properly vetted at a council meeting open to the public. It is the Board's view that the residents in the area will have an opportunity to voice their concerns when the proponent submits a re-zoning application as is required to facilitate the proposed development. The City must hold a statutory public meeting as required under the Act for a rezoning application.

[25] The Board accepts the affidavit planning evidence of both Kurt Franklin for the proponent and the affidavit planning evidence of Mr. Dixon of the City in support of the

motion. The Board finds that the proposed site-specific modifications to height and density meet the requirements of the Act. The Board allows the appeal in part and grants the motion to modify the VOP 2010 in accordance with the modifications found in Exhibit "V" of Mr. Franklin's affidavit which is found in Exhibit 91A.

## **ORDERS**

[26] With respect to the City's motion for partial approval of the VOP 2010 in respect of the Kipling Avenue and Highway 7 Area Specific Plan, the Board grants the relief requested in its supplementary motion filings as detailed in this decision. The Board will withhold its Order pending receipt of the appropriate draft Order from the City.

[27] With respect to Novagal Developments Inc., (Appeal 52), the Board allows the appeal in part and grants the relief requested as detailed in this decision. The Board will withhold its Order pending receipt of the appropriate draft Order from Ms. Facciolo to be vetted by the City. Additionally, the Board will withhold its Order with respect to proposed modification "L" until the City brings a motion to approve Schedule 2 of the VOP 2010.

[28] With respect to Anna Greco (Appeal 90), the Board allows the appeal in part and grants the motion for partial approval of the VOP 2010 to modify the VOP 2010 in accordance with the modifications found in Exhibit J to the Affidavit of Alfonso Ruggero which is found in Exhibit 90A.

[29] With respect to Camelot On 7 Inc., Elia Breda (Appeal 93), the Board allows the appeal in part and grants the motion to modify the VOP 2010 in accordance with the modifications found in Exhibit "V" of Mr. Franklin's affidavit which is found in Exhibit 91A.

[30] No further notice is required. I remain seized of the case management of these matters relating to the VOP 2010 appeals.

*"Jason Chee-Hing"*

JASON CHEE-HING  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

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# ATTACHMENT 1

- 1 -

## VAUGHAN OP 2010 (PL111184)

### LIST OF PARTIES IN ATTENDANCE AT PRE-HEARING CONFERENCE ON October 28, 2015

City of Vaughan

Dawne Jubb, Bruce Engell,  
(Stephanie Arias, Stefanie Valente,  
Mary Caputo, Steven Dixon)

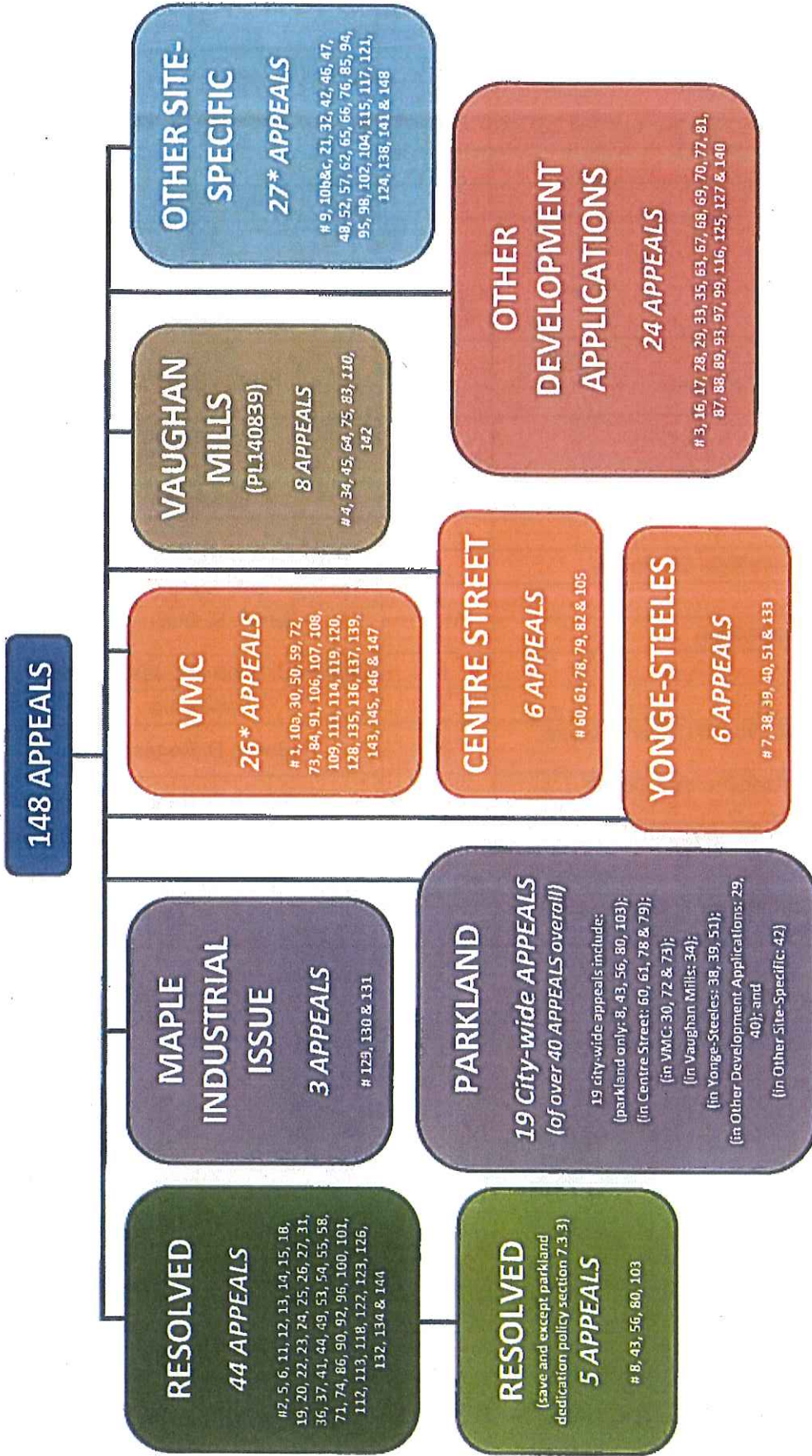
<u>Appellants</u>	<u>Appeal No.</u>	<u>Representative</u>	
2264319 Ontario Inc.	6	Ira T. Kagan	
Block 41-28E Developments Limited, Block 41-28W Developments Ltd., 4212765 Ontario Inc. and 4213763 Ontario Ltd.	35		
7040 Yonge Holdings Ltd. and 72 Steeles Holdings Ltd.	38		
2 Steeles Avenue West Ltd.	39		
Auto Complex Ltd.	40		
Castlepoint Huntington Ltd.	49		
Salz & Son Ltd.	51		
Haulover Investments Ltd.	7		Jeffrey Streisfield
David and Kathy Lundell	42		
Portside Developments (Kipling) Inc.	116		
Mario Tedesco (Fifthshire Homes Ltd.)	117		
York Region Condominium Corporation 730	137		
836415 Ontario Inc.	48	Barry Horosko	
4494624 Ontario Inc.	49		
Granite Real Estate Inc. (formerly MI)	20		
1834375 Ontario Ltd.	29		
1834371 Ontario Ltd.	30		
Delisle Properties Ltd.	34		
1541677 Ontario Inc.	43		
2159645 Ontario Ltd. (Liberty)	56		
Centre Street Properties Inc.	78		
Vogue Investments Ltd.	79		
Cedarbrook Residential	103		
Allegra on Weedstream Inc.	442		
588701 Ontario Limited	124		
2128475 Ontario Corp.	146		
1930328 Ontario Inc.	147		Steven Ferri
Hollywood Princess Convention and Banquet Centre Ltd.	50		
MCN (Pine Valley) Inc.	57		
785345 Ont. Ltd and I & M Pandolfo Holdings	59		
Kirbywest Ltd.	66		
Royal 7 Developments Limited	84		

Maple Industrial Landowners Group	418	Steven Ferri
Blue Sky Entertainment Corp.	426	
Holcim (Canada) Inc.	129	
2203012 Ontario Limited	130	
Blair Building Materials Inc.	131	
Blackwood Realty Fund I Limited Partnership	24	Matthew Di Vona and Jason Lewis
Lucia Milani and Rizmi Holdings Ltd.	62	
Ivanhoe Cambridge II Inc.	142	
Roybridge Holdings Ltd., Vaughan West II Ltd., and Squire Ridge Investment Ltd.	26	Susan D. Rogers
Adidas Canada Ltd., 2020832 Ontario Inc., and Genair Consumers Products Inc.	27	
John Duca	113	
RioCan Holdings Inc. (Coulter's Mills Marketplace)	34	Joel D. Farber
RioCan Holdings Inc. (Springfarm Marketplace)	32	
Riotrin Properties (Langstaff) Inc., SRF Vaughan Property Inc., and SRF Vaughan Property II Inc.	36	
Riotrin Properties (Vaughan) Inc., Riotrin Properties (Vaughan2) Inc. and Riotrin Properties (Vaughan3) Inc.	48	
RioCan Holdings Inc. (Centre Street Corridor)	82	
1306497 Ontario Inc. (Sisley Honda)	133	
Home Depot Holdings Inc.	44	
Granite Real Estate Inc. and Magna International Inc.	110	Steven A. Zakem
350 Creditstone Investments	143	
281187 Ontario Ltd.	64	
L-Star Developments Group	65	Gerard C. Borean
Kipco Lands Development Inc.	86	
Lanada Investments Limited	87	
Market Lane Holdings Limited	88	
Gold Park (Woodbridge) Inc.	89	
Mrs. Anna Greco	90	
Luigi Bros. Paving Company Ltd.	91	
Mr. Silvio Di Giammarino	94	
1034933 Ontario Ltd.	120	
Belleterra Corporation	121	
Luigi Bros. Paving Company Ltd.	128	
Concetta Marciano	135	
Pro Catering Ltd.	136	
Michael Termini, Salvatore Termini and Rosa Bancheri	145	
Blue Water Ranch Developments Inc.	67	
Berkley Commercial (Jane) Inc.	119	
Teresa Marando	123	
FCF Old Market Lane 2013 Inc.	140	
Liberata D'Aversa	148	
Camelot on 7 Inc. and Elia Breda	93	Paul Bottos

Weston Downs Ratepayers Association	95	Elisa DeCarolis
2117969 Ontario Inc.	106	Matthew Di Vona
Midvale Estates Ltd.	107	
Potestas Properties Inc.	108	
Covenant Chapel	115	
Kau & Associates LP	74	Caterina Facciolo
Nine-Ten West Ltd.	80	
Novagal Development Inc.	52	
Trimax on Islington	104	
Royal Group Inc.	70	Phil Stewart

<u>Parties</u>	<u>Party No.</u>	<u>Representative</u>
Region of York	A	Pitman Patterson
Toronto and Region Conservation Authority	C	Kevin Huang
York Region District School Board	H	Gilbert Luk
FCHT Holdings (Ont) Corp	I	Steven A. Zakem
Magna International Inc. and Granite Real Estate Inc.	J	
CNR	K	James S. Quigley
Alex & Michelle Marrero (5859 Rutherford)	L	
Ivanhoe Cambridge Inc.	M	Matthew Di Vona and Jason Lewis
RioCan Holdings Inc.	Q	Joel Farber
Roybridge Holdings Ltd., Vaughan West II Ltd. and Squire Ridge Investment Ltd.	V	Susan D. Rogers
Adidas Canada Ltd., 2029832 Ontario Inc. and Conair Consumers Products Inc.	W	Susan D. Rogers
Teresa Marando	AN	Chris Tanzola
<u>Participants</u> - only to Camelot on 7; Elia Breda (Appellant 93)		Mary Mauti and Elisa Testa

Vaughan Official Plan (VOP) 2010 – APPEAL SUMMARY



\* Appeal 10 is counted in both the VMC and Other Site-Specific categories as the appeal applies to more than one site. Therefore, the sum of all categories is one greater than the total number of appeals.  
**FOR REFERENCE PURPOSES ONLY**