

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement local

Date: August 28, 2018

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Christopher Duncanson- Hales
Appellant: Sudbury Business Improvement Area
Appellant: Tom Fortin
Subject: Proposed Official Plan Amendment No. OPA 92
Municipality: City of Greater Sudbury
OMB Case No.: PL180494
OMB File No.: PL180494
OMB Case Name: Duncanson- Hales v. Greater Sudbury (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Christopher Duncanson- Hales
Appellant: Sudbury Business Improvement Area
Appellant: Tom Fortin
Subject: By-law No. 2018-61Z (Casino)
Municipality: City of Greater Sudbury
OMB Case No.: PL180494
OMB File No.: PL180495

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Sudbury Business Improvement Area
Appellant: Tom Fortin
Appellant: Minnow Lake Restoration Group Inc.
Subject: By-law No. 2018-62Z (Parking)
Municipality: City of Greater Sudbury
OMB Case No.: PL180494
OMB File No.: PL180496

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*,
R.S.O. 1990, c. P.13, as amended

Appellant: Sudbury Business Improvement Area
Appellant: Tom Fortin
Appellant: Steve May
Subject: By-law No. 2018-72Z (Arena)
Municipality: City of Greater Sudbury
OMB Case No.: PL180494
OMB File No.: PL180497

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THE APPELLANTS

1. This Case Synopsis is filed on behalf of three Appellants, hereinafter referred to herein as the “Appellants”:

- a. Sudbury Downtown Business Improvement Area (“BIA”);
- b. Tom Fortin (“Fortin”);
- c. Dr. Christopher Duncanson-Hales (“Dr. Hales”) of behalf of 35 Faith Leaders.

2. The City of Greater Sudbury (“City”) is proposing to relocate its OHL arena and event centre from the Downtown to a site located in the south-east extremity of the City in a built up area referred to as the “Kingsway”, as an integrated component of a new “Entertainment District” also including a proposed new casino, hotel, restaurants and other associated retail/commercial uses. The subject Kingsway lands are owned by 1916596 Ontario Limited hereafter referred to by its principle Darion Zulich (“Zulich”).

3. The Ontario Lottery and Gaming Corporation (“OLG”) has selected Gateway Casinos and Entertainment Limited (“Gateway”) as the developer/operator for a casino with expanded gaming facilities for the City.

4. The Kingsway site is designated as “General Industrial” in the City’s Official Plan.

5. There are five Applications (“Applications”) approved by the City of Greater Sudbury (“City”) which are subject of their respective appeals:

Casino

- i. By-law 2018-60P approving Official Plan Amendment No. 92 to allow for the development of a gaming casino (“casino”);
- ii. Zoning By-law 2018-61Z as amended by By-law 2018-70Z to permit the casino;

Arena/Event Centre

- iii. Zoning By-law 2018-63Z as amended by By-law 2018-72Z to permit an arena/event centre (“event centre”);

Parking Lot

- iv. Zoning By-law 2018-62Z as amended by By-law 2018-71Z to permit a parking lot.
6. The BIA and Fortin appealed all five Applications and Hales appealed only the casino Applications. A copy of the Notice of Appeal and Grounds of Appeal is filed in the Appellants Appeal Record (“AR”) at **Tab 1** and form part of and are relied on in this Synopsis.
 7. The Appellants made submissions to the City Planning Committee and/or Council and filed the following written materials with the City while are relied on in this synopsis:
 -) Tom Fortin – “Casino Free Sudbury” January 30, 2018 and March 24, 2018. (**AR Tab.2**);
 -) Gordon Petch on behalf of Sudbury BIA and Tom Fortin correspondence dated March 12, 2018 (including urbanMetric (Faludi) Report dated March 12, 2018) (**AR Tab 3**-letter only); and
 -) March 22, 2018 (including urbanMetrics Report dated March 21, 2018, and
 -) WND Planning (Dragicevic) Report dated March 20,2018. (**AR Tab 4**-letter only); and
 -) Dr. Hales-January 21, 2018, March 25, 2018 and April 5, 2018. (**AR Tab 5**).
 8. The Appellants retained Rowan Faludi of urbanMetrics whose affidavit and reports therein are relied on in this synopsis (**AR Tab 6**) and Robert Dragicevic of WND Planning whose affidavit and report therein is relied on in this synopsis (**AR Tab 7**).
 9. The Appellants Notice of Appeal and Grounds of Appeal (**AR Tab 1**) are relied on in this Synopsis. However, in the event there is any conflict between any facts in those documents and this Synopsis, the facts in this Synopsis will prevail.

OVERVIEW

10. The City’s long term plan has been to upgrade of replace it exist Downtown Community Area to contain modern performing arts facilities (“arena/event centre”) as major initiative to rejuvenate its Downtown together with a Hotel/Convention

Centre, new Art Gallery and Library. These initiatives were well underway with the arena as the first major component when the City became involved with a local developer to build a new casino on his lands in an industrial area well outside of the Downtown and convinced the City to relocate the new arena/event centre beside the casino and a proposed hotel. Without studying the economic impacts of such change of the direction on the Downtown and the local economy, or the socio-economic impacts of this City owned arena/event centre being located and connect to a casino, the City rushed to approve the new arena/event centre and the casino Applications which are the subject of these appeals.

THE FACTS

ARENA

11. Since at least 2010 the City had been thoughtfully and comprehensively studying its Downtown with affected stakeholders attempting to determine the reasons for its continuing decline and to agree to recommendations that attract would capital investment to restore its recognized importance to the City's overall economy, entertainment and culture. Two reports were particularly significant, the 2012 "Downtown Master Plan" (**AR Tab 8**) and the City's "Community Economic Development Strategic Plan -2015-2015 From the Ground UP" ("Economic Development Strategy") (**AR Tab 9**).
12. On August 14, 2012 Council resolved to direct staff to implement the strategies of the Downtown Master Plan (**AR Tab 10**).
13. The results of these efforts resulted in several key recommendations to attract investment in the Downtown, including a new hotel/convention centre, new library and art gallery and the upgrading or replacement of the existing Downtown arena expanded to include performing arts facilities ("event centre"). The arena has long been the Home for the Sudbury Wolves OHL Hockey team and had an established economic benefit and cultural role to play in the City.
14. In 2015 the City chose to advance the above four initiatives.
15. The arena/event centre was the first step in this process. The City retained expert consultants Price Waterhouse Coopers ("PwC") to provide a business case for such, which was released in January 2017 (**AR Tab 11**). The report spoke to the important

factors for the location of the new arena/event centre, clearly identifying (page 46) the Downtown as the preferred location because of the many economic benefits it would provide to the Downtown. The report also identified 9 criteria to be used in formally determining the best site (page 47-48).

16. Everything seemed to be proceeding normally and in the usual time frames for important planning decisions such as these and in accordance with the aforesaid studies, until the prospect of a new casino was introduced to the City. Zulich proposed that his industrial lands, located on the “Kingsway” well outside the Downtown and beside an operating landfill site be used for the new arena/event centre, hotel and other related commercial uses in a development he named as new “Entertainment District” for the City. Essentially what he was proposing was that these important capital investment projects targeted for the Downtown be developed on his lands.
17. Nevertheless, the City requested PwC in its second report dated June 2017 (**AR Tab 12**) to also consider an altered criteria for the site selection process that were obviously intended to prefer the Zulich site. Notwithstanding PwC’s continued support for the Downtown location, the City resolved on June 27, 2017 (**AR Tab 13**) that it preferred the Zulich site for the new arena/event centre.
18. Matters then progressed at an unusually rapid pace in support of the Zulich proposal:
 -) The August 9, 2017 Staff Report (AR Tab 14) recommended the City spend 1/3rd of the \$387,000 cost to have Gateway Casino’s architects to prepare an integrated site plan for the proposed “Entertainment District” which included the City’s proposed new arena/event centre, casino and hotel. They advised there was no time to tender the work because of the speed at which the casino had to be built;
 -) On August 17, 2017 Council adopted By-law 2017-149 (**AR Tab 15**) to provide staff with sweeping powers to enter into an Option Agreement to acquire the Zulich lands for the arena/event center and to enter into any other agreements and make any other decisions Staff considered necessary to advance the approvals and development of the

“Entertainment District”. None of the documents have been made public, namely the terms of the Option Agreement or any other written or verbal Agreements Staff may have entered all of which the Appellants ask to be **Produced**;

- J On August 22, 2017 Council resolved to pay the 1/3rd cost of the proposed site plan.

19. Zulich’s Planning Act Applications were also processed with unusual speed:

- J On October 4, 2017 Zulich had a Pre-consolation meeting with City Staff (EMR Tab 2, pg. 2);
- J On November 1, 2017 Staff provided Council with a draft of the site plan “strategy” for the Entertainment District;
- J The November 14, 2017 City Staff Report (**AR Tab 16**) advised that the City had formed a “Partnership” with Zulich and Gateway to quickly advance the entire development and to recommend that Council approve the aforesaid site plan (Fig 2, page 11);
- J On November 21, 2017, Zulich filed his Planning Act Applications (EMR Tab 2);
- J On November 22, 2017 Council approved the site plan design “strategy” for the entire “Entertainment District” (**AR Tab 17**);
- J Staff Reports were being prepared and were completed on December 6, 2017 (EMR Tab 7(2) page 22 and 8(a) page 22) for anticipated the Statutory Public Meetings for all the Applications;
- J On December 5 and 6 Staff considered adding \$100M to its 2018 Budget specifically for the arena/event centre at the Zulich site which Council approved on December 12, 2018 (**AR Tab 18**);

20. All of this occurred prior to the City even sending out the public Notice on January 4, 2018 (EMR Tab 6) for the required Statutory Public Meetings held on January 22 and March 26, 2018 for all the said Planning Act Applications.

21. The Minutes of the Committee Meeting held on January 22, 2018, (EMR, V. 1A, Tab 7(2) note:

- a. Jason Ferrigan, Director of Planning Services, at page 2 of 22, stated that in the first session there was “substantial feedback from the community concerned about the **social and economic impacts associated with the proposed use**. He further advised:

*) “There was an opportunity to discuss social and economic impacts of this use when the **past council** was making the decision on whether or not the City wanted to be a willing host for expanded gambling. At that time, a **public meeting** was held and attended by over 200 individuals and 450 submissions received in relation to the matter. The concerns were taken into account by the **past Council** and the decision was made to include Sudbury as a site for expanded gaming in Ontario.”*

22. However, the written record would indicate that Mr. Kerrigan’s statements are incorrect. The reference to the “**past council**” resolutions are those resolutions described above and made on May 15, 2012 and August 14 2012 (paras 33 and 34 herein), neither of which were preceded with advance public notice and neither dealt with the social or economic issues of having a casino in the City and certainly not with regards to the economic issues related to the Downtown if the Downtown arena was removed and relocated connected to a casino at the Zulich Kingsway site. This potential was not even known at this time. The reference to the meeting with 200 attendees and 450 submissions was to the public open house held on October 10, 2012 (para 40 herein) but was related to the proposed 4 areas that prospective bidders had identified for staff, none of which were the Zulich/Kingsway site. None of the social or economic issues resulting from a casino were sought out at the OPEN HOUSE and certainly none were sought with regard to the Downtown arena vacating the Downtown and re-establishing itself as an event centre connected to a casino at the Zulich/Kingsway site.

23. The Staff Reports for both the January 22 and March 26, 2018 Statutory meetings were silent on the obvious serious economic impacts Staff should reasonably have had concern for with these approvals on the Downtown and the City’s aforesaid initiated large projects. The said Staff Reports also made no reference to the Appellant’s economic consultant Rowan Faludi’s (urbanMetrics) report dated March 12, 2018 (AR Tab 6 above) provided to them prior to the completion of their March

26, 2018 Staff Report advising of long term negative economic impacts on the Downtown and asking them to undertake their own independent studies before proceeding further. The City's video (**AR Tab 19**, including USB stick) and transcript of the relevant portions of the video (**Stephanie Fleming Affidavit AR Tab 20**) of the March 26, 2018 Committee meeting show that the City Planning Director Jason Ferrigan advised Council that the Downtown Master Plan and Economic Development Strategy:

-) were to be given no weight in a planning analysis and were not considered when evaluating the subject Applications and were not considered in the Staff Reports because they had not been adopted as official plan amendments and
-) both of these plans would be incorporated shortly as amendments to the official plan. He advised that Council instructed Staff in 2012 to update its Official Plan in 2012, but they had not done so to date; and
-) the Downtown Master Plan had been advanced to Council in 2017 as an official plan amendment but was deferred (which of course is during the period Staff and Council were advancing the Zulich Kingsway Entertainment development approvals).
-) That Staff's recommendation was based on the 2006 Official Plan which is consistent with the 2008 Provincial Policy Statement.

24. Both Mr. Faludi (AR Tab 6-Affidavit, page 5, para 6b) and Mr. Dragicevic are of the opinion that both of these community planning documents are highly relevant and important and should be given significant weight in the evaluation of the subject Applications as required by the GPNO. Mr. Dragicevic advised that the failure to do so does "not conform with" but "conflicts the requirements of Part 4 and S. 4.1 of the GPNO (AR Tab 7, Affidavit at p. 4 paras h) and i).

25. Two months after Council approved the subject Applications on April 10, 2018 Council approved OPA NO. 88 on June 26, 2018 excerpts of which are attached (**AR Tab 21**) implementing the fundamental recommendations of the Downtown Master Plan:

-) "Downtown is the heart of Greater Sudbury and a strategic core in Northern Ontario" (s. 4.2.1 a.)

- J Advising that the Downtown Master Plan will be used to “guide revitalization by increasing the level of investment and activity.” (s. 4.2.1 a.)
- J Guiding urban design “consistent with the Downtown Master Plan” (s. 4.2.1 c.)
- J Identifying a list of major development projects for the Downtown “to implement the Downtown Master Plan” (S. 4.2.1 e.1.). The original draft had the Downtown arena but was removed at Committee at the direction of Staff.
- J “The City may also work with its partners to pursue other projects that reinforce the Downtown’s role as a local centre and strategic core in northeast Ontario”. (s. 4.2.1.e.2); and
- J “The City will monitor and adjust, as appropriate the Downtown Master Plan”. (S. 4.2.1.e.4);
- J “Cultural and institutional uses argument the Downtown’s role as an arts, culture, **entertainment and event centre**.”(s. 4.2.1.1)
- J “New attractions, such as a new Multi-Use facility, a new Hotel...will be encouraged to be located in the Downtown.” (S. 4.2.1.1 4).

26. The BIA and Fortin objected to the removal of the “arena” at Committee and Council.

OPA 88 is now with the Minister awaiting Notice of Decision.

27. The Appellants said experts Mr. Dragicevic and Mr. Faludi both disagree with City Staff position that the economic impacts of the subject Application on the Downtown is irrelevant.

28. Mr Dragicevic reviewed the requirements of the 2014 PPS, the Growth Plan For Northern Ontario (“GPNO”) and the City’s Official Plan and concluded that an economic impact analysis of the proposed new “Entertainment District” on the Downtown is required. He concludes a the failure of the City to do so “is not consistent with” S. 1.0, 1.7 and 1.7.1.c of the 2014 PPS, does not “conform with” and “conflicts with” S. 1 (a-d) incl. for the GPNO and is not in conformity with S. 19 of the City’s Official Plan. Relying on the conclusion of Mr. Faludi of long term negative impacts of the proposed “Entertainment District” he advises that the subject

Applications cannot be approved until the City has undertaken the required economic impact study (AR Tab 7, Affidavit, para 7)

29. Mr. Faludi advises that as a result of his economic analysis, there is questionable economic benefit to having the casino locate in the City and in particular at the Kingsway site and that the removal of the arena from the Downtown and relocated in the proposed new “Entertainment District” together with a new casino and hotel and other commercial uses will have “profound and lasting negative economic impacts on the Downtown and the local economy”. If the casino will have such minimal net economic benefit to the City’s economy, why would the City consider it so worthwhile and in the public interest to remove the arena from the Downtown to be located beside the casino? There is no evidence demonstrating that if the casino had never been proposed for the City that the City would have rated the Zulich Kingsway, as a stand-alone site for the new arena/event centre, site superior to the Downtown. Mr. Faludi advises that until the City conducts its own economic impact study of these issues the subject applications they should not be approved and to do so is contrary to S. 1.7.1 c) of the PPS “maintaining and where possible enhancing the vitality and viability of downtowns..” (AR Tab 6, paras 6 – 8 incl.)
30. Notwithstanding appeals were filed against all the said Applications and screened and approved to proceed by this Tribunal, the media advised that the City tendered and approved an \$8.5 Million contract for site grading for both the arena and casino sites to proceed in late August or early September 2018 (**AR Tab 22**), notwithstanding the Official Plan Amendment (No. 92) for the casino site was not finally approved for the casino use, contrary to S. 24(3) of the Planning Act and S. 20.2.c of the City’s Official Plan.
31. When Counsel for the Appellants herein asked Counsel for the City to produce the Resolutions and Staff reports authorizing such works, Counsel for the City Steve Watt advised there were none (**AR Tab 23**), and that such were allegedly authorized by the aforesaid By-law 2017/149 (AR Tab 22 above) and other procurement by-laws. Otherwise there are no public documents informing the public informing the public:
- i. as to why Zulich or Gateway are not front-ending their share of these casts; and

- ii. Whether or not the City has exercised its option to acquire title to the arena/event component of the Zulich lands and if so on what terms; and
- iii. what if any financial arrangements the City has with Zulich or Gateway for reimbursement, especially if the casino does not proceed,

all of which the Appellants ask to be **Produced**.

CASINO

- 32. The Province had earlier approved slots (only) at the Sudbury Downs Racetrack which continue to operate at that site today.
- 33. The Ontario Lottery and Gaming Corporation (“OLG”) announced in 2012 that it was privatizing its operations whereby the private sector would use its capital to upgrade existing facilities or build new casinos as well as operate the casinos with expanded gaming operations, adding table games and additional slots.
- 34. Pursuant to O. Reg. 347/00 a previous Council passed a resolution on May 15, 2012 (**AR Tab 24**) without holding a referendum and without prior advance public Notice, other than perhaps having the Council agenda published on its website, that the City was willing to be a “Willing Host” for expanded gaming.
- 35. At the request of Staff (**AR Tab 25**) the same Council on August 14, 2012, again without prior public Notice, passed a resolution to the same effect, stating that Council wanted to “leverage” its agreement to be a “Willing Host” to obtain other public amenities, allegedly at no cost to the City (AR Tab 10 above).
- 36. All subsequent Staff Reports including the most recent March 12, 2018 Report (EMR Tab 8b at page 10 of 86)) rely on the said May 15 and August 14, 2012 Council Resolutions for their compliance with S. 3 i) of O.Reg. 81/12.
- 37. When Counsel for the Appellants herein asked Counsel for the City to produce whatever documents it had submitted to OLG to prove they had complied with s. 3i) of O.Reg. 81/12 he produced a letter from OLG dated January 14, 2015 (**AR Tab 26**) but advised that the City could not locate the noted resolutions and documented materials (**AR Tab 27**).

38. OLG's stated position in the City of London as to how a municipality is required to comply with S. 3i) of O. Reg. 81/12 required that the City must obtain the views of the public as to whether or not they wish their municipality to be a "Willing Host" and that such process must be wide spread and must precede and not be connected to any consideration of a specific location for the casino. Only after that process has been completed can the City then proceed to consider land use approvals for any individual site and pass the Resolution required in S. 3 ii) of the Regulation.
39. The "Business Plan" referred to in S. 2 of O.Reg. 81/12 "demonstrating the viability of the proposed site and the adequacy of responsible gaming features for the proposed site" has never been produced and made public by OLG nor has the City ever obtained and produce to the public their own reports on these issues.
40. The Staff Report dated August 2, 2012 (AR Tab 25 above) also advised Council that they had met with more than a dozen prospective bidders for the casino who collectively identified four areas of the City where they considered appropriate for the new casino:
-) Downtown
 -) Sudbury Downs
 -) South End (Four Corners)
 -) Kingsway at Barrydowne (not in the area of the Zulich Kingsway lands)
41. The Council Resolution on August 14, 2012 also directed Staff to hold and OPEN HOUSE to obtain the public's views on the four area. The OPEN HOUSE was held on October 10, 2012 and a summary of the responses was provided to Council at the February 26, 2013 Council Meeting (**AR Tab 28** at pg. 6) indicating that "a majority of the respondents indicated a preference for the existing Sudbury Downs location, for a number of reasons, one of which was "it was remote enough to discourage problem gambling".
42. Council resolution of February 26, 2013 (**AR Tab 29**) repeated its support for expanded gaming provided it received (allegedly without cost):
-) Hotel
 -) A multi-use centre

-) A performing arts centre and/or
-) An Ontario Hockey League-ready arena.”

43. None of the Staff Reports prepared for the said Statutory Public Meeting consider the merits of any other site for the casino, in particular the Sudbury Downs site, even though it was one of the four recommended sites by the proposed bidders and supported by the aforesaid February 26, 2013 Council Resolution and was the October 10, 2012 OPEN HOUSE concluded was preferred by participating City Residents.
44. The Staff Report dated March 12, 2018 (EMR Tab 8b at page 13) advised that Staff did not take into account any socio economic issues related to the Subject Applications stating they were not legitimate land use planning issues and “that the socio-economic issues of gambling fell outside the scope of these land use planning matters.” Therefore none of the Staff reports consider the issue of having a casino directly beside and connected to a municipal arena/event centre nor having the casino located close to a vulnerable residential area on the Kingsway as the Appellant Dr. Hales had criticized in his submission to the Committee (EMR Tab 72, page 5-6 of 22).
45. The Appellants’ expert Land Use Planning expert Robert Dragicevic disagrees with City Staff’s position and relies of provisions or the 2014 PPS and the City’s Official Plan to conclude that these socio-economic issues are legitimate land use planning issues (AR. Tab 7, Affidavit at para 8).
46. The Appellants’ expert Land Use Planning and Land Economist Rowan Faludi also disagrees with the City Staff’s position and that the socio-economic issues are legitimate land use issues and should have been considered with regard to locating the arena besides and connected to the casino (AR Tab 6 Affidavit para 6).

OFFICIAL PLAN ANALYSIS

47. Notwithstanding that the City/Zulich new “Entertainment District” proposal is described as a single integrated development in the approved site plan strategy (AR Tab 18, Fig. 2 at page 10), the City chose to study the subject Applications the development as individual components, requiring only that the casino application requires an official plan amendment. The Appellants Planning expert disagrees and

advises that the entire development as an “Entertainment District” should have been considered as a single entity for official plan conformity purposes and that in the context of the City’s Official Plan, all components require an official plan amendment, not just the casino. (AR Tab 7, Affidavit paras 7 a) and b). The failure to do so is contrary to the City’s Official Plan.

48. Mr. Dragicevic also advises that the simple use of a “Notwithstanding” clause in OPA 92 to justify the location of a casino as proposed is not an “official Plan” as required by S. 16 (1) and (2) of the Planning Act (AR Tab 7, Affidavit para 7c)

EMPLOYMENT LANDS CONVERSION

49. Mr. Dragicevic also advises the entire development of an “Entertainment District” of an arena/event centre, casino and parking fields in association with a hotel is not an “employment” use and the subject Applications cannot be approved until a comprehensive review has been undertaken as required by S. 1.3.2.2 of the 2014 PPS.

50. Mr. Faludi, in his letter report dated March 21, 2018, para 3, advises that one of the criteria in undertaking a “Comprehensive Review” is a determination as to whether or not the proposed uses could be located in other parts of the City, instead of using designated “Employment Lands” and notes this has not been analysed by the City. He notes there is at least one alternative area and perhaps multiple sites in the Downtown for the arena/event centre and at least one other site for the casino at the Sudbury Downs, none of which the City has studied.

THE ISSUES AND THE LAW

A. “Willing Host”/Casino

1. **Did the City’s resolution of May 15, 2012 committing the City to be a “Willing Host” for expanded gambling in the City comply with O. Reg. 347/00?**

The Law:

a. S. 5 and 10 of O. Reg. 347/00 required the City to hold a referendum asking the simple question “Do you approve of a casino in our municipality”. If a majority of the electorate respond in the negative, the municipality has no jurisdiction to

proceed to consider the casino further. The City's resolution of May 15, 2012 was subject to O. Reg. 347/00.

- b. The City did not hold such a referendum and cannot rely on the resolution of May 15, 2012 to obtain its jurisdiction to proceed to consider the casino and grant *Planning Act* approvals for the subject Applications and this Tribunal, therefore, has no jurisdiction to approve same.

2. Did the City fail to comply with the requirements of S. 3(i) of O. Reg. 81/12?

The Law:

- a. O. Reg. 81/12 came into effect on June 1, 2012.
- b. S. 1(2) of O. Reg. 425/00, pursuant to the *Municipal Elections Act, 1996*, provides that the question of whether or not residents want expanded gaming in their municipality, for the purposes of S. 3i of ss. 2(2) of O. Reg. 81/12, may be put to municipal residents. S. 8(1) and (2) of the *Municipal Elections Act* provides the legal requirements for passing such a by-law to obtain the public's views. Pursuant to the Act, such a by-law must be adopted no later than March 31 in the year of a municipal election and the question posed must be "clear, concise and neutral" and capable of being answered "yes" or "no". At no time has the City complied with the requirements of this Act and Regulation.
- c. For the purpose of precedent in this subject appeal, OLG's position in the City of London is relied on. In accordance with the said *Municipal Elections Act* provisions, OLG advised the City of London that, in order to comply s. 3(i) of O. Reg. 81/12, the City must obtain the views of the public on the broader issue as to whether or not its residents want to be a "Willing Host" for expanded gaming in its City. Such exercise must occur prior to the City considering any individual area or site and any public meeting considering this issue cannot be combined with the consideration of any particular area of location (AR Tab 30).
- d. The City asserts, in numerous documents, that it relies on a previous Council's resolutions of May 15, 2012 and August 14, 2012 to comply with the requirements of O. Reg. 81/12. The May 15, 2012 resolution predates O.Reg. 81/12 and is therefore irrelevant to this issue.

- e. The August 14, 2012 Resolution is subject to O. Reg. 81/12. However, no prior public notice was provided of such meeting (other than perhaps the City website) and the purpose of the meeting was not to obtain the views of the public on the sole issue of whether or not they wanted expanded gaming in their City. The specified and only purpose for the meeting was for Council to consider a Staff report which advised that Staff had met with more than a dozen proposed bidders for the casino rights who identified 4 areas of the City that they considered appropriate for the new casino. Staff asked Council to direct them to have an OPEN HOUSE for the sole purpose of obtaining comments on the said 4 areas of the City.
- f. The August 14, 2012 Council meeting was not a meeting as required by OLG and cannot be relied on by the City to comply with S. 3i) of O. Reg. 81/12 and does not comply with the above requirements of the *Municipal Elections Act*.
- g. In the alternative, if s. 3i) of O. Reg. 81/12 is to be interpreted such that the views of the public on their City being a "Willing Host" for expanded gaming can simply be obtained at a public meeting where a specific site for the proposed casino is considered, then the August 14, 2012 Council meeting still fails to meet the requirements of the Regulation. Said meeting did not deal with any specific location of the "proposed gaming site" for the casino as could be interpreted with the reading of S. 3 i) of O. Reg. 81/12. In fact, the Staff Report dated August 2, 2012 (AR Tab 7) makes it very clear that "Staff have been carefull to acknowledge that Council has not adopted an official position on the question of the desired location for a new facility (casino)."
- h. OLG's letter dated January 14, 2015 (AR Tab 27) was provided as evidence of the City's compliance with s. 3i) of O. Reg. 81/12. The letter references previous resolutions and documents which have never been produced or made public. Notwithstanding, the date of the letter reveals the City and OLG are not relying on any process after January 14, 2015 and therefore are not relying on the *Planning Act* process involving the approval of the subject Applications.
- i. The statutory requirements of s. 3i of O. Reg. 81/12 and the said provisions and Regulation of the *Municipal Elections Act* make it clear that whether or not a municipality wants to be a "Willing Host" is a legitimate land use planning issue in

the Province of Ontario and that a municipality has the legal right to reject a casino in its municipality. The City must obtain the views of the public on this sole issue before proceeding to either consider or, in the alternative, grant land use approvals for any specific site.

- j. The failure of the City to comply with s. 3i) of O. Reg. 81/12 and the aforesaid requirements of the *Municipal Elections Act* means OLG did not have the jurisdiction to approve a casino for the City, the City did not have the jurisdiction to approve the subject *Planning Act* Applications and the by-laws adopted to approve the casino use are a nullity.
3. **Did the City fail to comply with the intent of Bill 73 of the *Planning Act* for improved transparency and public involvement in the planning process, the requirements of S. 1.1(d) and 16(1)(b) of the *Planning Act* and S. 1.3, 16.1, 16.2.1 and Part V (p.162) of its own Official Plan by failing to hold a public meeting with adequate advance notice to obtain the views of the public on the single issue as to whether or not the public wished its City to be a “Willing Host” for expanded gaming in the City as required by s. 3i) of O. Reg. 81/12?**

The Law:

- a. One of the fundamental objectives of Bill 73 for its amendments to the *Planning Act*, which obtained Royal Assent on December 3, 2015, was to “Give residents a greater, more meaningful say in how their communities grow.” (Appellants Book of Authorities “**BA**” **Tab 7**);
- b. As noted above, the fundamental issue provided for in S. 3i) of O. Reg. 81/12, is the most fundamental and first issue to resolve when considering a casino proposal for a municipality, is whether or not the municipality wants a casino. Only after public input on that sole issue is legitimately sought out by the municipality and such input is genuinely considered can this fundamental objective of Bill 73 be met.
- c. The subject Applications were filed in November of 2017 and are therefore subject to Bill 73.
- d. The City has consistently attempted to rely on the resolutions of a past Council, passed six years ago in 2012, long before the subject Applications were even

filed, for its justification of obtaining the views of the public on this fundamental question. Council and City Staff took this arbitrary position as justification for refusing to comprehensively deal with all the issues relating to the social and economic issues related gambling that were raised by the public prior to and during the processing of the subject Applications.

- e. A fulsome reading of the above noted sections of the *Planning Act* and policies of the City's Official Plan clearly requires the City to genuinely seek public input from the public on this important "Willing Host" issue and to genuinely consider their input. The failure of this Council to do so is contrary to these the noted sections of the *Planning Act* and policies of the City's Official Plan.
- f. As a result of the City's failure to comply with the said provisions of the *Planning Act* and policies of the City's Official Plan, the subject by-laws, namely By-law 2018-60P, approving OPA 92 (casino), and By-law 2018-70Z, amending Zoning By-law 2018-61Z are contrary to S. 24(1) and a nullity.

Socio Economic Issues of Gambling/Casino

4. **Is the failure of OLG to produce to the public and the Council the study required by s. 2 of O.Reg. 81/12 addressing the issue of responsible gambling occurring in the City as a whole, or on any specific site, contrary to the requirements of the Regulation when read as a whole?**

The Law:

- a Reading the requirements of O.Reg. 81/12 as a whole and in particular the provisions of Sections 2, 2.1 ii) and 3 i) in concert, it would be inconsistent that the legislature wanted OLG to study the issue of problem gambling and the "adequacy of the responsible gaming features for the proposed gaming site" (Sudbury as a whole or the actual specific "proposed site") and also wanted the views of the public on the gambling issue without providing them with this most relevant information.
- b The failure of OLG to produce this information to the City and the public prior to City Council approving a "proposed site" or passing the required Resolution confirming its agreement to be a "Willing Host" or, in the alternative, the failure of the City to undertake such a study of its own and release it to the public prior to approving the subject casino applications, or passing the required Resolution is contrary to said

provisions of O. Reg. 81/12. Until such occurs, neither OLG nor the City is in compliance the Regulation and neither the City nor this Tribunal have the jurisdiction to approve the subject casino Applications.

5. **Was the position of City Staff and Planning Committee and City Council that “the socio-economic impacts of gambling fall outside of the scope of these land use planning matters” and that they had no need to study or consider same in their decision-making process “not consistent with” the requirements of the 2014 Provincial Policy Statement (PPS).**

The Law

- a. The following provisions of the PPS requires the City to study and take into account the socio-economic issues related to gambling prior to its consideration of the subject Applications for a casino at the Kingsway site:
- i. “social factors in land use planning” (Part 111), and the
 - ii. “social well-being” of the City (Part IV and S. 1.0), and
 - iii. “avoiding development and land use patterns which may cause...public health and safety concerns (S.1.1.1),
 - iv. S. 3.0 “Social well-being” and
 - v. “Planning authorities should co-ordinate emergency management and other social planning considerations to support efficient and resilient communities.”
- b. The admitted failure of City Planning Staff and Council to consider such issues when analysing and making decisions on the subject Applications is “not consistent with” the requirements of the PPS and contrary to the requirements of S. 3(5)(a) of the *Planning Act* rendering Council’s Approvals of such Applications a nullity.
6. **Was the position of City Planning Staff, that socio-economic issues related to gambling were not legitimate land use issues, when analysing the subject Applications (EMR Tab 7(2) at page 2 of 22) and the failure of the City Council to consider such issues contrary to the requirements of the City’s Official Plan?**

The Law:

- a. The following provisions of the City's Official plan, read in concert, require the City to consider the socio-economic issues related to gambling when considering the subject casino Applications:
 - i. S. 16.2.7.5 to "Review and implement the recommendations of the City of Greater Sudbury Human Strategy 2015" which speaks to the need to consider the social economic consequences of land use planning decisions;
 - ii. S.16.0 –"Healthy Community" – "Healthy Community Principles underlie the entire Plan."
 - iii. S. 17.5.1 – "Developing Quality of Place" – "Council will strive to enhance (the community's) social environment."
 - iv. S. 20.0-"Implimentation – The goals, objectives and policies of this Plan provide guidance in making decisions affecting land use and economic and social development and are consistent with the Provincial Policy Statement."
- b. The City's failure to comply with the above-noted requirements of its Official Plan renders all the by-laws adopted by Council when it approved the subject Applications contrary to S. 24 (1) of the *Planning Act* and a nullity.

Economic Impact Study/Casino/Arena-Event Centre

7. **Was the City's Staff and Council's position, when considering all of the subject Applications, that community plans dealing with the economic issues of the City and in particular the Downtown, being the "Downtown Master Plan (2012)" and the "A Community Economic Development Strategic Plan-From the Ground UP 2015-2015", were of no value and were to be given no weight and not to be considered by Staff or Council when making recommendations or Decisions "not conform with" or "not conflict with" with the GPNO?**

The Law:

- a. Sections 4.1 of the GPNO recognizes and encourages the importance of these types of community plans as they contain valuable input from the most relevant

stakeholders and residents and establish confidence in the public for “buying in” and investing in the recommendations.

- b. In particular, s. 4.3.3.d encourages the development of such community plans which “encourage future residential and employment development to locate in existing downtown areas.”
 - c. The failure of City Staff and Council to take into consideration the substance and recommendations of these important Plans does not “conform with” but rather “conflicts with” the said policies and the overall intent of the GPNO contrary to S. 3 (5) (b) of the *Planning Act*, thereby rendering Council’s approval all of the subject Applications a nullity.
- 8. Was the City’s Staff and Council’s position, when considering all of the subject Applications, that plans dealing with the economic issues of the City and in particular the Downtown, being the “Downtown Master Plan (2012)” and the “A Community Economic Development Strategic Plan-From the Ground UP 2015-2015” were of no value and were to be given no weight and not to be considered by Staff or Council when making recommendations or Decisions inconsistent with the 2014 PPS?**

The Law

- a. Section 1.7.1 c) of the PPS requires City Staff and Council to make recommendations and Decisions which “maintain and where possible enhance the vitality and viability of downtowns and mainstreets.”
- b. The said Downtown Master Plan and Economic Development Strategy contained specific policies and recommendation to rejuvenate and improve its vitality and economic viability, in particular policies requiring the upgrading or replacement of the Downtown Arena and development of a new performing arts centre and hotel/convention centre in the Downtown. When considering the subject Applications to essentially build the same uses at the Zulich Kingsway site without considering the need for same in the Downtown and the economic consequences to the Downtown and the City as a whole, it is clear that such is not “consistent with” S. 1.7.1.c of the PPS and S. 3(5)(a) of the *Planning Act*,

thereby rendering Council's adoption of all the subject By-laws approving all the subject Applications a nullity.

9. **Was the City's Staff and Council's position, when considering all of the subject Applications, that plans dealing with the economic issues of the City and in particular the Downtown, and more particular the "Downtown Master Plan (2012)" and the "A Community Economic Development Strategic Plan-From the Ground UP 2015-2015" were of no value and were to be given no weight and not to be considered by Staff or Council when making recommendations or Decisions, comply with the requirements with the City's official plan because such plans had not been approved as amendments to the City's Official Plan?**

The Law

- a. The following sections of the City's Official Plan, when read in concert, require the consideration of such community plans:
 -) s. 1.2 Fifth Vision Statement, Part II and S. 4.1 e, S. 4.2.1 (i), (ii) and (iii), S. 4.2.1.1. (i), S. 4.2.1.2, S. 16.2.3 1 and 2, and S. 19.1.
- b. S. 4.2.1.1 specifically identifies the Downtown arena as a "key amenity contributing to the appeal of the Downtown."
- c. There numerous references throughout Official Plan to the City's reliance on various "plans" even though they are not part of the Official Plan.
- d. The delay in adopting the Downtown Master Plan as an amendment to the City's Official Plan in 2007 (Synopsis Para 25, pg. 7, 3rd bullett and AR Tab 20 and 21) during Staff and Council's consideration of the casino proposal and then its immediate adoption as part of OPA No. 88 on June 26, 2018 which contained specific policies requiring the implementation of the said Master Plan just 2 ½ months after Council's adoption of the By-laws for the subject Applications, successfully challenges the credibility of Staff and Council's position that they were not relevant and should be given no weight. Obviously the Plan was given great weight in OPA 88. Council and Staff's position was one of convenience and not of legislative compliance.

- e. The City's failure to comply with these provisions of its Official Plan renders the adoption of all the subject By-laws as contrary to the City's Official Plan, a violation of S. 24(1) of the *Planning Act* and therefore nullities.
- 10. Was the City's failure (i) to consider the economic impact study prepared by the Appellant's consultant urbanMetrics and (ii) to undertake and produce to the public its own independent expert economic impact study prior to its approval of the subject Applications, in order to determine the economic impact of the proposed "Entertainment District" development on the "vitality" and "viability" of the Downtown, not "consistent with" the requirements of the 2014 PPS and contrary to the Provisions of S. 3(5)a) of the *Planning Act*?**

The Law:

- a. S. 1.11.a) of the PPS requires Staff comments and Council Decisions which "promote the financial well-being of the Province and municipalities over the long term."
- b. S. 1.7.1 c of the PPS requires Staff Comments and Council Decisions which are directed to "maintaining and where possible, enhancing the vitality and viability of downtowns and mainstreets."
- c. The City's failure to both consider and take into account the economic analysis prepared and submitted to the City by the Appellants' Consultant urbanMetrics (AR Tab 6) prior to Staff releasing its own Staff report and its failure to undertake its own economic impact study of the proposed Applications on its Downtown is not "consistent with" the PPS and contrary to S. 3(5)(a) of the *Planning Act* thereby rendering the City's adoption of all of the subject by-laws a nullity.
- 11. Was the City's failure to consider the economic impact study prepared by the Appellant's consultant urbanMetrics and to undertake and produce to the public its own independent expert economic impact study prior to its approval of the subject Applications to determine the economic impact of the proposed "Entertainment District" contrary to the requirements of the City's Official Plan?**

The Law

- a. The following provisions of the City's Official Plan, when read in concert, requires the City to consider the economic impact of the subject Applications on the Downtown and on the local economy:
 -) S. 1.2, 1.2, 1.3.2, 1.3.4, 1.4, Part II: Managing Growth, S. 4.1 e, S. 4.2.1 (i), (ii) and (iii), S. 4.2.1.1. (i), S. 4.2.1.2, S. 16.2.3 1. and 2, and S. 19.1.
- b. The failure of City Staff and Council to comply with these requirements and consider the said urbanMetrics report and to undertake their own economic impact study is contrary to the stated requirements of the City's Official rendering the adoption of all of the subject By-laws approving all of the subject Applications contrary to S. 24(1) of the Planning Act and a nullity.

“Entertainment District” /Overall Official Plan Amendment

12. Should the entire proposed development to create a new regional “Entertainment District” for the City be assessed and approved as a single official plan amendment?

The Law:

- a. The only possible reasonable explanation from the Record for the City suddenly changing course and deciding to locate the Downtown arena/event centre on the Zulich lands in conjunction with a casino and hotel complex and other commercial uses was the attraction of a new “Entertainment District” allegedly with a substantial regional draw and economic benefit to the City.
- b. The Record also suggests Council believed they could “leverage” their support for the casino to get a new arena/event centre without cost to the City – which never occurred. The Record also reasonably demonstrates that the City would have approved the new arena/event centre in the Downtown if the concept of a new “Entertainment District” had not arisen. Given the significance of this new proposal, Mr. Dragicevic advises that “in the context of the Greater Sudbury's Official Plan” all the said Applications are required to be assessed as one official plan amendment and not as individual, unrelated components. The failure to do so is contrary to the overall intent and requirements of the Official Plan and all the

subject by-laws adopted by the City are contrary to the City's Official Plan, contrary to S. 24(1) of the *Planning Act* and a nullity.

Legality of the Use of a “Notwithstanding Clause” – OPA No. 92

13. Does OPA 92 comply with the requirements of s. 16(1) and (2) of the Planning Act?

The Law

14. Official Plan Amendment No. 92 is premised solely on a “notwithstanding clause”; There is no other support for the amendment. The “notwithstanding clause” essentially declares that all related policies that might be problematic or not supportive of the amendment are to be totally ignored. This Case Synopsis and the Appellants expert (Faludi and Dragicevic) have highlighted many provisions of the Official Plan that in their opinions, the City has neither considered nor complied with
51. The inadequacy of the use of the “notwithstanding” clause in OPA 92 renders OPA 92 not an “official Plan” as required by S. 16(1) and (2) of the Planning Act and a nullity.

) Gardiner v. Regional Municipality of Halton (OMB) 17 O.M.B.R 487 - Appellants B. A. Tab 1, paras 33-41, 47-57.

Employment Lands Conversion

15. **Is the approval of official plan amendment No. 92 to permit a casino with associated restaurants and other retail commercial uses a “conversion” of “employment lands” as Mr. Dragicevic alleges for which a “comprehensive review” has not been undertaken by the City, contrary to S. 1.3.2.2 of the PPS as asserted the Appellants’ expert planner Robert Dragicevic AR Tab 7-Affidavit, para. 7d and Exhibit “C” thereto at pages 7 and 10)?**
16. **If the entire proposed development of the “Entertainment District” composed of the arena/event centre, casino, hotel and associated restaurants and other retail commercial and the associated parking fields must be considered, from a planning perspective, as a single development, is the proposed “Entertainment District” a “conversion” of “employment lands” for which a “comprehensive review” has not been undertaken by the City, contrary to S.**

1.3.2.2 of the PPS as asserted by the said Robert Dragicevic AR Tab 7, Affidavit para 7a) and b) and Ex. “C” thereto pages 5-7 and 10?

17. Is the rezoning of fields for the sole use of a parking lot for the proposed Entertainment District, a conversion of “employment lands” for which a “comprehensive review” contrary to S. 1.3.2.2 of the PPS as asserted by the said Robert Dragicevic (AR Tab 7, para 7d and Ex. “C” thereto at pages 5-7 and 10)?

The Law

- a. S. 1.3.2.2 of the 2014 PPS only allows the “conversion” of “employment lands”, as defined in the PPS, to be approved for non-employment uses if a “comprehensive review” (as defined in S. 1.1.3.8 and .1.3.2.2), being an official plan review and amendment process, has been undertaken the municipality.
- b. The City has not undertaken such a “comprehensive review” therefore the subject by-laws adopted by the City to approve the casino and or the arena/event centre and/or parking fields are not “consistent” with S. 1.3.2.2 of the PPS and contrary to S. 3 (5)(a) of the *Planning Act* and a nullity.

Bias/Fettered Discretion

18. Did Council’s actions prior to the adoption of all of the subject by-laws approving all of the subject Applications “fetter its discretion” contrary to law, thereby rendering the adoption of all of the subject By-laws a nullity?

The Law

- a. The facts described above in this Synopsis demonstrate very questionable efforts by City Staff and Council to fast-track the approval of the City’s new arena/event centre at the Zulich lands, starting with the interference with the PwC report which required PwC to alter their site criteria to prefer the Zulich Kingsway site. Thereafter the City formed a “Partnership” with Zulich and Gateway to expedite the approval of a site plan for the entire “Entertainment District” and Council passed a by-law giving sweeping powers to Staff to expedite everything including *Planning Act* approvals. At the same time Staff were writing their first Staff reports on the Zulich Applications (which had been filed only 14 days earlier) Staff and Council

were preparing the City's 2018 Budget with a \$100M (all debt) allocation for the arena/event centre specifically for the Zulich Kingsway lands. All of above occurred prior to the Notices for the statutory public meeting even being published.

- b. At the first public meeting, Staff misled the public by advising that their social and economic concerns had already been discussed at a previous public meeting. Staff and Council refused to give consideration to these issues despite the obvious problems of locating a municipal arena beside and connected to a casino. At the second public meeting Staff and Council took the highly irregular position that the long-term planning initiatives in the Downtown Master Plan and Economic Development Strategy could not be given any weight in the analysis of the planning Applications because they had not been inserted into the City's Official Plan- but then chose to amend the Official Plan to include the fundamental components of the Downtown Master Plan within 90 days of Council's adoption of all the "Entertainment District" Applications, but with the "arena" removed as a significant development for the Downtown.
- c. Notwithstanding that Council's own initiative in October 2012 revealed the residents preferred the casino to locate at the Sudbury Downs site, at no time did Council consider any location for the casino other than the Zulich lands.
- d. At no time did Staff or Council consider any of the obvious economic concerns a reasonable municipal official would have had with removing the arena from the Downtown and also approving all of the key initiatives that had been planned for the Downtown rejuvenation plan and approving same at the Zulich lands - and disregarding the only economic impact study on the issue prepared by urbanMetrics which had been provided to Council and Staff prior to the release of the final Staff Report, which made no mention of it.
- e. The final indication of Staff and Council's bias was the decision to tender and approve a contract to spend \$8.5M for the grading and site works to immediately begin on Zulich's lands for not only arena but the casino, prior to OPA 92 being finally approved, contrary to S. 20.2(c) of its own Official Plan and S. 24(3) of the *Planning Act*.
- f. The foregoing evidence demonstrates that, at the Statutory Public Meetings required by the s. 17 and 34 of the *Planning Act* to allow the public to make

submissions to the Planning Committee and elected officials, there never was a “real opportunity for those who wished to make representation to be heard so that they might have an opportunity to influence the minds of decision-makers”. The Council meeting, therefore, was a “sham” and the minds of the majority Council Members “were incapable of change” and “utterly closed”.

- g. The “bias” and “fettering” of the minds of a majority of Council Members is a denial of natural justice and contrary to law, requiring this Tribunal to allow the Appellants’ Appeals of all of the subject Applications.
- *Brook Harker v. Regina*, 1995 CarswellSask 31, at paras 11, 13, 14 and 15
 - *Old St. Boniface v. Winnipeg*, (SCC) 1990 CarswellMan 235 at para 94.

Production

19. Should the City be compelled by this Tribunal to produce a) all of the information, as described in the OLG letter dated January 14, 2015, that it relied on to determine whether or not the City complied with S. 3 i) of O. Reg. 81/12 and b) copy of the Option Agreement and all other agreements and details of all Decisions Staff may made arising from the authority granted to Staff pursuant to By-law 2017-149 or any other procurement by-law?

The Law

- a. The jurisdiction of the City and the Tribunal to approve the subject casino Applications is subject to the City’s compliance with s. 3i) of O. Reg. 81/12. The evidence submitted to OLG by the City is highly relevant to this issue and must be produced.
- b. The production of all materials and details of all “Decisions” made by Staff pursuant to By-law 2017-149 is highly relevant to the issue of whether or not Staff and/or Council Members were illegally “biased” and “fettered their discretion” contrary to law and must be Produced.
- c. This Tribunal, pursuant to Sections 11 and 12 of the Local Planning Appeal Act and Rule 9 of the Tribunals Rules of Practice and Procedure and Rule 30 of the

Rules of Civil Procedure has the jurisdiction to compel the production of these most relevant documents

ORDERS REQUESTED

It is respectfully requested pursuant to Sections 11,12 and 33 (1)4, of the Local Planning Appeal Tribunal Act the Tribunal make the following rulings and Orders:

- a. That this Tribunal has no jurisdiction to approve any of the subject By-laws and the Appeals herein are granted, or in the alternative:
- b. That the City Produce those documents requested in paras 18 and 31 of the Synopsis.
- c. That pursuant to O. Reg. 81/12 and S. 8(1) and (2) of the Municipal Elections Act the City initiate a public process to seek public input on the sole issue as to whether or not the Residents of the City wish its City to be a “Willing Host” for expanded gaming, consisting of a public Open House and Information Session, an online survey, and a public participation session with City Council and that City Staff be directed to engage with all relevant stakeholders, including the Greater Sudbury and District Health Unit and other professionals dealing with problem gambling and addiction and that Staff prepare a comprehensive report on all of the above and release same to the Tribunal, City Council the Appellants and the public; and
- d. That the City retain independent expert(s) as approved by the Tribunal and report back to the Tribunal, the City, the Appellants and the public, using terms of reference approved by the Tribunal, as to socio-economic issues and impacts related to expanded gaming being allowed in the City, and in particular related to the issue of whether the proposed community arena/event centre should be located beside and connected to the proposed casino at the “Entertainment District” located at the Kingsway site; and
- e. That the City retain independent expert(s) to undertake an economic impact study of the economic impact on the Downtown of the removal of the existing arena from the Downtown and its relocation as an arena/event centre in conjunction with the proposed casino/hotel/restaurants and other associated retail/commercial uses at the Kingsway site as the major components of a

- new "Entertainment District" for the City, upon such terms of reference as so approved by the Tribunal; and
- f. That the City initiate and complete an Employment Lands Conversion Comprehensive Review pursuant to S. 1.3.2.2 of the PPS should it continue to propose to locate the arena/event centre and casino at the Kingsway site as the major components of the propose "Entertainment District".
 - g. A ruling pursuant to Section 11, 12 of the Local Planning Appeal Tribunal Act that the site preparation works undertaken by the City on the Casino lands as described in paras 32-33 in this Synopsis are contrary to S. 24 (3) of the Planning Act, contrary to S. 20.2 of the City Official Plan and an Order or interim Order that the City immediately cease the spending of public monies on the grading and site works on the "Entertainment District" Kingsway site until the subject Applications have been finally ruled on by the Tribunal;
 - h. Such other relief as Counsel for Appellants may request and this Tribunal may grant.

All of which is respectfully submitted by Counsel for the Appellants Gordon E. Petch this 28th day of August, 2018.