

PL091167

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

**IN THE MATTER OF** subsection 17(40) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: 451082 Ontario Limited  
 Appellant: 861945 Ontario Ltd. et al  
 Appellant: County of Simcoe  
 Appellant: Estate of Mary Louise Francom; and others  
 Subject: Failure to announce a decision respecting Proposed Official Plan Amendment 43-OP-2008  
 Municipality: Upper Tier of Simcoe  
 OMB Case No.: PL091167  
 OMB File No.: PL091167

**MOTION RECORD**

**PHASE 2a**  
 (Returnable October 24, 2014)

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 WITH A COPY TO ALL PARTICIPANTS LISTED IN ATTACHMENT "C"**

**AND TO: ONTARIO MUNICIPAL BOARD**  
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**OMB File PL091167**

Oct 14, 2014

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Oct 14, 2014

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Oct 14, 2014

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PL091167

## Ontario Municipal Board

**IN THE MATTER OF** ss. 17(40) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: 451082 Ontario Limited  
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 Appellant: County of Simcoe  
 Appellant: Estate of Mary Louise Francom; and others  
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## Ontario Municipal Board

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Appellant:	451082 Ontario Limited
Appellant:	861945 Ontario Ltd. et al
Appellant:	County of Simcoe
Appellant:	Estate of Mary Louise Francom; and others
Subject:	Failure to announce a decision respecting Proposed Official Plan Amendment 43-OP-2008
Municipality:	Upper Tier of Simcoe
OMB Case No.:	PL091167
OMB File No.:	PL091167

### NOTICE OF MOTION

#### PHASE 2a

**THE CORPORATION OF THE COUNTY OF SIMCOE** will make a motion to the Ontario Municipal Board on **Friday, the 24<sup>th</sup> day of October, 2014, at 10:00 am**, or as soon after that time as the motion can be heard at the Nottawasaga Inn Resort & Conference Centre, 6015 Highway 89, Alliston, Ontario.

THE MOTION IS FOR AN ORDER:

- (a) Allowing the Official Plan appeal in part and approving, and modifying and approving, several policies for Phase 2a;
- (b) for such further and other relief as may seem just and appropriate.

THE GROUNDS FOR THE MOTION ARE:

- (a) The experts for parties involved in Phase 2a of the hearing met and supported or did not oppose or had no opinion on certain policies and modified policies resolving concerns for several matters to be considered in the Phase 2a hearing.
- (b) The policies as modified provide a suitable policy framework for implementation of the Growth Plan.



- (c) The policies and modified policies are consistent with the PPS 2014, conform with relevant Provincial policy and represent good planning.
- (d) Approval as sought would resolve appeals and concerns of specific parties.
- (e) Such further and other grounds as counsel may advise and this Board may deem necessary.
- (f) *Planning Act*, R.S.O. 1990, c. P.13, as amended, subsections 17(40), 17(45), 17(50).

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at

the hearing of the motion:

- (a) the Affidavit of Kathy Suggitt, sworn October 14, 2014, and the Exhibits attached thereto;
- (b) the Report of Meetings of Expert Witnesses on Phase 2a contained in the said Affidavit;
- (c) the pleadings, proceedings and exhibits filed herein;
- (d) such further and other material as counsel may advise and this Board may permit.

OCTOBER 14, 2014

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PL091167

**ONTARIO MUNICIPAL BOARD**

IN THE MATTER OF subsection 17(40) of the *Planning Act*, R. S.O. 1990, c. P.13, as amended

Appellant: 451082 Ontario Limited  
 Appellant: 861945 Ontario Ltd., et al  
 Appellant: County of Simcoe  
 Appellant: Estate of Mary Louise Frankcom; and others  
 Subject: Failure of to announce a decision respecting Proposed  
 Official Plan Amendment No. 43-OP-2008  
 Municipality: Upper Tier of Simcoe  
 OMB Case No.: PL091167  
 OMB File No.: PL091167

**AFFIDAVIT OF KATHY SUGGITT, MCIP, RPP**

**I, KATHY SUGGITT, MCIP, RPP, of the City of Barrie, in the Province of Ontario,  
 MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Manager of Policy Planning in the Planning Department at the County of Simcoe (the "County"). As such, I have knowledge of the matters deposed to herein.
2. I am a Full Member of the Canadian Institute of Planners and a Registered Professional Planner in the Province of Ontario. I have 24 years of experience in private and public sector planning. A copy of my Curriculum Vitae has previously been filed in these proceedings as attachment A to Motion Record Exhibit 7.
3. I have been directly involved in matters respecting the County's updated Official Plan at all stages of the process since August 2008 leading to its adoption by the County on November 25, 2008 through to the endorsement of the proposed modified Plan by County Council on January 22, 2013 and to the present including OMB proceedings to date.

**Growth Management Policies – Phase 2a**

4. In an oral decision on April 19, 2013 and confirmed in a memorandum dated June 13, 2013 the Board approved parts of the County Official Plan with the exception of sections that remain under appeal either County-wide or on a site-specific basis. A major area that remains under appeal is the growth management policies and the "Settlement" designation regarding all lands within settlement areas.
5. The Growth Plan Amendment 1 was introduced on January 19, 2012. The amendment added a new chapter to the Growth Plan, section 6 – Simcoe Sub-Area. The policies in section 6 provide specific direction on how the Growth Plan's vision is

to be achieved in the Simcoe Sub-Area. Specifically it directs that a significant portion of growth is to be directed to settlement areas where it can be most effectively serviced and contribute to the achievement of complete communities, with particular emphasis on the primary settlement areas.

6. The expert witnesses for the parties involved in this phase of the hearing met on several occasions to try to resolve issues and/or reduce the number of issues. Arising from the meetings, a First Experts' Report was provided to the County solicitor, who has circulated the report to the Board and to all parties and participants. Attached as **Exhibit "A"** is a copy of the experts' report dated October 10, 2014.

#### **Policies with No Modifications**

7. The experts who participated in the discussions either support or do not oppose/have no opinion with the current wording of certain policies as they appear in the updated County Official Plan, Exhibit 72 of these proceedings.
8. Having achieved agreement or no opposition from the experts, the County seeks approval of the following policies as they appear in the updated Official Plan, with no proposed modifications:
  - 3.2.1
  - 3.2.5
  - 3.2.6
  - 3.2.7
  - 3.2.8
  - 3.2.9
  - 3.2.10
  - 3.2.12
  - 3.2.13
  - 3.4 Land Use Designations
  - 3.4.1
  - 3.5.2
  - 3.5.3
  - 3.5.4
  - 3.5.19
  - 3.5.23 including table
  - 3.5.26
  - 3.5.27
  - 3.5.29
  - 3.5.32
  - 3.5.33

- 3.2 Population and Employment Projections/Allocations (including Table 1 – Projections by Municipality for the Year 2031)

**\*\* Note: Party 33 agrees with the policy but reserves its right to request additions to the last paragraph of this policy**

9. It is my opinion that the policies listed in paragraph 8 above are consistent with the Provincial Policy Statement 2014, conform to the Growth Plan and represent good planning.

### **Policies with Proposed Modifications**

10. As reflected in Exhibit "A", the experts reached further agreement on certain policies based on proposed modifications. Exhibit "B" attached contains the proposed modified policies. The experts either support or do not oppose/have no opinion on the proposed modifications to policies 3.2.2, 3.2.7, 3.2.11, 3.2.14, 3.2.15, 3.2.16, 3.5.9, 3.5.20, 3.5.22, 3.5.28, 3.5.30 and the definition of "*settlements or settlement areas*".
11. Several of the proposed modifications are very minor wording changes to either clarify the policy or add emphasis such as including the words "land use designations and" and "including affordable housing" to policy 3.2.11 for example or deleting or replacing words such as replacing the words "By February 28<sup>th</sup> of each year" with the words "At least annually" in policy 3.2.16 for example.
12. The experts discussed the requirement for the measurement and on-going monitoring of certain parameters according to the Growth Plan and how that translates into the proposed Official Plan. Policies 3.2.14 through 3.2.16 address this aspect at the County Plan. Policy 3.2.14 is proposed to be replaced entirely with a newly worded policy to capture the intent of a County land budget and how it is to be used as a tool to assist and inform and monitor progress. Policy 3.2.15 is also proposed to be replaced with a more clearly worded policy that explains that the County, in consultation with the local municipalities, will establish a land budget guideline. This guideline will list the type of parameters that might be captured or measured. These two reworded policies reflect the original intent of the adopted policies and help to clarify the use of the land budget and what type of parameters will be monitored. \*\* As noted in Exhibit "A" Party 33 agrees with the modifications but is reserving its right to request identification of additional items for the land budget.
13. Sub-section d) of policy 3.5.9 is proposed to be deleted as it was not consistent with the Growth Plan and other policies of the Plan reflect the consideration for phasing of development.

14. Policy 3.5.28 is proposed to be deleted in its entirety and not replaced. This policy is more clearly addressed in policy 4.2 and is not necessary in section 3.5 of the Plan.
15. The proposed new wording for policy 3.5.20 is a clearer statement of the preferred method of servicing and is consistent with the Provincial Policy Statement, 2014.
16. Policy 3.5.30 is proposed to be replaced with a more descriptive policy that addresses how development within built up areas and designated greenfield areas within settlement areas will achieve the policy directives of the Official Plan and be in conformity with the Growth Plan. A more explicit policy is appropriate to describe that new development should be compatible with adjacent residential areas, while recognizing that it may be at higher densities and in forms that are different from the existing development in order to achieve the directives of the Growth Plan.
17. The definition of "*settlements* or *settlement areas*" is simply proposed to be updated to reflect the Provincial Policy Statement, 2014 rather than 2005.


#### **Policies the Remain Under Appeal with No Agreement to Date**


18. Although the experts have made progress in their discussions to date, there are some policies that remain under appeal and are subject to further consideration. The experts have agreed to continue discussions with the prospect of further refining the issues to be addressed at the hearing. As noted in Exhibit "A" the experts are meeting again on October 15<sup>th</sup> and a further report of progress will be provided to the Board as soon as possible.
19. The policies that remain under appeal in this Phase with no agreement to date include the following: 3.1, 3.1.1, 3.1.2, 3.1.3, 3.1.4, 3.2.3, 3.2.4, 3.5.5, 3.5.6, 3.5.7, 3.5.8, 3.5.17, 3.5.18, 3.5.21, 3.5.24 (not 3.25.24 as was shown in error in the experts' report), 3.5.25 and 3.5.31.

#### **Summary Opinion**

20. It is my professional planning opinion that the proposed modifications to the policies listed in paragraph 10 and contained in Exhibit "B" accurately reflect the agreement reached by the experts involved in Phase 2a of this hearing, on the understanding that the experts either support or do not oppose/have no opinion on the proposed modifications. There are two specific points noted above and in Exhibit "A" that Party 33 is reserving its right to further address. The policies addressed in this Affidavit and the County's motion seeking approval of this set of the Phase 2a policies including the proposed modifications would bring the policies into conformity with relevant Provincial policy. The modifications are consistent with the Provincial Policy Statement, 2014 and represent good planning.

21. I make this Affidavit in support of the County's request for an order of the Board to allow the appeal in part of the Official Plan to approve policies 3.2 including Table 1, 3.2.1, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, 3.2.10, 3.2.12, 3.2.13, 3.4, 3.4.1, 3.5.2, 3.5.3, 3.5.4, 3.5.19, 3.5.23 including the table, 3.5.26, 3.5.27, 3.5.29, 3.5.32, 3.5.33, without modifications; and to modify and approve policies 3.2.2, 3.2.7, 3.2.11, 3.2.14, 3.2.15, 3.2.16, 3.5.9, 3.5.20, 3.5.22, 3.5.28, 3.5.30 and the definition of "settlements or settlement areas" as detailed in Exhibit "B", while retaining the two specific points that Party 33 seeks to address later.

**SWORN BEFORE ME**  
at the Township of Springwater  
in the County of Simcoe  
this 14th day of October, 2014.  
  
  
\_\_\_\_\_  
Commissioner for Taking Oaths, etc.

  
\_\_\_\_\_  
KATHY SUGGITT

**Brenda Clark, County Clerk  
A Commissioner for the  
Corporation of the  
County of Simcoe**

THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT  
OF KATHY SUGGITT SWORN BEFORE ME THIS  
14th DAY OF OCTOBER, 2014.

A handwritten signature in cursive script, appearing to read "Brenda Clark", is written over a horizontal line.

A Commissioner, etc.

**Brenda Clark, County Clerk  
A Commissioner for the  
Corporation of the  
County of Simcoe**

**OMB File No: PL091167**

**County of Simcoe Official Plan**

**Experts' Report on Phase 2a (Growth Management)**

**Dated October 10, 2014**

**Expert Planning Witnesses Registered for Phase 2a of the Hearing:**

- Tony Biglieri – Tesmar Holdings Inc. (Appellant Party 10)  
 Tim Cane – Town of Innisfil (Party D)  
 Wes Crown – Town of Midland (Party F)  
 Mark Dorfman – Township of Ramara (Party C2)  
 Brian Goodreid – Estate of Marie Louise Frankcom (Appellant Party 15)  
 Bob Lehman/Alison Luoma – San Marco in Lamis Ltd. (Party L), 2133952 Ontario Inc. (Party S),  
 Talisker Corporation (Party T)  
 Andria Leigh – Township of Oro-Medonte (Party W)  
 Paul Lowes – Carson Road Development Inc. (Appellant Party 2a), Midhurst Development  
 Doran Road Inc. (Appellant Party 2b), Craighurst Land Corp. (Appellant Party 3),  
 Bond Head Properties Inc. (Appellant Party 38), Rayville Developments (Alliston)  
 Inc. (Appellant Party 40a), Copperglen Estate Inc. (Appellant Party 40b)  
 Darryl Lyons – Ministry of Municipal Affairs and Housing (Party A)  
 Geoff McKnight – Town of Bradford West Gwillimbury (Party E)  
 Kris Menzies – 998991 Ontario Inc. (Party X)  
 Nicola Mitchinson – Mark Rich Homes Limited (Appellant Party 8c), Silver Spring View Estates  
 Limited (Appellant Party 8d), Simcoe Estates Limited (Appellant Party 8e)  
 Royal Heights Estates Limited (Appellant Party 8f), 2115441 Ontario Inc.  
 (Appellant Party 35)  
 Josh Morgan – Nicole and Brent Fallman (Appellant Party 21) and 442023 Ontario Limited  
 (Appellant Party 24)  
 Celeste Phillips – Yorkwood Group of Companies (Appellant Party 18)  
 Jamie Robinson – Sucession Financial Group Inc. (Appellant Party 37)  
 Tim Schilling – Town of New Tecumseth (Appellant Party 32)  
 Michael Smith – Tsam Investments (Party Y)  
 Brent Spagnol – Township of Springwater (Appellant Party 6)  
 Kathy Suggitt – County of Simcoe (Appellant Party 1)  
 Jacque Tschekalin/Ron Palmer – Township of Adjala-Tosorontio (Appellant Party 33)  
 Darren Vella – Innisfil Mapleview Developments Ltd. (Party R), McMahon Woods  
 Developments Ltd. (Appellant Party 13)  
 Peter Walker – Ontario Potato Distributing Inc. (Appellant Party 27a), 1567219 Ontario Ltd.  
 (Appellant Party 27b)  
 Michael Wynia – Township of Clearview (Party G1)

**Phase 2a Policies:**

The policies included in Phase 2a of the hearing include: Section 3.1 Strategy, and sub-sections 3.1.1 through 3.1.4; Section 3.2 Population and Employment Projections/Allocations, Table 1 and sub-sections 3.2.1 through 3.2.16; Section 3.4 Land Use Designations and sub-section 3.4.1; and Section 3.5 Settlements including sub-sections 3.5.1 to 3.5.9 and 3.5.17 to 3.5.33.



The expert witnesses have met several times to date to consider the adopted policies and discuss the issues.

**Experts Agreement**

The experts agreed that supporting or not opposing/having no opinion on a particular policy in Phase 2a that includes cross reference to other policy(ies) in the Plan should not prejudice or infer support of the cross referenced policy.

The experts who have participated in the meetings either support or do not oppose/have no opinion on the following Policies as they appear in the New OP submitted to the Board as Exhibit 72 on June 2, 2014 (with no modifications):

- 3.2 Population and Employment Projections/Allocations (including Table 1 -- Projections by Municipality for the Year 2031) \*\* Party 33 agrees with the policy, but would like to reserve its right to request additions to the last paragraph
- 3.2.1
- 3.2.5
- 3.2.6
- 3.2.7
- 3.2.8
- 3.2.9
- 3.2.10
- 3.2.12
- 3.2.13
- 3.4 Land Use Designations
- 3.4.1
- 3.5.2
- 3.5.3
- 3.5.4
- 3.5.19
- 3.5.23 including table
- 3.5.26
- 3.5.27
- 3.5.29
- 3.5.32
- 3.5.33

The experts who have participated in the meetings either support or do not oppose/have no opinion on the following Policies with the Proposed Modifications:

- 3.2.2 – **Modification:** In the last sentence, replace the words “five year” with “municipal”
- 3.2.7 – **Modification:** Insert the words “, including *affordable* housing,” after “housing types and densities”

