

Environmental Review Tribunal

Tribunal de l'environnement



ISSUE DATE: November 06, 2020

CASE NO(S): 15-086

PROCEEDING COMMENCED UNDER section 140(1) of the *Environmental Protection Act*, R.S.O. 1990, c. E.19

Appellants:	See Appendix 1 - Appellant List
Respondent:	Director, Ministry of the Environment, Conservation and Parks
Subject of appeal:	Order to develop and implement measures that prevent, decrease or eliminate any adverse effects from the discharge of contaminants related to the Belleville Gas Plant
Reference No.:	6480-9RTQVJ
Property Address/Description:	100 South Church Street
Municipality:	City of Belleville
Upper Tier:	County of Hastings
ERT Case No.:	15-086
ERT Case Name:	The Corporation of the City of Belleville v. Ontario (Environment, Conservation and Parks)

APPEARANCES

<u>Parties</u>	<u>Counsel</u>
Corporation of the City of Belleville	Natalie Mullins and Harry Dahme
835267 Ontario Inc., Sidney Spiegel and Naomi Spiegel	Brad Halfin and Tom Friedland
105 Pinnacle Limited, Kent D. Hawkins, Darlene Hawkins and Anthony J. McGarvey	Andrew Biggart
Director, Ministry of the Environment, Conservation and Parks	Paul McCulloch

HEARD: October 29, 2020 by telephone conference call
ADJUDICATOR(S): Helen Jackson, Member

PROCEDURAL ORDER

BACKGROUND

[1] The Appellants listed in the Appellant List attached as Appendix 1 to this order appeal the Director of the Ministry of the Environment, Conservation and Parks' Order No. 6480-9RTQVJ ("Director's Order"). The Director's Order was issued on August 31, 2015 and requires the Appellants to clean up contamination associated with a former manufactured gas plant in the City of Belleville ("City").

[2] Since the appeals were filed in 2015, the Environmental Review Tribunal ("Tribunal") has granted the parties several adjournment requests on the basis that they are working diligently towards settlement.

CASE MANAGEMENT

[3] On October 29, 2020, the Tribunal held a telephone conference call ("TCC") for the parties to provide an update on the progress of the settlement, and to address procedural matters for the settlement hearing that was previously scheduled for December 8, 2020.

[4] During the TCC, on behalf of the City, Mr. Dahme provided an update on the settlement agreement. He indicated that draft minutes of settlement have been developed. He reiterated that the settlement is complex as it involves the settlement of related civil action and the purchase and sale of other properties, as outlined previously to the Tribunal. As further outlined by the parties, Mr. Biggart's clients are selling a property to the City and acquiring a second property as part of the settlement agreement. The property being sold was part of the original coal plant, and these downtown lands are contemplated for residential redevelopment as part of the

settlement agreement. Mr. Dahme advised that the Quinte Conservation Authority has raised issues with respect to the property that is to be acquired, that the parties are working through. He advised that these issues require on the order of two months to resolve.

[5] Upon consent the City requested that the Tribunal adjourn the December 8, 2020 settlement hearing date and reschedule for early in February 2021, with a TCC status update scheduled for early January 2021. The parties indicated this will allow sufficient time to resolve the outstanding concern in relation to the property that is to be acquired, as noted above.

[6] Counsel for the Director consented to the requested adjournment on the basis that the proposed settlement will settle the entire dispute and will result in a significant benefit to the City by way of the proposed redevelopment.

[7] In determining whether to grant the adjournment, the Tribunal considered the submissions of the parties and the Tribunal's *Rules of Practice and Practice Directions* ("Rules") that relate to adjournments. Rule 104 sets out the requirements of a party(s) to provide to the Tribunal to support the request, and Rule 105 sets out the Tribunal's considerations in determining whether or not to grant the request.

[8] In this circumstance, the Tribunal finds that it is appropriate to grant the request for adjournment. The request is upon consent of all the parties. The Tribunal is satisfied that the Appellants have made all reasonable efforts to avoid the need for an adjournment, based on the submissions of the parties. The proposed settlement will resolve the entire dispute, including the related civil actions, and will provide a positive benefit to the City, as noted by the Director. There is no environmental harm that will arise by granting the adjournment. The length of the requested adjournment is relatively short and will provide the parties with the time necessary to fully resolve the matter. This aligns with the Tribunal's public interest mandate, and the Tribunal's goal to provide its services in a just, timely and cost-effective manner.

[9] The Tribunal grants the requested adjournment of the December 8, 2020 settlement hearing to a date in early February 2021, with a TCC status update for early January 2021.

ORDER

[10] The Tribunal orders that:

1. The matter is adjourned until the next TCC scheduled for **Wednesday, January 13, 2021 at 9 a.m.** The call-in details will be provided by the Tribunal's Case Coordinator. The purpose of the TCC is to set procedural requirements for the settlement hearing.

2. A settlement hearing is scheduled for **Tuesday, February 2, 2021 at 10 a.m.** The previously scheduled date of December 8, 2020 is cancelled. Further details related to the format of the settlement hearing will be provided by the Case Coordinator.

*Settlement Hearing Adjourned
Procedural Directions Ordered*

“Helen Jackson”

HELEN JACKSON
MEMBER

Appendix 1 – Appellant List

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

Appendix 1**Appellant List**

Appellant Name	File No.
The Corporation of the City of Belleville	15-086
105 Pinnacle Limited	15-087
Kent D. Hawkins	15-088
Darlene Hawkins	15-089
Anthony J. McGarvey	15-090
835267 Ontario Inc.	15-091
Sidney Spiegel	15-092
Naomi Spiegel	15-093