

TOWNSEND AND ASSOCIATES

BARRISTERS AND SOLICITORS

LYNDA J. TOWNSEND PROFESSIONAL CORPORATION

PLEASE REFER TO:
Lyn Townsend (Ext. 222)
Email: lyn.townsend@ltownsend.ca
Assistant: Marie Wakefield (Ext. 226)
E-mail: marie.wakefield@ltownsend.ca

December 14, 2011

Ministry of Municipal Affairs and Housing
Municipal Services Office – Central Ontario
777 Bay Street, 2nd Floor
Toronto, Ontario
M5G 2E5

RECEIVED
MUNICIPAL SERVICES OFFICE

DEC 15 2011

CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

Attention: Mr. Andrew Doersam, Senior Planner

Dear Sir:

Re: NOTICE OF APPEAL
Regional Official Plan Amendment No. 38 of the Regional Municipality of Halton
Subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13
Mattamy Development Corporation

We represent Mattamy Development Corporation with respect to land development matters in the Region of Halton (the "Region"). Mattamy Development Corporation ("Mattamy") is responsible for the ongoing development of lands on behalf of a number of related companies in Halton Region. On November 24, 2011, the Ministry of Municipal Affairs and Housing (the "Ministry") made a decision to approve with modifications, Amendment No. 38 to the Regional Official Plan ("ROPA 38"). Our client hereby appeals ROPA 38 to the Ontario Municipal Board, in its entirety and as it relates to all lands within the Region, pursuant to subsection 17(36) of the Planning Act.

Due to the complex nature of the policies and schedules of ROPA 38, and because of various inconsistencies that appear to exist between the Ministry's Notice of Decision and the Region's Interim Office Consolidation, we are appealing the amendment in its entirety, out of an abundance of caution. However, through several, detailed submissions beginning in 2007, Mattamy has identified certain themes of concern:

- Phasing of future development according to the interim year of 2021;
- Affordable housing and housing mix;
- Establishment of housing targets and housing mix by density;
- Grandfathering;
- Human services and other non-legislated developer funding;
- The linking of intensification to Greenfield development;
- Minimum Distance Separation;
- The Natural Heritage Systems;
- The definition of Negative Impacts and its relationship to Environmental Impact Statements;

- Mapping related to the Parkway Belt West Plan;
- Road widths, transportation policies and schedules and appendices related thereto;
- The use of guidelines which are yet to be developed and are not subject to sufficient technical scrutiny.
- Various definitions and schedules related to the above-listed themes; and
- Various other miscellaneous policies and designations.

Mattamy has also attended meetings with regional Staff to discuss the concerns summarized above. Submissions made on behalf of Mattamy have been quite specific, yet unfortunately, there has been very little resolution through the approved version of ROPA 38. In fact, the modifications set out in the Ministry's Notice of Decision appear to exacerbate issues previously raised. While we reserve our right to take issue with other modifications as the appeal process progresses, we note the following concerns with the Ministry's modifications as a result of our initial review:

- Modifications to the Natural Heritage System that introduce "key features". We take issue with many of the listed features and the lack of explanation as to the meaning of "significant" in relation thereto.
- The definition of "Adjacent Lands" is inconsistent with the *Provincial Policy Statement* and with other provisions of ROPA 38 that establish a test for "no negative impact"; it is also unclear which Natural Heritage System features the definition pertains to.
- Modifications relating to Agricultural Impact Assessments and Minimum Distance Separation are not responsive to the issues previously raised on behalf of Mattamy.
- The Regional Natural Heritage System now includes the designations Regional Natural Heritage System, Natural Heritage System (Greenbelt Plan), Greenbelt Natural Heritage System, Key Features, Centres for Biodiversity, Enhancement Areas, Linkages and Buffers. The mapping that pertains to the Regional Natural Heritage System is Map 1, Map 1A, Map 1F and has been revised. In our view, the Province's modifications are inconsistent and unclear. By way of example:
 - The nomenclature is inconsistent.
 - Map 1F does not delineate the Greenbelt Natural Heritage System boundaries.
 - The enhancements, linkages and buffers are capitalized on Map 1F, but do not bear capitals in the text of the ROP and are undefined.
 - The policies with respect to refining and/or developing within enhancements, linkages and buffers are unclear.
 - The definition and policies with respect to Vegetation Protection Zones, and associated minimum 30m buffers around key features, are without technical foundation.
 - The policies intended to implement buffers use terms such as "seepage areas", which are undefined.
 - Previous enunciated concerns also remain.
- Milton Phase 3 lands have not been grandfathered as was anticipated, to allow the Natural Heritage System in the Boyne Survey Secondary Plan to be defined through the Town's Secondary Plan process, given that, among other reasons, the Secondary Plan process and related studies were initiated prior to the Region's Natural Heritage System enhancement process that has culminated in ROPA 38.

- Modifications, such as policies 173(1.1),(1.2) and (5.1) , which obfuscate the extent to which the right-of-way widths set out in Table A2 and Map 4 must be adhered to.
- Modifications, such as policy 101(1.2), which appear to further restrict residential development within the Agricultural Rural Area.

Finally, we have a fundamental concern with several provisions of ROPA 38 that result in inconsistencies with the Growth Plan and the ability to achieve the Schedule 3 population forecasts. Policies which give priority to intensification at the expense of other Growth Plan policies and policies which stall the delivery of housing forms that do not meet the Region's definition of "apartments" will impede the ability to achieve the anticipated growth for the Region. The ROPA 38 policies must be viewed in the context of the Region's recommended changes to definitions in the Development Charge By-law, which acts as a disincentive to the delivery of housing that does not meet the Region's new definition of high density.

Mattamy has also appealed both Amendment No. 37 and Amendment No. 39 to the Halton Regional Official Plan ("ROPA 37" and "ROPA 39" respectively). There are only three policies of ROPA 37 that remain under appeal, which have been adjourned *sine die*, with the expectation that they will be consolidated with the appeals of ROPA 38. ROPA 39 is intended to implement certain policies established through ROPA 37 and ROPA 38. It is our position that all three amendments are inextricably linked and we will therefore be requesting that the Board consolidate the three matters as a single proceeding.

As always, Mattamy would welcome every opportunity to continue discussions with the Region and the Ministry on all of its issues, with the hope that matters could be resolved or scoped.

Enclosed herewith in support of this appeal, please find a cheque in the amount of \$125 as the required appeal fee and OMB Appeal Form A1. We thank you in advance for your receipt of this notice.

Yours truly,
TOWNSEND AND ASSOCIATES

Original signed by

for Lynda J. Townsend

Encls.

cc. Client
Ruth Victor, Ruth Victor and Associates
Jeannette Gillezeau, Altus Group
Peter Walker, Walker, Nott, Dragicevic Associates Limited
Tom Hilditch, Savanta Inc.
David Schaeffer, David Schaeffer Engineering Ltd.



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

all lands within the municipality

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: Regional Municipality of Halton

Part 3: Appellant Information

First Name: _____ Last Name: _____

Mattamy Development Corporation
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Lynda Last Name: Townsend

Company Name: Townsend and Associates

Professional Title: solicitor of record

E-mail Address: lyn.townsend@ltownsend.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905.829.8600 Alternate Telephone #: _____

Fax #: 905.829.2035

Mailing Address: 1525 Cornwall Road Suite 10 Oakville
Street Address Apt/Suite/Unit# City/Town
Ontario L6J 0B2
Province Country (if not Canada) Postal Code

Signature of Appellant: Original signed by [Signature] Date: December 14/2011

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

By-law 162-09, adopting Regional Official Plan Amendment No. 38, as modified by MMAH through its Decision of November 24, 2011.
MMAH File No. 24-OP-0027-038

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

Please see attached correspondence

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

Regional Official Plan Amendment Nos. 37 and 39

