



**Kagan  
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LAWYERS

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File: 9999

August 26, 2015

Ms. Rose Caterini  
Clerk, City of Hamilton  
City of Hamilton  
71 Main Street West, 1<sup>st</sup> Floor  
Hamilton, ON  
L8P 4Y5

Dear Ms. Caterini:

**RE: Appeal pursuant to Sections 34(11) of the Planning Act  
Failure of Council to render a decision with respect to a request for an  
amendment to the Official Plan  
Property: Glanbrook, Lot 5, Concession 3, Former Township of Binbrook  
("Subject Lands")  
City File: 25T200610, OPA 06-15 and ZAC 06-56  
Owner: Empire Communities (Caterini) Ltd. ("Empire")**

Please be advised that we are counsel to Empire with respect to the above noted matter and have been instructed by our client to file an appeal from the failure of the Council of the City of Hamilton to render a decision with regards to our client's request for an Official Plan Amendment, Zoning By-law Amendment and approval of a Draft Plan of Subdivision for the Subject Lands. As all three planning applications relate to the same Subject Lands and we would ask that the Ontario Municipal Board establish a date for the hearing of all three appeals at the same time.

### **Background**

The Subject Lands comprise an area of approximately 20.8Ha located on the east side of Fletcher Road, north of Binbrook Road. The subject lands are immediately adjacent to other lands which have already been approved to be developed for residential uses and will form part of the larger Binbrook Village Secondary Plan. The Subject Lands are located within the urban boundary of the City of Hamilton and have been designated for the residential and associated uses.

Our client originally submitted applications for an Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision in 2006. At that time the municipality requested further information and supporting studies to support the requested amendments, which our client since provided. Our client has taken considerable time to address the concerns and comments raised by the City of Hamilton and other commenting agencies with regards to its applications and has provided further studies and an updated planning justification report. Our client's applications were originally deemed complete by letter from the municipality dated July 26<sup>th</sup>, 2006. Pursuant to the new City of Hamilton Urban Official Plan coming into partial effect in 2013, City staff requested new executed application forms, which our client has provided as part of a resubmission. The City subsequently deemed the application complete by letter on February 28<sup>th</sup>, 2014.

### **Nature of Amendments and Applications**

Our client's application for an amendment to the Binbrook Village Secondary Plan seeks to permit development on the Subject Lands at densities slightly higher than currently designated. The request for a Zoning By-law Amendments and application for Draft Plan of Subdivision would permit the applicable standards to allow for the development to proceed. Once approved the planning documents would permit the development of approximately 307 residential units, including detached and multiple attached residential dwellings. The plan of subdivisions also provides for environmental protection areas; a school; storm-water management pond; and, park. The proposal represents a well-planned and complete community that will be compatible with the surrounding area; protect the environmental features identified; will function harmoniously with other planned developments in the area; and, allow for the efficient use of existing and planned infrastructure in the area. The proposed subdivision will also complete the Binbrook community (north of Binbrook Road), by providing a connection from Fletcher Road to the west, to Regional Road 56 to the east.

While the applications represent an increase in the proposed densities from the current designation, the applications have considered all applicable policies in the City's Official Plan and have appropriately applied the requirements of the Growth Plan, and the 2014 PPS, and in so doing we believe represents an appropriate balance of all of these policies and is consistent with the principles of good planning.

Our client has worked with City staff to address any concerns identified by the City and the commenting agency, and believe that all elements have been appropriately addressed. To date our client has not been advised of any significant issues that remain outstanding with respect to the proposed development. We understand that the applications have not been able to move forward towards an approval at this time however, given that the City has indicated that it is unable to assign staff to review the revised engineering submissions which have incorporated the comments and suggestions requested by the City previously. Our client is asking that the Board schedule a date for consideration of these appeals as to-date, no issues have been

identified; no objection to the requested amendments have been provided and the decision of the City not to assign staff to address the revised and updated engineering reports submitted is causing considerable delays for not only our client but also for the School Board which has identified an appropriate school block but is unable to acquire same or have the block pre-serviced until the approvals are in place.

Given the nature of the issues identified to date we would expect that a hearing of this matter would require 2-3 days of hearing time of the Board and would ask that the Board move to schedule a hearing at its first opportunity. Please find enclosed with this cover letter the OMB appeal form as well as our firm cheque payable to the Minister of Finance as the appropriate appeal fees to be paid.

Should the Board have any questions please do not hesitate to contact the undersigned directly.

Regards,  
KAGAN SHASTRI LLP

A handwritten signature in black ink, appearing to read "Paul M. DeMelo", is written over a horizontal line. The signature is stylized and cursive, with a large, sweeping underline that extends to the left and right of the main text.

Paul M. DeMelo  
Encl.  
cc. Client