

Our File/N/Réf. O.1.2.17
Your File/V/Réf.

DATE 10 May 1996

TO/DEST. The Chair and Members of Regional Council

FROM/EXP. Acting Regional Solicitor

SUBJECT/OBJET **OMB HEARING: RMOC V. HUGHES**

This memorandum is for your information.

BACKGROUND

The respondent before the OMB, Mr. Roger Hughes, owns a parcel of land at the junction of Regional Roads 5 and 22 on which he currently operates a retail woodlot. A retail woodlot is defined in the Township of West Carleton By-law 54 of 1995 to include the use of the lot for the manufacture and retailing of firewood as well as for the sawing, splitting, drying and storage of firewood imported from an external source and sold to the general public. In addition to use as a woodlot, section 3(ii) of that same by-law permits the following non-residential uses of the Hughes lot: animal hospital, automobile service station, automotive store, building supply outlet, commercial garage, commercial greenhouse, drive-in restaurant, farm implement dealer, farm produce outlet, gasoline pump island, garden centre, landscaping business, merchandise service shop, open storage area accessory to a CR use, rental outlet, restaurant, retail nursery, retail woodlot, secondhand shop, vehicle agency, and wholesale use accessory to a permitted use.

At issue before the OMB was the compliance of West Carleton Zoning By-Law 54 of 1995 with the Regional Official Plan, the West Carleton Official Plan and the provincial Foodland Guidelines.

In coming before the OMB, Mr. Hughes sought to defend Zoning By-Law 54 of 1995 and in particular section 3(ii) of that by-law which sets out the permitted uses (including as a retail woodlot) of the Hughes lot.

The Region called upon Mr. Rob McKay, a Regional planner, and Mr. Garry McTavish of the Ontario Ministry of Agriculture, Food and Rural Affairs, as witnesses. Mr. McKay highlighted the inconsistencies between the Zoning By-Law and the Official Plans of both the Region and West Carleton.

Information Previously Distributed

To be listed on Planning and Environment
Committee Agenda 28 May 96

Particular emphasis was placed on the significant agricultural importance of the land in and around the Hughes lot as well as on the fact that most of the uses permitted by section 3(ii) of the Zoning By-Law are not directly related to agriculture as dictated by the Regional Official Plan. Mr. McTavish underscored the incompatibilities with the Ontario Foodland Guidelines.

Mr. Hughes represented himself and argued that some pockets of land within otherwise good agricultural areas are not good farming lands due to the presence of rocks or due to drainage problems. Mr. Russell Craig, a farmer and neighbour, appeared as a witness for Mr. Hughes, and he testified that flooding in the strip of land along the Galetta Side Road had leached most of the nutrients out of the soil over th years, thus rendering lands such as Mr. Hughes' lot less profitable for farming purposes.

ANALYSIS AND DECISION OF THE OMB

The Board, speaking through Ms. J. Gagnon-Gravelle on April 11, 1996, issued an order to amend West Carleton Zoning By-Law 54 of 1995 in order to restrict the non-residential uses to which Mr. Hughes' land may be put. The approved non-residential uses are the following: an animal hospital, a commercial greenhouse, a farm implement dealer, a farm produce outlet, a landscaping business, an open storage area accessory to a permitted use, a retail nursery and a retail woodlot. The Board member was strongly influenced by the Regional Official Plan requirement that commercial uses in the Agricultural Resource Area be directly related to agriculture. While a retail woodlot does not strictly meet such a requirement, the Board member indicated that a strict approach should not be taken in such cases, especially when the retail wood business already exists and given that the Ministry of Agriculture, Food and Rural Affairs is trying to encourage farmers to diversify their income base. The Board member also ruled that a garden centre is not sufficiently related to agriculture to warrant its inclusion on the by-law's list of permitted uses.

Approved by
E.A. Johnston

EAJ/CM