

Environmental Review Tribunal
Tribunal de l'environnement



ISSUE DATE: September 03, 2020

CASE NO.:

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:

Parties

Corporation of the City of Belleville

835267 Ontario Inc., Sidney Spiegel and Naomi Spiegel

Counsel

Natalie Mullins

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:

August 26, 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 August 26, 2020, the Tribunal held a telephone conference call ("TCC") for the parties to provide an update on the progress of the settlement, and to set procedural matters for the settlement hearing that was previously scheduled for September 24, 2020.

[4] During the TCC, the parties advised that they are very close, but have not quite completed the settlement, and would not be able to present a settlement to the Tribunal on September 24, 2020. Counsel for the City of Belleville explained that the settlement is quite complex as it involves the settlement of civil action and also involves the simultaneous purchase and sale of two separate properties, amongst other issues. Counsel further indicated that the environmental work required by the Director's Order has continued throughout the settlement process. Based on these submissions, the Appellants jointly requested the Tribunal adjourn the September 24, 2020 settlement hearing date and reschedule for later in November, with a TCC status update scheduled for late in October.

[5] Counsel for the Director agreed that the environmental concerns are being addressed throughout this process. He also agreed with the request to adjourn and also noted that though the process has been going on for an extended period of time, the broader implications of saving resources by avoiding court proceedings are important to consider.

[6] In considering whether to grant the adjournment, the Tribunal looks to its *Rules of Practice and Procedure* ("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.

[7] 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. There is no environmental harm that will arise by granting the adjournment. The Tribunal agrees with the submission of the Director that the broader public interest of avoiding unnecessary spending that would be required for civil litigation weighs heavily in favour of granting the adjournment.

[8] The Tribunal grants the requested adjournment to allow for continued work to be done towards a final settlement of this matter.

ORDER

[9] The Tribunal orders that:

1. The matter is adjourned until the next TCC scheduled for October 29, 2020 at 9 a.m. The call-in details will be provided by the Tribunal's Case Coordinator. The purpose of the TCC is to allow the parties additional time to resolve the outstanding issues and to set procedural requirements for the settlement hearing.
2. A Settlement hearing is scheduled for December 8, 2020. Further details related to the format 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.

Environmental Review Tribunal

A constituent tribunal of Ontario Land Tribunals

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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