

Ontario Land Tribunal
Tribunal Ontarien De L'Aménagement du Territoire
AFFIDAVIT

OLT Case No. PL200195

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant(s)/Appellant(s):	ClubLink Corporation ULC
Subject:	Application to amend Zoning By-law No. 2008- 250 - Refusal or neglect of the City of Ottawa to make a decision
Existing Zoning:	O1A (Open space, subzone A)
Proposed Zoning:	R1T (Residential First Density Zone), R3V (Residential Third Density Zone), and R5A (Residential Fifth Density Zone) as well as O1 (Parks and open spaces)
Purpose:	To permit the redevelopment of the lands for residential and open space uses, including 1502 residential units which will be mixed between detached, townhouse and mid-rise apartments
Property Address/Description	7000 Campeau Drive
Municipality:	City of Ottawa
Municipal File/Reference No:	D02-02-19-0123
LPAT Case No.:	PL200195
LPAT File No.:	PL200195
LPAT Case Name:	ClubLink Corporation ULC v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant(s)/Appellant(s):	ClubLink Corporation ULC
Subject:	Proposed Plan of Subdivision - Failure of the City of Ottawa to make a decision
Purpose:	To permit the redevelopment of the lands for residential and open space uses, including 1502 residential units which will be mixed between detached, townhouse and mid-rise apartments
Property Address/Description	7000 Campeau Drive
Municipality:	City of Ottawa
Municipal File/Reference No:	D07-16-19-0026
LPAT Case No.:	PL200195
LPAT File No.:	PL200196

AFFIDAVIT OF DOUGLAS NUTTALL, P.ENG

I, Douglas Nuttall, of the Township of Lanark Highlands, in the County of Lanark, in the Province of Ontario, **AFFIRM:**

1. I am a Professional Engineer, registered as a practising member of Professional Engineers Ontario. I have been a practicing Professional Engineer in Ontario since 2001, and am a Senior Water Resources Engineer with HDR since 2021. Before working for HDR, I worked as a Senior Civil Engineer for JP2G for 4 years, as Senior Water Resources Engineer Parish Geomorphic for 2 years, as Water Resources Engineer for the Mississippi Valley Conservation Authority for 9 years, and as Project Engineer for Robinson Consultants for 6 years. Attached is my CV as Exhibit 1, and my Acknowledgement of Expert's Duty is attached as Exhibit 2.

2. I was retained on January 1, 2021 by the Kanata Greenspace Protection Coalition (the "**KGPC**") to provide professional advice regarding the proposed development at 7000 Campeau Drive in the City of Ottawa. To that effect, I prepared a Witness Statement dated November 12, 2021.

The Restrictive Covenant

3. To prepare for my Witness Statement I reviewed all relevant documents in order to understand both what was in existence on the lands municipally known as 7000 Campeau Drive in the City of Ottawa (the "**Subject Property**"), as well as what was being proposed as part of the application.

4. One document that was reviewed was a restrictive covenant registered on title on the Subject Property on January 8, 1997 (the "**Restrictive Covenant**"). The benefited lands of the restrictive covenant include certain lots that were developed in the area surrounding the subject property over a number of years.

5. In my experience, it is unusual for a property to be burdened with a Stormwater Management ("**SWM**") related restrictive covenant to the benefit of surrounding lands, such as the one in place on the Subject Property. For this reason, it is important to review it as it will assist in understanding the current conditions that are in place on the Subject Property and the surrounding lands.

6. The Restrictive Covenant forms part, and helps explain, the factual matrix that is currently in place on the Subject Property. It aids in understanding how the existing development in the area was originally intended and how it was designed. It assists in understanding what considerations were given to the existing developments' SWM systems, and how they discharge runoff.

7. The SWM system that is in place today has been implemented through approvals that similarly rely on the existence of the Restrictive Covenant. In order to design a successful SWM system as a

part of a proposed development, consideration must be given to the existing conditions. This is what all of the experts opining on the proposed SWM system have done, whether or not they have considered the Restrictive Covenant. Understanding the Restrictive Covenant assists in understanding the SWM systems in the benefited lands, and how the runoff from these lands is managed through the Subject Property, which is necessary when reviewing the proposed SWM system for the Subject Property. A proper review requires understanding all of the known risks and limitations, such as the Restrictive Covenant, and its historical and current status.

8. The historical context of how the existing conditions were put in place is a relevant consideration for a number of the issues identified in the Issues List and will be of assistance to the Tribunal in understanding the issues that will be addressed in the upcoming hearing. To ignore the Restrictive Covenant would not provide the Tribunal with the best evidence.

9. In no way am I asserting or putting the current enforceability of the restrictive covenant before the Tribunal, nor implying that the criteria established at the time have not been superseded by other documents. My position in relation to the current proceeding is that the Restrictive Covenant provides the historic context of development in the area, and indicates what criteria that development would have been designed to meet. My review of the Restrictive Covenant and its implementation over the years through subsequent approvals, as well as its reliance on it by other developments is necessary to understand the extend of its current status.

10. As an engineer, and in my capacity as an expert witness, I have reviewed the documents relevant to interpret and comment on the proposed SWM system. The Restrictive Covenant is one of those documents that assists in understanding the conditions within which the proposed SWM system must successfully operate. SWM systems are important development components that define the areas of potential development, or restrictions. To ignore the Restrictive Covenant could potentially lead to SWM risks that affect a wider area than the subject lands.

Parkland Dedication

11. In my witness statement I provided a review of the proposed SWM system, and addressed issues associated with the proposed design. In some areas where matters which were relevant to my review fell outside of my expertise, I relied on the opinions of other experts retained by the Kanata Greenspace Protection Coalition, such as Mr. Dennis Jacobs.

AFFIRMED by Douglas Nuttall of the Township of Lanark Highlands, in the County of Lanark, before me, on January 7, 2022, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits



DOUGLAS NUTTALL, P. Eng

This is **Exhibit “A”** to the
Affidavit of Douglas Nuttall
sworn remotely this 7th day of January, 2022

A handwritten signature in blue ink, appearing to read 'JL NE', is positioned above a horizontal line.

A Commissioner for Taking Affidavits, etc.



Douglas Nuttall, P.Eng.

Senior Water Resources Engineer

EDUCATION

University of Alberta
BSc Civil Engineering 1994

PROFESSIONAL MEMBERSHIPS

P.Eng. (Ontario)

INDUSTRY TENURE

26 years

EMPLOYMENT HISTORY

Senior Civil Engineer JP2G
Apr 2016 to Oct 2020

Senior Water Resources
Engineer Parish
Geomorphic July 2014 to
January 2016

Water Resources Engineer
Mississippi Valley
Conservation Authority
Sept 2005 to July 2014

Project Engineer Robinson
Consultants 1999 to 2005

Doug is a broad-spectrum civil engineer with 26 years of professional experience. He has extensive experience in the planning and approval process and is skilled in providing in-depth technical review and quality control. He has performed numerous technical regulatory reviews of stormwater management plans, flood plain studies, channel modifications, and similar projects. Doug is an expert in modern hydrologic and hydraulic modelling software packages.

He will be leading technical investigation, analysis, modelling, and documentation for various planning studies and detailed design projects relating to stormwater management facilities, drainage infrastructure, and other surface water management systems, provide quality control, training and mentorship to junior staff, and participate in business development.

RELEVANT EXPERIENCE

Town of Perth, Western Annex Infrastructure Master Plan

Perth, Ontario

Engineering lead on Infrastructure Master Plan, intended to allow a 10% increase in the residential capacity of the Town. 2017 to 2019. Designed method to discharge stormwater into PSW using dispersed percolation. Attended meetings, liaised with Town officials, public. Compiled report.

City of Ottawa, Flood Plain Mapping Project

Ottawa, Ontario

Team lead for peer review of 22 flood plain mapping studies prepared by the 3 local Conservation Authorities in 2019. Checked modelling and reporting against project objectives.

Royal Military College, Flood Line Delinication

Kingston, Ontario

Team lead for flood plain mapping, wave uprush assessments of existing infrastructure, and recommendations for projects to reduce risk. Completed detailed uprush analysis for 12 reaches, directed mapping, wrote report, 2020.

Stantec, Riverside South Stormwater Management Conceptual Design

Ottawa, Ontario

Design Engineer. Provided channel capacities and cost estimates of changes in capacity to Stantec for Urbandale development, to allow them to find most efficient distribution of flows from ponds into existing drainage network. 2015

City of Ottawa, Kanata North Urban Expansion Area

Ottawa, Ontario



Design Engineer. Provided Headwater Drainage Feature assessments throughout the urban expansion area, quantified impacts of discharge into Shirley's Brook. 2015.

National Capital Commission, Shirley's Brook Realignment

Ottawa, Ontario

Design Engineer. Provided advice on historic planform restoration of Shirley's Brook as a means of improving ecosystem and reducing continuous road maintenance costs, 2015.

This is **Exhibit “B”** to the
Affidavit of Douglas Nuttall
sworn remotely this 7th day of January, 2022

A handwritten signature in blue ink, appearing to read "JL He", is positioned above a horizontal line.

A Commissioner for Taking Affidavits, etc.



Ontario
Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

Acknowledgment Of Expert's Duty

OLT Case Number	Municipality
PL200195	City of Ottawa

1. My name is.....**Douglas Nuttall, P.Eng.**
I live at theVillage of McDonalds Corners
in the.....Lanark County
in theProvince of Ontario
2. I have been engaged by or on behalf of The Kanata Greenspace Protection Coalition (KGPC) to provide evidence in relation to the above-noted Ontario Land Tribunal ('Tribunal') proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - a. to provide opinion evidence that is fair, objective and non-partisan;
 - b. to provide opinion evidence that is related only to matters that are within my area of expertise;
 - c. to provide such additional assistance as the Tribunal may reasonably require, to determine a matter in issue; and
 - d. not to seek or receive assistance or communication, except technical support, while under cross examination, through any means including any electronic means, from any third party, including but not limited to legal counsel or client.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date...November 12, 2021
Signature