

Some Recent Wins for WeirFoulds' Municipal, Planning and Land Development Practice Group

April 10, 2024

By Denise Baker, Raj Kehar, Kelin Algayer, Chantal Conroy

The [Municipal, Planning and Land Development](#) Practice Group at WeirFoulds LLP has recently been successful in several relevant cases before the Ontario Land Tribunal.

In December 2023, Partners Raj Kehar and Chantal deSereville represented the City of Mississauga in an appeal of the City's Community Benefits Charges ("CBC") By-law. The City successfully resisted a motion brought by the Appellants for a declaration that the Tribunal had the jurisdiction to vary the prescribed 4% rate contained in the City's CBC By-law. In finding that it did not have that jurisdiction, the Tribunal reasoned that there is a clear "legislative direction" that the CBC rate charged by a municipality is a matter for the municipality, not the Tribunal, to determine, subject to the prescribed 4% cap. This decision provides useful guidance on the Tribunal's jurisdiction in appeals of CBC By-laws, which are a relatively new tool for municipalities under the Planning Act. A link to the decision is [here](#).

In another successful decision released in December 2023, Partners Raj Kehar and Chantal deSereville represented the City of Mississauga in an appeal of the City's Parkland Conveyance By-law enacted pursuant to s. 42 of the *Planning Act*. The City successfully moved to strike an issue that sought to compel the City to permit "nontraditional" parkland conveyances such as privately owned public spaces by way of its Parkland By-law. In striking this issue, the Tribunal accepted the City's argument that unless and until subsections 42(4.30) – 42(4.39) of the Planning Act come into force and effect, the Tribunal has no jurisdiction to compel municipalities to accept "non-traditional" parkland conveyances by way of their parkland by-laws. This decision clarifies the current limits on the Tribunal's power in appeals of Parkland Conveyance By-laws. A link to the decision is [here](#).

Co-Managing Partner Denise Baker has also successfully represented developers in three recent decisions at the Ontario Land Tribunal:

In January 2024, the Ontario Land Tribunal released a decision in which Denise Baker, on behalf of her client, successfully appealed two Development Charges By-laws enacted by the City of Kawartha Lakes. As a result of the success of the appeal, substantial refunds will be owing by the municipality. The case also provides a helpful overview of the roles and obligations of both municipalities and the Tribunal in enacting and reviewing DC By-laws, respectively. A link to this decision is [here](#).

In January 2024, Denise Baker was successful in an appeal for non-decision of her client's zoning by-law amendment application. As a result of this victory, WeirFoulds' client will be permitted to construct a 115-unit retirement home and 450 square metres of ground floor retail and/or commercial space in the City Burlington. A link to this decision is [here](#).

In February 2024, Denise Baker successfully appealed Council's decision refusing applications for a proposed Official Plan Amendment and Zoning By-law Amendment which would enable an infill development of 30 residential, contemplating six street-fronting townhouses and stacked townhouse units in two blocks in the City of Cambridge. In allowing the appeal, the Tribunal

provided helpful guidance on the on the extent of the surrounding context to be considered in assessing a development's land use compatibility. A link to this decision is [here](#).

The Municipal, Planning and Land Development Practice Group at WeirFoulds is very pleased to have achieved these results for its clients.

For more information or inquiries:



Denise Baker

Toronto
416.947.5090

Email:
dbaker@weirfoulds.com

Denise Baker is the Co-Managing Partner at WeirFoulds. Her practice focuses on municipal and land use planning issues and related litigation.



Raj Kehar

Toronto
416.947.5051

Email:
rkehar@weirfoulds.com

Raj Kehar is a Partner at WeirFoulds LLP and Co-Chair of the Municipal, Planning and Land Development Practice Group.



Kelin Algayer

Toronto
647.715.7126

Email:
kalgayer@weirfoulds.com

Kelin Algayer is an Associate in the Municipal, Planning and Land Development Practice Group at WeirFoulds LLP.



Chantal Conroy

Toronto
416.941.5901

Email:
cconroy@weirfoulds.com

Chantal Conroy is a Partner in the Municipal, Planning and Land Development Practice Group at WeirFoulds. She assists both private entities and public bodies in navigating municipal, land use planning, environmental, public, and administrative law issues.

WeirFoulds^{LLP}

www.weirfoulds.com

Toronto Office

4100 – 66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Tel: 416.365.1110
Fax: 416.365.1876

Oakville Office

1320 Cornwall Rd., Suite 201
Oakville, ON L6J 7W5

Tel: 416.365.1110
Fax: 905.829.2035