



June 20, 2024

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RE: ONTARIO LAND TRIBUNAL APPEAL: OLT CASE NO. OLT-23-000254 LUCIA MILANI AND LUCIA MILANI IN TRUST 11641 DUFFERIN STREET AND 11490 BATHURST STREET FILE OP.58.89

STORM'S REQUESTED ACTION

THE MINISTER AND DEPUTY MINISTER DIRECT MINISTRY STAFF INTERVENE AND PARTICIPATE IN OLT-23-000254

Save The Oak Ridges Moraine Coalition (STORM) has been focused on protecting the ecological integrity of the Oak Ridges Moraine (ORM) since 1989. Our origin flows from the organization of various community-based groups and citizens concerned about development pressures in different areas of the ORM. STORM has influenced environmental protection and planning for over three decades on the ORM and was a member of the advisory panel that formed the basis of the Oak Ridges Moraine Conservation Act, 2001 (ORMCA) and Oak Ridges Moraine Plan (ORMP), O. Reg. 140/02. STORM is currently in the process of revitalization and renewal and is focused on upholding the objectives and purposes of the ORMCA and ORMCP.

The purpose of this letter is to bring attention to an Ontario Land Tribunal (OLT) Case No. *OLT-23-000254 Lucia Milani and Lucia Milani in Trust 11641 Dufferin Street and 11490 Bathurst Street File OP.58.89* submitted for appeal Feb 2, 2023 for no decision. The subject

lands are roughly 150 acres on the ORM in the City of Vaughan, 75% are designated natural core, 25% natural linkage under the ORMCA.

STORM details concerns with the validity of the appeal and describes a chronology of events demonstrating a strong level of political influence. As the Ministry of Municipal Affairs and Housing (MMAH) is well aware, there is a long controversial history involving multiple parcels of land. The status of the 2023 appeal is adjourned indefinitely but due to the member's motion on York Region's June 13, 2023 agenda, STORM is concerned that the appeal will resume in the near future.

STORM believes there is an urgent need for immediate action by the Minister and Deputy Minister to intervene and participate in OLT-23-00254.

MMAH staff participation is paramount since York Region was directed by Council to NOT participate in the appeal. STORM is concerned that the historical and institutional knowledge of York Region as the planning authority responsible for ORMCA conformity will not be heard. Especially since the City of Vaughan has entered into a confidential settlement to facilitate development that is inconsistent with information gleaned from various sources on the province's position on the subject lands. STORM is also concerned about the City of Vaughan proceeding with development applications authorized through the 2015 Minister's Order, a confidential settlement and the landowner appealing 1989 development applications in 2023 all of which have overlapping subject lands and differing or unknown development intentions.

If the OLT appeal is valid then STORM questions the authority and existence of the 2015 Minister's Order and asks that the Ministry consider if development applications proceeding under the authority of the Minister's Order should be frozen until the matter is resolved. STORM also asks if the MMAH should be a party to the confidential settlement since they are responsible for the ORMCA and more specifically there are several controversial items for which *only the Minister has the legislative authority to approve.*

OLT APPEAL CONCERNS

Storm outlines concerns regarding the validity of the 2023 appeal of OPA 58.89 and ZBA 1-127.89 (the 1989 Applications).

1. 2023 Appeal Discrepancy and Inconsistency of Subject Lands (refer to Appendix 1)
 - a. Identifies municipal addresses that may or may not have existed in 1989
 - b. Does not reference property pins, lots or concessions

- c. Provides a map that:
 - i. mislabels Kirby Rd as Teston Rd
 - ii. shows subject lands in Concession 2, Lot 31, which conflict with the 1989 Applications written description and supporting Key Map 2F, presumably approved by Vaughan’s Zoning By-law No. 1-88
2. March 2004 Vaughan Council Resolution Lacks Supporting Documentation
 - a. Council resolution appeared on the agenda as a result of a member motion
 - b. The only justification was a verbal update stating the Minister of the day agreed the 1989 Applications were transitional
 - c. The resolution has been used as evidence in hearings in the absence of supporting documentation from staff or the Minister¹²
 3. OLT Authority Due to Existing Minister’s Stay and Minister’s Order
 - a. Minister’s Stay
 - i. If the Stay is still in effect then no decision can be made except by the Minister and the justification for the appeal is null and void³
 - b. ORMCA Conformity OPA and ZBA
 - i. Subject lands in the 1989 zoning were affirmed in both the approval of York Region and Vaughan’s ORMCA conformity OPA and ZBA as required in Section 9(1) and (5) of the ORMCA and were approved by the Minister
 - c. 2015 Minister’s Order
 - i. Reaffirmed zoning in Schedule 2, Key Map 2F (refer to Appendix 2)
 - ii. Minister’s Orders are not appealable as per ORMCA Section 18(4)
 4. The Extent of Development Justifies a New Application (refer to Appendix 3)
 - a. 2023 appeal proposes 3000 residential units
 - b. 1989 Development Applications sought to change the zoning from ‘rural’ to ‘rural residential’ to facilitate a residential estate subdivision in conjunction with the adjacent Rizmi application.
 - c. It seems implausible that 3,000 residential units were feasible in 1989.

¹ Council Meeting Minutes Mar 8, 2004. Refer to Item No. 82:
https://meetingarchives.vaughan.ca/council_2004/pdf/0308m.pdf

² It should be noted that this is not the only OLT appeal that is justified based on a Council Resolution that lacks supporting documentation from staff or the MMAH. Refer to Barta vs Richmond Hill (City), 2021:
<https://canlii.ca/t/jg8nz>

³ STORM has been unable to verify if the Stay is still in effect, partially in effect or fully lifted.

RECENT HISTORY

STORM offers a chronology demonstrating political influence at multiple levels of government, inconsistencies with municipal and provincial opinions and actions taken to proceed or not proceed with development on the subject lands.

- Jun 13, 2024, Regional Councillor Jackson Proposed (Second) Motion for Subject Lands⁴
 - York Region Committee of the Whole passed the motion to refer the appeal of the 1989 Applications to the OLT and the decision will be ratified at the next York Region Council meeting
 - The motion is not vetted or reviewed by staff, structured to advance landowner's appeal justifications. Unclear if confidential memorandum written by staff supports or conflicts with the motion, was not discussed as Council did not go into private session⁵
 - Indicates York Region staff were formally directed by Council NOT to participate in the OLT appeal

- Feb 2, 2023, OLT Application to appeal the 1989 Development Applications submitted⁶

- Nov 4, 2022, Minister's Decision on York Region's Official Plan Decision. Item No. 25⁷
 - The Minister did not support special development permissions for the subject lands from the ORMCA as per York Region's Council's June 30, 2022 resolution
 - The Minister's decision reaffirmed developable land as those identified in the 2015 Minister's Order

⁴ Proposed Motion from Regional Councillor Jackson to be debated Jun 13, 2024:

<https://yorkpublishing.escribemeetings.com/Meeting.aspx?Id=d37ed9b4-ba31-45c3-b685-742f9ca04704&Agenda=Agenda&lang=English&Item=26&Tab=attachments>

⁵ Refer to Item O.4:

<https://yorkpublishing.escribemeetings.com/Meeting.aspx?Id=d37ed9b4-ba31-45c3-b685-742f9ca04704&Agenda=Merged&lang=English&Item=23&Tab=attachments>

⁶ Case Status OLT-23-000254:

<https://jus-olt-prod.powerappsportals.com/en/e-status/details/?id=9f109e2a-d3d4-ed11-a7c7-0022483c7082>

OLT Order Dated June 26, 2023:

<https://www.canlii.org/en/on/onlt/doc/2023/2023canlii61495/2023canlii61495.html?resultIndex=1&resultId=65669489a8f3415693dedc52d81649b1&searchId=2024-06-12T11:23:19:574/5aba2e76e6e546b2a72e0c17d47553fc&searchUrlHash=AAAAAQAJMjMtMDAwMjU0AAAAAAAE>

⁷ Decision York Region Official Plan, Minister MMAH. Released November 4, 2022:

<https://yorkpublishing.escribemeetings.com/Meeting.aspx?Id=d37ed9b4-ba31-45c3-b685-742f9ca04704&Agenda=Agenda&lang=English&Item=26&Tab=attachments>

- Jun 30, 2022, Council Endorsement of York Region’s Official Plan, Regional Councillor Jackson’s (First) Motion for Subject Lands⁸
 - Council endorsed a Motion that sought special development permissions for the same municipal addresses as the OLT subject lands, 160 acres above and beyond the special development permissions approved by the 2015 Minister’s Order.
 - The motion was **not** in provincial conformity as identified by the Chief Planner and documented in cover letter submitted to MMAH seeking approval of York Region's 2022 Official Plan

- June 13, 2022, Provincial Position in FOI Documents Released
 - There is no shortage of documents in the Greenbelt Removal FOI's that demonstrate the MMAH is NOT of the opinion that the subject lands are transitional and the Minister would need to amend the ORMCA or issue a Minister’s Order to permit development⁹. Refer to Appendix 4 which appends MMAH staff summary on the City of Vaughan’s Confidential Settlement

- Mar 22, 2022, City of Vaughan directs staff to enter into a Confidential Settlement¹⁰
 - All has occurred in a confidential session
 - There has been no public consultation
 - Minister has not taken any actions that support the direction and actions taken by Vaughan Council in the Confidential Settlement (did not approve in York Region’s 2022 Official Plan, stated the matter was closed in 2019 etc)

- 2019 - Provincial Land Development Facilitator Negotiation¹¹
 - Paragraph 521 of the Provincial Integrity Commissioner’s Greenbelt Removals Report states:

“This site was well known to the ministry. It is located on the Oak Ridges Moraine and the Greenbelt. My understanding is that the landowner had long advocated for developing the site. I was provided with evidence that the previous government, prior to 2018, had engaged the Provincial Land Development

⁸ Refer to Regional Official Plan, Main Motion As Amended. Decided June 30, 2022: <https://yorkpublishing.escrimetings.com/Meeting.aspx?Id=0f70fdc2-b4df-4a33-8b40-5616080f3837&Agenda=PostMinutes&lang=English&Item=9&Tab=attachments>

⁹ Refer to the NDP Greenbelt Removal FOI document entitled 2022-151 Records 1.2 Redacted starting on pg 126 providing a Summary of the Draft Minutes of Settlement with the City of Vaughan. See: https://drive.google.com/file/d/1gKMbU1818CcbEDocxOSMrSH3_NFw3viw/view

¹⁰ Extract of Council Meeting. Mar 22, 2022. <https://pub-vaughan.escrimetings.com/filestream.ashx?DocumentId=103585>

¹¹ Integrity Commissioner Report Re: The Honourable Steve Clark, Minister of Municipal Affairs and Housing and Member of Provincial Parliament for Leeds– Grenville–Thousand Islands and Rideau Lakes. Dated Aug 30, 2023 <https://www.oico.on.ca/web/default/files/public/Commissioners%20Reports/Report%20Re%20Minister%20Clark%20-%20August%2030%2C%202023.pdf>

Facilitator to attempt to find a resolution. These efforts continued after 2018 but were ceased in 2019 after no resolution had been reached.”

- Sept 19, 2019 - Minister Clark statement “the File is Now Closed”¹²
 - This Sept 19, 2019 news story received a statement and publicly reported that Minister Clark was of the view that the file was closed and the province was committed to protecting the Greenbelt

STORM hopes that MMAH will consider taking prompt action to uphold the province's repeated commitment to protect the Greenbelt and the ecological integrity of the ORMCA. STORM welcomes the opportunity to meet and discuss the matter further. We look forward to a response and at the very least ask for a formal response acknowledging receipt of this letter.

Regards,

CC

York Region Clerk & Council

Vaughan Clerk & Council

ALL MPP's with ridings on the ORM

All Municipalities located on the ORM

Minister MECP

Attorney General

Auditor General of Ontario

Integrity Commissioner of Ontario

¹² Doug Ford government held talks with PC donor on removing Greenbelt land. CBC, Mike Crawley. Sept 19, 2019 <https://www.cbc.ca/news/canada/toronto/doug-ford-greenbelt-housing-vaughan-milani-rizmi-developer-1.5263980>

Appendix 1: Subject Lands 2023 vs 1989

2023 Appeal Application Subject Lands Presented by the Applicant



Appendix 2: Schedule 1 of the 2015 Minister's Order



Appendix 4: MMAH Staff Summary on the Rizmi Lands

NDP Greenbelt Removal FOI. Refer to page 126-129 here:

https://documentcloud.adobe.com/gsuiteintegration/index.html?state=%7B%22ids%22%3A%5B%221gKMbU1818CebEDocxOSMrSH3_NFw3viw%22%5D%2C%22action%22%3A%22open%22%2C%22userId%22%3A%22118438669062599210943%22%2C%22resourceKeys%22%3A%7B%7D%7D

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City of Vaughan Minutes of Settlement with Rizmi

Issue:

- The City of Vaughan has entered into Minutes of Settlement (MOS) with Rizmi Holdings Limited and Lucia Milani ("Rizmi") that seeks to facilitate residential development on the remaining portion of Rizmi's land holdings that are within the Oak Ridges Moraine Conservation Plan area (ORMCP) (**See Appendix 1**) and resolve key matters at the Ontario Land Tribunal (OLT).

Analysis/Current Status:

- There is a long and complex planning history surrounding the Subject Lands.
- On March 22, 2022 the City of Vaughan entered into MOS with Rizmi that propose to resolve three outstanding matters at the Ontario Land Tribunal (OLT), including:
 - the York Official Plan (adopted 2009),
 - the Vaughan Official Plan (adopted 2010), and
 - the Vaughan Comprehensive Zoning By-law 001-2021 (adopted 2021).
- The settlement seeks to facilitate residential development on parcels 2, 3 and 4 of Rizmi's land holdings (the "Subject Lands") which comprise approximately 61 hectares in the City of Vaughan. The Subject Lands are outside the existing settlement area and within the Oak Ridges Moraine Conservation Plan area (ORMCP) (**See Appendix 1**).
- The Subject Lands are designated as Natural Linkage Area (covering 25% of the lands) and Natural Core Area (covering 75% of the lands) within the ORMCP.
- Residential development is not permitted within these ORMCP land use designations.
- The three OLT matters that are identified in the MOS are not transitioned from the ORMCP policies.
- To permit residential development on the Subject Lands, the Minister would be required to amend the Plan or issue an Order under Section 18 of the Oak Ridges Moraine Conservation Act (ORMCA) to amend the applicable Official Plans and Zoning By-law.

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Next Steps:

- To the Ministry's knowledge, no motions have been filed thus far in any of the above proceedings seeking residential permissions on the Subject Lands.
- The Ministry is a party in both the regional and local Official Plan proceedings, but not the comprehensive Zoning By-law appeal.
- Ministry staff do not have direction with respect to taking a position on this matter at the OLT, should it arise in the near future.

Background:

Council of the City of Vaughan:

- The Council of the City of Vaughan adopted the following recommendations on March 22, 2022:
 - That the Deputy City Manager, Planning and Growth Management be authorized to execute Minutes of Settlement with Rizmi Holdings Limited and Lucia Milani to settle the issue of whether the City is desirous of promoting urban uses on the subject lands identified in this report as Parcels 2 to 4 (**see Appendix 1**) in a manner that is consistent with the principles of settlement identified within this report, provided that the form of the Minutes of Settlement are to the satisfaction of the Deputy City Manager, Legal and Administrative Services and City Solicitor.
 - That Staff be directed to advise the Minister of Municipal Affairs and Housing, the Region of York and the Toronto and Region Conservation Authority of Council's desire to see portions of the lands within Parcels 2 to 4 be designated for urban uses and not ultimately used for aggregate uses following the execution of Minutes of Settlement.
 - That Staff share the Minutes of Settlement with the City's consultants who are valuing the lands subject to the Kirby Road extension for expropriation purposes.
 - That the recommendations in this Committee of the Whole (Closed Session) report be made public upon Council ratification and following the execution of Minutes of Settlement provided for within this report.

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Minutes of Settlement:

- The parties are seeking to implement the settlement through a series of requests:
 - Rizmi would request the OLT to modify the York Official Plan (adopted 2009) to permit urban development on the Subject Lands;
 - Rizmi and the City would jointly request the Region of York to modify its Official Plan through the Municipal Comprehensive Review exercise which is underway; and,
 - Rizmi and the City would further request the OLT to modify the Vaughan Official Plan (adopted 2010) and the Comprehensive Zoning By-law 001-2021 (adopted 2021).

Appendix 1 - Rizmi Land Holdings (Parcels 1-4)

