

Patton  
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# PATTON CORMIER & ASSOCIATES

## LAWYERS

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Alan R. Patton, B.A., LL.B.

Analee J.M. Fernandez, B.A., LL.B.

Elizabeth K. Cormier, B.A., LL.B.

R. Arti Sanichara, Hons. B.E.S., LL.B.

December 5, 2011

file no.: 32573

hand delivered

**The Corporation of the City of London**

City Hall

300 Dufferin Avenue

London, ON N6A 4L9

Attention: **Clerk, Mayor Fontana and Councillors**

Dear Clerk, Mayor Fontana and Councillors:

Re: **29<sup>th</sup> Report of Built and Natural Environment Committee, Item No. 24**  
**1767127 Ontario Limited, 633 Commissioners Road**  
**Plan of Condominium and Site Plan, OMB Case No. PL100093**

We are the solicitors for 1767127 Ontario Limited ("1767").

On Monday November 28, 2011 the Built and Natural Environment Committee received an in camera report regarding the processing and circulation of our client's revised Plan of Condominium Application.

As Councillors will recall on March 21, 2011 Council reversed the previous Council's position, being the Council of 2006 - 2010 and advised the Ontario Municipal Board that this modest condominium development would not require a "second access" to Jarvis Street. This decision to change Council's position occurred following evidence by the City's witness to the Ontario Municipal Board that Council should identify where a "second access" should be and if one was in fact required.

As a result of Council's decision in March 2011 Council on June 20, 2011 then moved to approve the closing and the sale of the former Base Line Road allowance. 1767 purchased one-half of the road allowance. This necessitated a revision to the Plan of Condominium to add the 33 feet of land, being used to increase lot sizes, to the Condominium Plan, while at the same time 1767 reduced the number of single detached dwelling units in the Condominium Plan from 21 to 20.

On August 3, 2011 the OMB conducted a telephone conference hearing and the Board was informed that 1767 was purchasing 33 feet from the City and this would result in a "revised" draft Plan. The Ontario Municipal Board's Memorandum of Oral Decision is attached hereto.

The revised Plan was submitted to the City on August 24, 2011. However, despite numerous requests to Staff the Condominium Plan has not been circulated for relevant comments.

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The Ontario Municipal Board's Appeal Hearing on the Plan of Condominium is to resume on Thursday January 19, 2012, a date that was agreed to by the City on August 3, 2011. It is therefore most important that the Plan be circulated for any comments as soon as possible. It is with this critical factual background that 1767 asks Council that the "future participation meeting" directed by the Committee last Monday take place before the Planning and Environment Committee on Tuesday January 16, 2012, thus allowing the Municipal Board Appeal Hearing to resume on a timely basis and hopefully seeing this residential development move forward.

Yours truly

**PATTON CORMIER & ASSOCIATES**

per:



**Alan R. Patton**

ARP/dr

[apatton@pattoncormier.ca](mailto:apatton@pattoncormier.ca)

cc: *1767127 Ontario Limited - Via Email*  
*Zelinka Priamo Ltd. - Via Email*

ISSUE DATE:

Sept. 14, 2011



PL100093

Ontario  
Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Referred by: 1767127 Ontario Limited  
Subject: Site Plan  
Property Address/Description: Part Lot 38, Conc. 1 and Blocks 66 and 73  
Municipality: City of London  
City's File No SP09007974  
OMB Case No.: PL100093  
OMB File No.: PL100093

1767127 Ontario Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Comprehensive Zoning By-law z-1 of the City of London to rezone lands respecting Part Lot 38, Conc. 1 and Blocks 66 and 73 from a Residential R1 (R1-9) Zone to a holding Residential R6 Special Provision (h-5-R6-1( )) Zone to permit a cluster housing in the form of single detached dwellings.

City's File No. Z-7673  
OMB Case No. PL100093  
OMB File No. PL100153

1767127 Ontario Limited has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure or neglect of the City of London to make a decision respecting a proposed plan of condominium of 22 cluster detached dwellings on lands composed of Part Lot 38, Conc. 1 and Blocks 66 and 73, in the City of London.

City's File No. 39CD-09509  
OMB Case No. PL100093  
OMB File No. PL100155

**APPEARANCES:**

**Parties**

1767127 Ontario Limited

City of London

**Counsel**

A. Patton

J. Page

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. G. WONG ON  
AUGUST 3, 2011 AND ORDER OF THE BOARD**

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A telephone conference call was convened following a request by the Parties for an adjournment to seek advice and clarification from the municipal council. 1767127 Ontario Limited (Applicant) is appealing London City Council's refusal to enact a proposed amendment to Comprehensive Zoning By-law Z-1 of the City of London (City) to rezone lands respecting Part Lot 38, Conc. 1 and Blocks 66 and 73 from a Residential R1 (R1-9) Zone to a holding Residential R6 Special Provision (h-5-R6-1( )) Zone to permit cluster housing in the form of single detached dwellings; Council's failure to make a decision respecting a proposed plan of condominium of 22 cluster detached dwellings; and Council's failure to make a decision respecting a proposed site plan of 22 cluster detached dwellings. All of these appeals have been combined for the purposes of this hearing.

Counsel for the Applicant advised the Board, that the Applicant is in the process of purchasing an abutting 33-foot wide road allowance from the City. As a result of the purchase of these additional lands (with a closing date of October 28, 2011), the Applicant will be submitting a revised Draft Plan of Condominium and Site Plan incorporating these new lands. Counsel requests additional time to revise its applications before a resumption of the hearing.

The Board Orders:

1. A two-day continuation hearing has been scheduled for January 19 and 20, 2012 beginning at 10:30 a.m. at City Hall (London), 300 Dufferin Avenue, London, Ontario.
2. The Parties have agreed that at the hearing the Board will hear evidence on zoning, a revised Draft Plan of Condominium and Site Plan along with closing submissions.
3. No further notice of hearing shall be given.

It is so Ordered.

"J. G. Wong"

J. G. WONG  
MEMBER