



Environmental Review Tribunal

Case No.: 14-040

Corporation of the City of Guelph v. Director, Ministry of the Environment

In the matter of an appeal by the Corporation of the City of Guelph filed May 16, 2014 for a Hearing before the Environmental Review Tribunal pursuant to section 100 of the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, as amended, as a result of a decision of the Environmental Review Tribunal, dated May 2, 2014, granting Leave to Appeal to the Corporation of the City of Guelph under section 41 of the *Environmental Bill of Rights, 1993*, S.O. 1993, c. 28 with respect to Amended Permit to Take Water No. 5080-8TAKK2 issued by the Director, Ministry of the Environment, on January 25, 2013 under section 34 of the *Ontario Water Resources Act*, to River Valley Developments Inc. for operations at the Guelph Dolime Quarry located at Lot 3, Concession 5, Division G, in the Township of Guelph-Eramosa, County of Wellington, Ontario; and

In the matter of a telephone conference call, held on May 30, 2014.

Before: Jerry V. DeMarco, Panel Chair
Hugh S. Wilkins, Member

Appearances:

- | | | |
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| Peter Pickfield and Darrell Mast | - | Counsel for the Appellant, Corporation of the City of Guelph |
| Frederika Rotter and Andrea Huckins | - | Counsel for the Director, Ministry of the Environment |
| Jonathan Kahn | - | Counsel for the Instrument Holder, River Valley Developments Inc. |

Dated this 17th day of **June, 2014**.

REASONS FOR DECISION

Background

[1] This order concerns an appeal by the City of Guelph (the “City”) regarding a permit to take water issued by the Ministry of the Environment (“MOE”) to River Valley Developments Inc. (“RVD”) for water taking related to quarry operations.

[2] On August 10, 2011, RVD applied to the MOE to renew and amend an existing permit to take water, applicable to dewatering operations at the Guelph Dolime Quarry located in the Township of Guelph-Eramosa. RVD’s permit to take water at the quarry was initially issued in 1993. In 2004, it was amended and reissued with an expiry date of December 31, 2014.

[3] On January 25, 2013, Carl Slater, Director, MOE, granted RVD’s application to renew and amend RVD’s permit by issuing Amended Permit to Take Water No. 5080-8TAKK2 (the “PTTW”), pursuant to s. 34 of the *Ontario Water Resources Act*.

[4] On February 11, 2013, the City filed an application with the Tribunal seeking leave to appeal the Director’s decision to issue the PTTW.

[5] Following adjournments granted by the Tribunal and a motion regarding the City’s reply materials, the Tribunal granted the City leave to appeal the PTTW on May 2, 2014. The City filed its notice of appeal on May 16, 2014.

[6] In the Tribunal’s decision granting the City leave to appeal, the Tribunal ordered that the automatic stay of the PTTW under s. 42(1) of the *Environmental Bill of Rights, 1993* (“EBR”) was lifted for a period of 31 days from the date of issuance of the decision. In the decision, the Tribunal directed the parties to engage in discussions on a more long-term solution to the stay issue and to jointly report back to the Tribunal in writing on the results of their discussions within 28 days of the issuance of the decision.

[7] On May 26, 2014, the City on behalf of all parties, wrote to the Tribunal stating that the parties had discussed the stay issue and agreed to jointly request that the Tribunal continue the lifting of the stay, adjourn the proceeding to permit discussions to take place, and require the parties to report back in November, 2014.

[8] On May 30, 2014, a telephone conference call (“TCC”) was convened at which the Tribunal addressed these issues.

Discussion, Analysis and Findings

[9] During the TCC, the parties confirmed their joint request to continue the lifting of the stay of the PTTW, to adjourn the hearing, and to report back to the Tribunal in November, 2014. The Tribunal granted the parties' request orally during the TCC.

[10] For the same reasons set out in paragraphs 111 to 115 of the Tribunal's May 2, 2014 decision, the Tribunal ordered that the stay be lifted until the final disposition of the appeal.

[11] The Tribunal agreed with the proposed adjournment and noted that a preliminary hearing will nonetheless be required if the parties reach a proposed settlement that would alter the decision under appeal.

[12] The Tribunal fixed November 4, 2014 at 10 a.m. for a status TCC at which point the parties will report back to the Tribunal on progress in their discussions.

ORDER

[13] The Tribunal orders the continued lifting of the automatic stay set out in s. 42(1) of the *EBR* until the final disposition of the appeal.

[14] The Tribunal orders that the proceeding is adjourned until November 4, 2014 and orders that a status TCC will be held on that day at 10 a.m.

[15] This order supersedes the Tribunal's ruling regarding the lifting of the stay set out in its May 2, 2014 decision granting the City leave to appeal in File No. 13-013.

*Stay Amended
Proceeding Adjourned*

Jerry V. DeMarco, Panel Chair

Hugh S. Wilkins, Member