

AIRD BERLIS

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File No.: 112062

BY EMAIL AND REGULAR MAIL

Lake Simcoe Region Conservation Authority
120 Bayview Parkway,
Newmarket, ON
L3Y 3W3

Attention: Board of Directors & CAO

Dear Members of the Board & CAO Walters:

Re: Maple Lake Estates Section 28 Application

As you are aware, we are legal counsel to the North Gwillimbury Forest Alliance (“NGFA”).

In the past, we have made deputations to and corresponded with the Lake Simcoe Region Conservation Authority (“LSRCA”) with respect to the DG Group’s Section 28 Permit Application (the “Application”) for the Maple Lake Estates property in the Town of Georgina (the “MLE Lands”). Most recently, we wrote to you on July 19, 2017 regarding the LSRCA’s policies on the public review of submitted materials.

The purpose of this letter is to comment on the LSRCA’s failure to make a decision on the DG Group Application within the timelines established through your own policies and guidelines, and to request that you take immediate action to rectify this situation.

Complete Application

On May 2, 2017, the DG Group filed an application to the LSRCA pursuant to Ontario Regulation 179/06¹ to permit the residential development of the MLE Lands. We understand that this 2017 application was a reactivation of an earlier application for the same development filed in May of 2015, identical to that application and including identical supporting materials to those previously submitted.

NGFA has submitted Freedom of Information (“FOI”) requests for LSRCA documents and correspondence with respect to this Application, but has not been provided with any correspondence between LSRCA and DG Group since the date of Application. Accordingly, it remains unclear whether and/or when the Application has been deemed complete.

Pursuant to Appendix F of the LSRCA Guidelines for the implementation of Ontario Regulation 79/06 (the “Watershed Guidelines”):

¹ O. Reg. 179/06: Lake Simcoe Region Conservation Authority: Regulation Of Development, Interference With Wetlands and Alterations To Shorelines And Watercourses.

The LSRCA shall notify applicants within 21 days from the receipt of an application to notify an applicant whether it is complete or incomplete. If an application is incomplete, the LSRCA must provide the applicant with a written list of additional information that is required. [emphasis added]

NGFA's planning consultant, Anthony Usher, asked you in his letter of July 14, 2017 whether the application had been deemed complete. LSRCA never replied, Can you please confirm whether and/or when the Application has been deemed complete by the LSRCA?

Timelines for Making a Decision

If the application has been deemed complete, then pursuant to the Watershed Guidelines the LSRCA must either approve an application or refer it to a hearing within 90 days² of written confirmation of a complete application.

This obligation was acknowledged in the LSRCA letters to Minister Mauro and Premier Wynne, respectively, on May 5, 2017 in which you stated:

As of today, the landowner has activated the permit application on the original subject lands. This means that LSRCA will be forced to either approve the permitted works or enter into a protracted legal battle with the proponent that would be extremely costly and unwarranted given the benefits of the transfer of development rights solution previously presented.

Despite this requirement to make a decision within 90 days, it has now been approximately 290 days since the Application was submitted without an approval decision or a referral to a hearing.

The LSRCA Has Declined its Jurisdiction

Part V of the *Conservation Authorities Act* (the "Act") confers permitting and approval authority to conservation authorities over matters within their jurisdiction. Ontario Regulation 179/06, established pursuant to section 28 of the Act, establishes the scope of the authority conferred specifically upon the LSRCA. It stipulates that development shall not be undertaken on natural features, including wetlands, unless the LSRCA is of the opinion that the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development.

By not making a decision on the Application or referring it to a hearing, LSRCA has declined its jurisdiction conferred to it by statute. This inaction runs afoul of the Act and its regulations, is counter to the Authority's own policies and guidelines, and is contrary to its mandate to protect and restore the Lake Simcoe watershed.

Conclusion

It is uncontroverted that the residential development of the MLE Lands will result in the destruction of provincially significant wetlands³. Accordingly, NGFA remains of the position that

² Where the application is considered a Major Application, defined as being highly complex and requiring a full technical review.

provincial policy and the LSRCA's legislative mandate prohibit the development of the MLE Lands.

Nevertheless, NGFA contends that it is incumbent on the LSRCA to exercise its statutory authority and make a decision on the Application before it pursuant to the timelines it has set for itself through its own policies and guidelines.

We respectfully request that you:

1. Confirm whether the Application is complete;
2. Provide justification as to why the LRSCA has, to this point, failed to make a decision on the Application; and
3. Promptly proceed to a hearing of this application and then render your decision.

We look forward to a response to the above and would be happy to discuss with you further.

Yours truly,

AIRD & BERLIS LLP



Leo F. Longo

LFL/DPN

- c. Minister Des Rosiers
Clerk, Town of Georgina
Trish Barnett
Jack Gibbons
Anthony Usher

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³ See the Dillon Consulting Environmental Impact Study, April 2015.