WeirFoulds LLP

Supreme Court of Canada Refuses to Hear Appeal from Ontario Court of Appeal Decision Giving Ontario Municipalities More Independence Over Parkland

November 19, 2018

On November 15, 2018, the Supreme Court of Canada dismissed applications for leave to appeal from a decision of a three-judge panel of the Ontario Court of Appeal concerning the rights of municipalities to determine how much parkland they require from developers as a condition of development approval under the *Planning Act*.

In a decision issued earlier this year, the Court of Appeal unanimously upheld a Divisional Court decision confirming that the former Ontario Municipal Board (now the Local Planning Appeal Tribunal, or LPAT) has no authority to limit the rates at which municipalities can require developers to convey land or pay cash-in-lieu for parks or other public recreational purposes as a condition of development approvals under the *Planning Act*.

WeirFoulds represented both the Town of Richmond Hill and the City of Vaughan in this important decision, which limits the authority of LPAT to approve Official Plan policies dealing with the rates that are prescribed by the Legislature in section 42 of the Planning Act. The effect of the Court decisions is that only municipal councils have the discretion to impose lesser rates when enacting a by-law under section 42, from which there is no right of appeal to LPAT.

The dismissals by the Supreme Court of Canada should bring an end to more than six years of litigation before the OMB and the Courts on a matter of fundamental importance to the development community and municipalities alike.

For more information, or if you have any questions about this decision, please contact Barnet Kussner.

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