



RECEIVED
MUNICIPAL SERVICES OFFICE
NOV 17 2010
CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

November 17, 2010

delivered

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

bduguid@casselsbrock.com
tel 416.869.5364
fax 416.640.3199
file # 43547-1

Attention: Sybelle von Kursell, Team Lead

**Re: Appeal of Regional Official Plan Amendment No. 128
Region of Durham**

We are the solicitors for Len Bitondo, the owner of the 3886 Westney Road in the City of Pickering (the "Subject Lands"). On October 27, 2010, the Ministry of Municipal Affairs and Housing (the "Ministry") issued a Notice of Decision dated October 27, 2010 (the "Decision") to approve with modifications the majority of Durham Regional Official Plan Amendment No. 128 ("ROPA 128"). In particular and most significant to my client, the Decision refused the proposed Urban Area Boundary expansion in North East Pickering. Pursuant to s. 17(36) of the *Planning Act*, our client hereby appeals the Ministry's Decision to the Ontario Municipal Board.

Our client objects to the Ministry's Decision refusing the proposed Urban Area Boundary expansion in North East Pickering for the following, among other, reasons.

1. ROPA 128 relocates Westney Road to the east to bypass the Hamlet of Greenwood ("Hamlet"). This will move Westney Road onto the Subject Lands and strand a parcel of land between the Hamlet and the re-located Westney Road. The current Westney Road in the Hamlet will then be extended eastward to meet the re-aligned Westney Road. The result of this is the creation of two separate parcels on the Subject Property. The parcel north of the extended road is 5.05 ha in size and the parcel south of the extended road is 3.09 ha in size. ROPA 128 as originally approved by the Region of Durham proposed an Urban Area Boundary expansion in the Hamlet and to redesignate the lands between the Hamlet and the relocated Westney Road from "Major Open Space Areas" to "Living Areas". The Ministry's Decision does not include this Urban Area Boundary expansion thus reverting the stranded lands back to the "Major Open Space Areas" land use designation. In our view, there is no planning justification for not including the Subject Lands in the Urban Area Boundary expansion to reflect the new eastern boundary of the Hamlet as a result of the Westney Road re-alignment.



2. Policy 9A1.2 of the Regional Official Plan states that "Regional Council shall discourage fragmentation of the agricultural land base". In our view, the Ministry's refusal of the Urban Area Boundary expansion as it relates to the Hamlet runs counter to the objectives of the Regional Official Plan as the Subject Lands which are currently being farmed by our client are being divided into two parcels.
3. Policy 9A1.3 of the Regional Official Plan states that "Regional Council shall encourage the consolidation of agricultural parcels of land". In our view, the Ministry's refusal of the Urban Area Boundary expansion as it relates to the Hamlet runs counter to the objectives of the Regional Official Plan as the Subject Lands are being fragmented.
4. Policy 9A2.8 of the Regional Official Plan states that "the creation of parcels of land for agricultural uses of less than 40 ha shall not be permitted". In our view, the Ministry's refusal of the Urban Area Boundary expansion as it relates to the Hamlet runs counter to the objectives of the Regional Official Plan as the Subject Lands are being divided into parcels which are less than 40 ha and also divided into parcels which are insufficient in size to be farmed in an economical manner.
5. Policy 12.7.d.ii. of the City of Pickering Official Plan provides for the Westney Road By-pass as the maximum possible eastern limit of the Hamlet. In our view, the Ministry's refusal of the Urban Area Boundary expansion as it relates to the Hamlet runs counter to the objectives of the Municipal Official Plan as the Westney Road By-pass was intended to be the eastern limit of the Hamlet.

In light of the foregoing, our client's specific appeal should not be evaluated in the context of the proposed Urban Area Boundary expansion in its entirety. Rather, our client's appeal should be evaluated in the context of a mapping boundary issue to properly and accurately reflect the boundary line for the Hamlet as a result of the Westney Road realignment as recognized in the Pickering Official Plan.

It is inappropriate and does not represent good planning to simply refuse the Urban Area Boundary expansion in its entirety without due consideration of the Hamlet's slightly modified boundary line reflecting the proposed road alignment. The overall concerns expressed by the Ministry regarding the scale of the proposed Urban Area Boundary expansion does not apply to the specific reasons for the modification to the boundary line for the Hamlet.

We would welcome the opportunity to discuss our specific appeal with the Ministry in hopes of resolving the matter prior to the hearing.



Please find enclosed our cheque for \$125.00, for filing this appeal.

Yours truly,

Cassels Brock & Blackwell LLP

Per:

A handwritten signature in black ink, appearing to read "Brent K Duguid". The signature is fluid and cursive, with the first name "Brent" and last name "Duguid" clearly legible.

Brent Duguid

Enclosures

cc: Len Bitondo
Kurt Franklin, Weston Consulting
Pat Madill, Regional Clerk



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

Part 2: Location Information

3886 WESTNEY ROAD
 Address and/or Legal Description of property subject to the appeal:
 Municipality/Upper tier: PICKERING

Part 3: Appellant Information

First Name: LEN Last Name: BITONDO

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 #: 905 428 9266 Alternate Telephone #: _____

Fax #: _____

Mailing Address: 3886 WESTNEY ROAD PICKERING
Street Address Apt/Suite/Unit# City/Town
ON LOH 1H0
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: BRENT Last Name: DUGUID

Company Name: CASSELLS BROOK & BLACKWELL LLP

Professional Title: LAWYER

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

Daytime Telephone #: 416 869 5364 Alternate Telephone #: _____

Fax #: 416 640 3199

Mailing Address: 40 KING STREET WEST SUITE 2100 TORONTO
Street Address Apt/Suite/Unit# City/Town
ON M5H 3C2
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: Nov 17, 2010

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)

REGIONAL OFFICIAL PLAN AMENDMENT NO. 128
MMAH FILE NO. 18-OP-0012-128

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 COVER LETTER

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.

[Empty box for explanatory note]

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)

[Empty box for OMB Reference Number(s) and/or Municipal File Number(s)]

CASSELS BROCK & BLACKWELL LLP

379760

SCOTIA PLAZA, SUITE 2100, 40 KING STREET WEST,
TORONTO, CANADA M5H 3C2
Telephone (416) 869-5300

THE BANK OF NOVA SCOTIA
44 KING STREET WEST
TORONTO, ONTARIO M5H 1H1

DATE 11-16-2010
MM-DD-YYYY

CDN FUNDS
\$125.00

ONE HUNDRED TWENTY-FIVE AND 00/100
DOLLARS



PAY TO THE ORDER OF
MINISTER OF FINANCE

⑈ 379760⑈ ⑆ 47696⑈ 002⑆ 00739⑈ 1⑈



November 22, 2010

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Attention: Sybelle von Kursell, Team Lead

**Re: Appeal of Regional Official Plan Amendment No. 128
Region of Durham**

Further to our letter dated November 17th, please note that the correct municipal address and legal description for Mr. Len Bitondo's property is 2585, Sixth Concession Road 2595 CON 5 PT LOT 9, 10 REG 214.50AC FR D.

Mr. Bitondo's mailing address is 3386 Westney Road North, Locust Hill ON L0H 1J0.

Yours truly,

Cassels Brock & Blackwell LLP

Per:

A handwritten signature in blue ink, appearing to read "Brent Duguid", written over a horizontal line.

Brent Duguid

cc: Len Bitondo
Kurt Franklin, Weston Consulting
Pat Madill, Regional Clerk