

Conservation Review Board
Commission des biens culturels



ISSUE DATE: April 13, 2021

CASE NO.: CRB2012

PROCEEDING COMMENCED UNDER subsection 29(5) of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended

Owners/Objectors: Hanlon Glen Homes Inc. & Simqua Developments Inc.

Subject: Notice of Intention to Designate (Foreman's House and the Cottage/Owner's Residence)

Property Address: 1200 Old Derry Road

Legal Description: Pt Lt 10 Con 4 W.H.S. Des Pts 23, 38 PL 43R22415 Mississauga S/T Easement in favour of Mississauga Hydro-Electric Commission over Pt Lt 10 Con 4 W.H.S. Des Pt 23 PL 43R22415 as in LT1312659 S/T Easement in favour of Mississauga Hydro-Electric Commission over Pt Lt 10 Con 4 W.H.S. Des as Pt 23 PL 43R-22415 as set out in LT1811513.
Pt Rdal Btn Cons 3 & 4, WHS, Toronto Twp., lying adjacent to Lot 10, Cons 3 & 4, WHS, Being Pt Creditview Rd, Closed by by-law RO1165527, Pts 55 & 62 43R22415; S/T RO1166123, RO1178708; Mississauga S/T Easement in gross over Pt 13, 43R30592, as in PR1023920.
Pt Lt 9 Con 3 WHS Toronto: Pt Lt 10 Con 3 WHS Toronto Pts 1,3, & 4 43R6477: Save and except parts 6 to 23, Plan 43R34505: Together with an easement as in RO502213; Subject to an easement as in RO502213; Subject to an easement as in RO668290; Subject to an easement as in RO868764; Subject to an easement as in RO868765; Subject to an easement in gross over pts 2, 5, 8 & 11, Plan 43R30592 as in PR1023920;
City of Mississauga
City of Mississauga

Municipality: City of Mississauga

CRB Case No.: CRB2012

CRB Case Name: Hanlon Glen Homes Inc. v. Mississauga (City)

APPEARANCES:**Parties****Counsel**

Hanlon Glen Homes Inc., Simqua
Developments Inc. Andy Margaritis

City of Mississauga Lia Magi

HEARD:

March 25, 2021 by Telephone Conference

ADJUDICATOR(S):

Daniel Nelson

PROCEDURAL ORDER

[1] This is a procedural order of the Conservation Review Board (“Review Board”) arising from a Pre-hearing Conference (“PHC”) held on March 25, 2021 in respect of an objection by Hanlon Glen Homes Inc. and Simqua Developments Inc. (“Objector”) to a Notice of Intention to Designate the property at 1200 Derry Road (the “Sanford Farm” or the “property”) in the City of Mississauga (“City”).

[2] The Notice of Intention to Designate (“NOID”) the property, prepared by the City, was issued under s. 29(5) of the *Ontario Heritage Act* (“OHA”), which sets out the procedures for designation in the first instance. However, the City had previously designated the property in 1983 by By-law 833-83. Thus, the City should have served the NOID under s. 30.1 of the OHA.

[3] It is the position of the Objector that this is a clear defect on the City’s part and, as a result, the matter must be dismissed.

[4] The City argues that, while this is a defect, the defect is of no negative consequence, and the matter should not be dismissed. There are no substantive differences in the procedural steps between the two sections other than a requirement, under s. 29, to publish the NOID in the community and provide notice to the Ontario Heritage Trust. The City, therefore, takes the position that, by this defect, the only result

of the error is that they gave more notice of the NOID than required. There is no prejudice to the Objector since they received the NOID and responded.

[5] It is a well know principle of administrative law that a tribunal, such as the Review Board, only has the power it is given and may not exceed such jurisdiction. It is not a superior court of inherent jurisdiction. Regrettably, the OHA is, with respect to procedural steps necessary to bring a matter to the Review Board, prescriptive and does not give any jurisdiction to the Review Board to cure any such defect. Nor does the *Statutory Powers Procedure Act* provide any further assistance in this regard.

[6] The Review Board agrees that no harm was done to the Objector because of the City's procedural defect and the defect's only outcome was to provide more notification of the NOID than was required. There is no prejudice to the Objector.

[7] Unfortunately, the Review Board is given no authority to cure a defect in procedure necessary to bring a matter before it. While a dismissal will only serve as a waste of resources, the Review Board has no choice and orders this matter dismissed for the reasons set forth above.

[8] The Review Board's Case Coordinator is directed to close this file forthwith.

"Daniel Nelson"

DANIEL NELSON
MEMBER

If there is an attachment referred to in this document,
please visit www.olt.gov.on.ca to view the attachment in PDF format.

Conservation Review Board

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248