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(Remitted)

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario

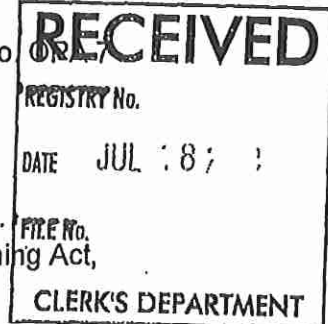


ISSUE DATE: July 16, 2014

CASE NO(S): PL130269
PL130280

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

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Appellant: Orlando Corporation
Subject: Proposed Official Plan Amendment No. ORA/
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130269



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

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: By-law No. 0028-2013
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130270

1429036 Ontario Inc. & Benisasia Funeral Home Inc. have appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the City of Mississauga to redesignate land at 3263 Derry Road East from "General Commercial" to "General Commercial Special Site" to permit a crematorium in addition to the existing funeral home
Approval Authority File No. OZ 09/012 W5
OMB Case No. P130280
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1429036 Ontario Inc. & Benisasia Funeral Home Inc have 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 neglect to enact a proposed amendment to Zoning By-law 0225-2007 of the City of Mississauga to rezone lands respecting 3263 Derry Road East from "C-3" (General Commercial) to "C3-Exception" (General Commercial) to permit a

crematorium in the existing funeral home
OMB Case No. P130280
OMB File No. PL130279

PROCEEDING COMMENCED UNDER subsection 85(1) of the *Funeral, Burial and Cremation Services Act*, S.O. 2002, CHAPTER 33

Appellant: 1429036 Ontario Inc. & Benisia Funeral Home Inc.
Subject: Application to establish a crematorium
Municipality: Mississauga
OMB Case No.: PL130280
OMB File No.: MM130082

Heard: July 7 and 10, 2014 by telephone
conference call

APPEARANCES:

Parties

Counsel

Orlando Corporation ("Orlando")

Leo Longo

City of Mississauga ("City")

Paul DeMelo and Raj Kehar

1429036 Ontario Inc. and Benisia
Funeral Homes Inc. ("Appellants")

**MEMORANDUM OF ORAL DECISIONS DELIVERED BY STEVEN STEFANKO
ON JULY 7, 2014 AND JULY 10, 2014 AND ORDERS OF THE BOARD**

[1] At the commencement of this proceeding, the City moved for a dismissal of all the appeals ("Appellants' Appeals") by the Appellants in these matters. These appeals relate to Official Plan Amendment 7 ("OPA 7"), Zoning By-law Amendment . 0028-2013 ("ZBA 0028"), the private official plan amendment and zoning by-law amendment applied for by the Appellants and s. 85 (1) of the *Funeral, Burial and Cremation Services Act, 2002*.

[2] On the basis that the Appellants did not appear at this proceeding, failed to

comply with the provisions of the Procedural Order and failed to respond to Mr. Kehar's email of July 3, 2014, the Appellants' Appeals are hereby dismissed.

[3] In relation to Orlando's appeals of OPA 7 and ZBA 0028, agreement has been reached between the City and Orlando and a settlement hearing was conducted by teleconference ("TCC") on July 10, 2014. The settlement reached reflects modifications to OPA 7 and ZBA 0028. These modifications, *inter alia*, clarify terminology used and the operation of the policy itself.

[4] During the TCC, a revised OPA 7 ("Revised OPA") and a revised ZBA 0028 ("Revised ZBA") were presented and expert land use testimony was provided by Paulina Mickicich, a planner with the City. The Revised OPA is annexed hereto and marked as Attachment 1 and the Revised ZBA is annexed hereto and identified as Attachment 2.

[5] According to Ms. Mickicich, the settlement reached is consistent with the Provincial Policy Statement, 2014, conforms to the Growth Plan for the Greater Golden Horseshoe, 2006 and the Region of Peel Official Plan and represents good planning.

[6] Based on the testimony of Ms. Mickicich, the submissions of counsel and the agreement reached, it is ordered that:

(a) the Revised OPA is hereby approved; and

(b) the City's Zoning By-law Number 0225-2007, as amended, is hereby amended in accordance with the Revised ZBA.

"Steven Stefanko"

STEVEN STEFANKO
VICE- CHAIR

ATTACHMENT 1

DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

1. Chapter 6.6 Air Quality of Mississauga Official Plan, is hereby amended by adding the following subsection:

6.6.6 Development proposals for a crematorium may be considered subject to the following:

- air, noise, dust, odour and other fugitive emissions will be appropriately mitigated at the source in accordance with Provincial requirements;
- permitted land uses which may be subject to adverse effects arising from the proposed crematorium use are not located within the area of influence of the proposed crematorium as determined by appropriate studies acceptable to the City;
- there is no impact to the permitted land uses, planned function or viability of the surrounding lands;
- the proposed crematorium is not located within a multi-unit building;
- the scattering or interment of human remains is not permitted, except in cemeteries;
- the development is appropriately screened from adjacent uses and the public realm; and
- the site is appropriately buffered and landscaped.

2. Section 17.5 Gateway Employment Character Area is amended by adding the following subsection:

17.5.1.3 Notwithstanding the Industrial policies of this Plan, the following use will also be permitted subject to a rezoning:

- a. crematorium.

3. Section 17.8 Northeast Employment Character Area is amended by adding the following subsection:

17.8.1.3 Notwithstanding the Industrial policies of this Plan, the following use will also be permitted on lands west of Airport Road subject to a rezoning:

- a. crematorium.

4. Section 20 Glossary is amended by adding the following definition:

Crematorium means a building, structure or part thereof fitted with a retort(s) for the purpose of cremating human remains and may include a processing area and body storage area.

ATTACHMENT 2

BY-LAW 0028-2013

A by-law to amend By-law Number 0225-2007, as amended.

WHEREAS pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, the council of a local municipality may pass a zoning by-law;

NOW THEREFORE the Council of The Corporation of the City of Mississauga ENACTS as follows:

1. By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by deleting the words "From Residential Zones" from the title to Article 2.1.2.1 contained in Subsection 2.1.2 of this By-law.
2. By-law Number 0225-2007, as amended, is further amended by adding to Table 2.1.2.1.1 contained in Article 2.1.2.1 of this By-law the following:

Column A		Column B
Line	Use	Minimum Separation Distance From a Residential Zone
15.0	Crematorium	300.0 m

3. By-law Number 0225-2007, as amended, is further amended by adding Sentence 2.1.2.1.3 to Article 2.1.2.1 of this By-law as follows:

All buildings and structures containing a use in Table 2.1.2.1.3 - Minimum Separation Distance from other Zones, shall comply with the applicable minimum separation distance required.

Table 2.1.2.1.3 - Minimum Separation Distance from other Zones

Column A		B
Line	Use	Minimum Separation Distance from other Zones
1.0	Crematorium	300.0 m from a C4 zone or a City Centre zone or any exception zone permitting residential uses

4. By-law Number 0225-2007, as amended, is further amended by adding Sentence 2.1.2.1.4 to Article 2.1.2.1 of this By-law as follows:

2.1.2.1.4 The minimum separation distance contained in Table 2.1.2.1.3 - Minimum Separation Distance from other Zones, shall be measured in a straight line from the nearest part of the **building or structure** or portion of the **building or structure** containing the use, to the closest lot line of the other Zone.

5. By-law Number 0225-2007, as amended, is further amended by adding the following words to the end of Subsection 11.1.2 of this By-law as follows:

"except that a crematorium shall not be permitted."

6. This By-law shall not come into force until Mississauga Official Plan Amendment Number 7 is in full force and effect.

ENACTED and PASSED this _____ day of _____ 2013.

MAYOR

CLERK

APPENDIX "A" TO BY-LAW NUMBER _____

Explanation of the Purpose and Effect of the By-law

This By-law amends Mississauga Zoning By-law 0225-2007 by introducing a minimum 300.0 m separation distance for crematorium facilities from Residential, C4 (Mainstreet Commercial) and City Centre Zones or exception zones permitting residential uses. The amendment also removes permission for a crematorium on lands zoned PB2 (Parkway Belt). The purpose of the amendment is to ensure that the expansion of existing or development of new crematorium facilities does not impact nearby sensitive land uses or the long-term planned function of adjacent lands.

Location of Lands Affected

All lands in the City of Mississauga.

Further information regarding this By-law may be obtained from Paulina Mikicich of the City Planning and Building Department at 905-615-3200 ext. 5514.

ISSUE DATE:
August 1, 2013



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

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CREMATORIUM
PL130269

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: Proposed Official Plan Amendment No. OPA 7
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130269

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

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Approval Authority File No. OZ 09/012 W5
OMB File No.: P130280

1429036 Ontario Inc. & Benisasia Funeral Home Inc. have 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 neglect to enact a proposed amendment to Zoning By-law 0225-2007 of the City of Mississauga to rezone lands respecting 3263 Derry Road East from "C-3" (General Commercial) to "C3-Exception" (General Commercial) to permit a crematorium in the existing funeral home

OMB File No.: PL130279

RECEIVED
REGISTRY No.
DATE AUG 02 2013
FILE No.
CLERK'S DEPARTMENT

APPEARANCES:

<u>Parties</u>	<u>Counsel</u>
1429036 Ontario Inc. & Benisasia Funeral Home Inc.	G. Swinkin
City of Mississauga	R. Kehar
Region of Peel	R. Maciver

MEMORANDUM OF ORAL DECISION DELIVERED BY JASON CHEE-HING ON JULY 5, 2013 AND ORDER OF THE BOARD

[1] This is the first pre-hearing conference ("PHC") event into these proceedings. There are four appeals before this Board. 1429036 Ontario Inc. and Benisasia Funeral Home Inc. (the "Applicant/Appellant" and "Proponent") have appealed the City of Mississauga ("City") proposed Official Plan Amendment ("OPA") No. 7 and its implementing Zoning by-law ("ZBL") 0028-2013. These proposed amendments relate to efforts by the City to permit crematoriums within lands designated Industrial in the Gateway and Northeast Employment Character Areas and prohibit this use on lands designated Parkway Belt West.

[2] Additionally, the Proponent has appealed City Council's failure to make a decision on its site specific OPA and ZBL to permit the establishment of a crematorium in the Proponent's existing funeral establishment located at 3263 Derry Road East.

[3] A number of residents and ratepayer groups/coalitions sought and were granted participant status by the Board (Attachment 1). These participants are all opposed to the Proponent's applications to permit a crematorium at the subject site.

[4] Orlando Corporation ("Orlando") has significant land holdings within the area that would be subject to the City's proposed OPA No. 7. For the time being, Orlando is seeking party status in the appeals of the Proponent against the City's proposed amendments. Orlando takes no position on the Proponent's site specific appeals. Given Orlando's interest in these matters and the location of its lands within OPA No. 7, the Board granted party status.

[5] Ultimately, Orlando will be seeking appellant status for the appeals of the City's proposed OPA and ZBL. Mr. Longo submitted that Orlando participated in the City's planning approval process for the OP and the implementing ZBL, which included oral and written communications to the City, attendance at the public meeting and deputations to Council on these proposed planning instruments. However, it did not receive written notice of Council's intentions to adopt OPA No. 7 and the implementing ZBL. Orlando maintained that improper notice has been provided by the City. Orlando is hopeful that it will resolve its Appellant status with the City prior to the next PHC. If it does not then it would be asking the Board to determine its status at the next scheduled PHC.

[6] The Proponent requested that all of its appeals be heard together in one hearing but not consolidated. The other parties did not object to this request and there was agreement on the order of evidence to be given with respect to the appeals to the City initiated OPA and ZBL and the site specific OPA and ZBL all within the ambit of one hearing.

[7] Finally, the issue of the *Funeral, Burial and Cremation Services Act* ("FBSCA") was raised by the Proponent as it relates to its applications. The Proponent submitted that as required by the FBSCA, it has by letter dated March 5, 2013 to the City Clerk, requested approval of the establishment of a crematorium on the premises of the funeral establishment. This requirement under this Act is apart from the land use planning approvals required for the same use under the *Planning Act*. Counsel for the Proponent submitted that the City has been given ample time to consider and respond to its request. If the City does not issue its decision as required under the FBSCA before the next scheduled PHC, it will request the Board to determine the status of its request made under this Act. Pursuant to s. 85(1) of the FBSCA, the applicant can appeal the decision of the municipality to this Board (OMB).

[8] The next PHC is set for **Monday, October 21, 2013 commencing at 10 a.m.** The City will undertake to confirm the venue with the Board's Case Coordinator, Nazma Ramjaun, and inform the parties and participants of same. Matters to be addressed at the next PHC will include the determination of appellant status for Orlando and the disposition of the Proponent's request for approval of a crematorium under the FBSCA.

[9] I am not seized of these matters. No further notice is required.

"Jason Chee-Hing"

JASON CHEE-HING
MEMBER

Attachment 1

List of Participants

Alan Gilbert
Joseph Leering
Eunice Peterson
Roberto Buosi
Charles Barclay/Concerned Citizens of Malton
Dianne Douglas
Marjorie Austin
Dorothy Tomiuk
Sue Shanley/MIRANET
Eric Doharty
Anthony Lancaster

ISSUE DATE:

Jan. 30, 2014



PL130269
PL130280

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

IN THE MATTER OF subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended

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IN THE MATTER OF subsection 85(1) of the *Funeral, Burial and Cremation Services Act*, S.O. 2002, CHAPTER 33

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: Application to establish a crematorium
Municipality: Mississauga
OMB Case No.: PL130279
OMB File No.: MM130082

BEFORE:

Jason Chee-Hing
MEMBER

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Thursday, the 30th
day of January , 2014

THE BOARD ORDERS that the Procedural order, attached hereto as Attachment "1" shall be in force and effect for the purpose of governing the required procedures leading up to and including the hearing scheduled to commence on Monday, July 7th, 2014 at 10:00 am, at City Hall, Municipal Hearing Room, 300 City Centre Drive, Mississauga, ON, L5B 3C1.



SECRETARY



Attachment "1"

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended

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OMB File No. PL130279
OMB Case No. PL130280

1429036 Ontario Inc. & Benisia Funeral Home Inc. have appealed to the Ontario Municipal Board under subsection 85(1) of the *Funeral, Burial and Cremation Services Act, 2002*, from Council's refusal to grant consent to the establishment of a crematorium at the premises at 3263 Derry road East, in the City of Mississauga

OMB File No. MM130082
OMB Case No. PL130280

PROCEDURAL ORDER

1. The Board may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

Organization of the Hearing

2. The hearing will begin on Monday, July 7, 2014 at 10:00 a.m. in Municipal Hearing Room at the City of Mississauga Civic Centre, 300 City Centre Drive, Mississauga.
3. The length of the hearing will be about ten days.
4. The parties and participants identified at the prehearing conference are listed in Attachment "1" to this Order. The order of evidence at the hearing is set forth on Attachment "2".
5. The Issues are as set out in the Issues List attached as Attachment "3". There will be no changes to this list unless the Board permits, and a party who asks for changes may have costs awarded against it.
6. Any person intending to participate in the hearing should provide a telephone number to the Board as soon as possible (*preferably before the prehearing conference.*) Any such person who will be retaining a representative should advise the other parties and the Board of the representative's name, address and phone number as soon as possible.

Requirements Before the Hearing

7. A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties and to the Clerk a list of the witnesses and the order in which they will be called. This list must be delivered on or before May 16, 2014.
8. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 11. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony.
9. A participant must provide to the Board and the parties a participant statement on or before Friday, June 13, 2014, or the witness or participant may not give oral evidence at the hearing.
10. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence, as in section 11.
11. On or before Friday, June 13, 2014, the parties shall provide copies of their witness and expert witness statements to the other parties and to the Clerk of the City of Mississauga.

12. On or before Friday, June 20, 2014 , the parties shall provide copies of their visual evidence to all of the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
13. Parties may provide to all other parties and file with the Clerk a written response to any written evidence within 7 days after the evidence is received.
14. A person wishing to change written evidence, including witness statements, must make a written motion to the Board.
(see Rules 34 to 38, inclusive, of the Board's Rules, which require that the moving party provide copies of the motion to all other parties 10 days before the Board hears the motion.)
15. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Board at least 7 days before the hearing that the written evidence is not part of their record.
16. Documents may be delivered by personal delivery, facsimile or registered or certified mail, or by e-mail. The delivery of documents by fax shall be governed by the Board's Rules [26 – 31] on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
17. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

**This Member is not seized.
So Orders the Board.**

ATTACHMENT TO PROCEDURAL ORDER
Procedural Order Meaning of Terms

Meaning of terms used in the Procedural Order:

Party is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorization from the party.

NOTE that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board to permit this.

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing this statements. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

Written and Visual Evidence: **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

Witness Statements: A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure.) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

direct examination by the party presenting the witness;

direct examination by any party of similar interest, in the manner determined by the Board;

cross-examination by parties of opposite interest;

re-examination by the party presenting the witness; or

another order of examination mutually agreed among the parties or directed by the Board.

ATTACHMENT "1"

Parties:

1. 1429036 Ontario Inc. and Benisasia Funeral Home Inc.

Gerald S. Swinkin
Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000
Box 25, Commerce Court West
Toronto, ON M5L 1A9
Phone: 416-863-5845
Fax: 416-863-2653
E-mail: gerald.swinkin@blakes.ca

2. The Corporation of the City of Mississauga
300 City Centre Drive
Mississauga, ON L5B 3C1

Raj Kehar
Legal Counsel
Legal Services Division

Phone: 905-615-3200 x 3086
Fax: 905-896-5106
E-mail: raj.kehar@mississauga.ca

Paul De Melo
Kagan Shastri LLP
188 Avenue Road
Toronto, ON M5R 2J1
Phone: 416-368-2100 x 228
Fax: 416-324-4203
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3. Orlando Corporation (party only to Case No. PL130269)

Leo Longo
Aird & Berlis LLP
181 Bay Street, Suite 1800, Box 754
Toronto, ON M5J 2T9
Phone: 416-865-7778
Fax: 416-863-1515
E-Mail: llongo@airdberlis.com

List of Participants

Region of Peel

Alan Gilbert

Joseph Leering

Eunice Peterson

Roberto Buosi

Charles Barclay/Concerned Citizens of Malton

Dianne Douglas

Marjorie Austin

Dorothy Tomiuk

Sue Shanly/MIRANET

Eric Doharty

Anthony Lancaster

ATTACHMENT "2"
ORDER OF EVIDENCE

1. The City will call its evidence in support of OPA 7 and By-law 0028-2013.
2. 1429036 Ontario/Beniasia will call evidence in response to the City's case and in support of its private OPA and zoning appeals and its *Funeral, Burial and Cremation Services Act* appeal.
3. Orlando will call evidence in response to the City's case.
4. The City shall be entitled to call reply evidence in response to the 1429036 Ontario/Beniasia and Orlando response evidence and can call response evidence to the 1429036 Ontario/Beniasia private appeals evidence (which may involve witnesses not called in support of OPA 7 and By-law 0028-2013, provided that such witnesses have prepared and served witness statements).
5. 1429036 Ontario/Beniasia shall be entitled to call reply evidence to the City's response evidence regarding the private appeals.

ATTACHMENT "3"

**1429036 ONTARIO INC. AND BENISASIA FUNERAL HOME
ISSUES LIST**

OMB CASE NOS. PL130269 AND PL130280

1. In that with the repeal of the *Cemeteries Act* and its replacement by the *Funeral, Burial and Cremation Services Act, 2002*, and the consequent removal of the limitation that crematoria be only located within cemeteries, are the locational criteria under OPA 7 consistent with the new Provincial legislation?
2. Is there a planning policy rationale for the municipality to control the number of crematoria in the municipality?
3. What land use harm or adverse effect needs to be controlled arising out of a crematorium use?
4. Do the emissions from a crematorium require planning controls to separate that use from residential uses different and apart from the standard separation requirements for commercial uses?
5. Do the Ministry of the Environment D-6 Guidelines apply to a crematorium use and, if so, what is the consequence of that with respect to OPA7?
6. Will operation of a crematorium at the Appellants' site cause an adverse environmental effect?
7. Why are industrially designated lands more suitable for a crematorium use than commercially designated lands, and is that a wise use of scarce industrially designated lands?
8. As the City has acknowledged that demand for cremation has grown significantly, from 36% of deaths in Ontario in 1995 to 70% of deaths in Ontario in 2010, is OPA 7 and its associated zoning amendment properly responsive to demand?
9. Does OPA 7 and the associated zoning amendment recognize the demand for culturally differentiated crematorium facilities?
10. In light of current best available technology, is it reasonable to view a crematorium facility as essentially an accessory use to a funeral establishment?
11. Do OPA 7 and the associated zoning amendment reflect the application of good planning principles?
12. Are the Appellants' applications for official plan and zoning amendment reasonable and do they reflect regard for the application of good planning principles?
13. Would establishment of a crematorium at 3263 Derry Road East be in the public interest within the meaning of Section 84 of the *Funeral, Burial and Crematorium Services Act, 2002*?

**THE CORPORATION OF THE CITY OF MISSISSAUGA
ISSUES LIST**

O.M.B. CASE NOS. PL130269 & PLI30280

1. Do the proposed amendments to the Official Plan have appropriate regard to the matters of provincial interest set forth in Section 2 of the *Planning Act* and do the proposed amendments have appropriate regard to matters of provincial interest set forth in the Provincial Policy Statement (2005) pursuant to Section 3 of the *Planning Act*?
2. Do the proposed amendments comply with or maintain the intent of the in-force Official Plan of the Regional Municipality of Peel?
3. Do the proposed amendments comply with or maintain the intent of all of the relevant and applicable in-force policies of Mississauga Plan, including, but not limited to, Section 5.3.2 of Mississauga Plan and the criteria to be met regarding site specific Official Plan Amendments?
4. Do the proposed amendments have regard for OPA No. 7 and Zoning By-law No. 0028-2013 and any other documents that Council considered in accordance with Section 2.1 of the *Planning Act*?
5. Does the proposed development have regard to applicable environmental planning policies?
6. Do the proposed amendments represent good land use planning?
7. Is the proposed development in the public interest?
8. Does the subject proposal provide for an adequate buffer in respect of adverse impacts given the context and future planning direction for the surrounding neighbourhood?
9. Does the subject proposal function appropriately and efficiently having regard to the site, the existing, future or other proposed developments; the current and planned character of the immediate area and surrounding lands and does it represent an appropriate land use given the context of the surrounding land uses and transportation infrastructure?
10. Is there adequate parking for visitors and on-site staff for the project?
11. Is there adequate vehicular access to the site taking into consideration present and future traffic?
12. Is OPA No.7 and Zoning By-law Amendment No. 0028-2013 an appropriate planning response to the enactment of the *Funeral, Burial and Cremation Services Act, 2002*?

**ORLANDO CORPORATION
ISSUES LIST**

OMB CASE NO. PL130269

1. Is the proposed "as of right" status that OPA No. 7 grants to crematoria uses in designated Industrial Areas appropriate and represent "good planning"?
2. Do crematoria uses have the potential to compromise and/or undermine the planned function of designated Employment and Industrial areas and their revitalization?
3. Was the City required to conduct a Municipal Comprehensive Review, as defined in the Provincial Growth Plan for the Greater Golden Horseshoe ('Growth Plan'), prior to adopting OPA #7?
4. Should crematoria uses be considered part of the "Community Infrastructure"?
5. Have the parking needs and traffic impacts associated with crematoria uses been adequately assessed and addressed by the City?
6. Should the proposed Zoning By-Law establish a 300m separation distance between crematoria uses and abutting Employment lands (E2 Zone)?
7. Should crematoria uses be located no closer than 300 m (as measured from lot line to lot line) to any existing legal lot?

MOA 7

**Environment and Land Tribunals
Ontario**

Ontario Municipal Board

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Toronto ON M5G 1E5
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November 15, 2013

Diana Rusnov
Deputy Clerk
City of Mississauga
Civic Centre, 300 City Centre Drive
Mississauga, ON
L5B 3C1

Subject:	Case Number:	PL130269
	File Number:	PL130269
	Related File Number(s):	PL130270
	Municipality:	City of Mississauga
	Official Plan Number:	OPA 7
	Zoning By-Law Number:	0028-2013
	Property Location:	City-wide
	Appellant(s):	Orlando Corporation



The Board acknowledges receipt of the above referenced appeals. These appeals have been added to existing appeals already at the Board. When communicating with the Board please quote the Board's case and/or file numbers.

These files have been assigned to **Nazma Ramjaun, Case Coordinator, Planner**. For specific questions about this case, you may contact the Case Coordinator, Planner at **(416) 326-6796**.

The Case Coordinator, Planner will review the files to ensure that all the required material has been received and will identify if there are other related matters that may come to the Board. The Case Coordinator, Planner may contact the parties to:

- Identify issues
- Discuss whether the matter may be a candidate for a mediation meeting
- Discuss whether a prehearing conference may be beneficial (Prehearings are normally only held on complex cases where the hearing length is expected to be over five days)
- Discuss the time that may be required for the hearing.

Mediation is an option available where the parties consent to this process. Mediation is intended to provide the parties with a more satisfactory manner in which to reach a resolution in the same or lesser timeframe as the traditional adjudicative process. Parties should contact the Case Coordinator, Planner if they are interested in mediation.

The Board will schedule this case for the earliest available date on the Board's calendar. Parties should be prepared to proceed at any time. Parties will receive notice of the hearing event. Notice for prehearings and hearings are generally mailed 35 days before the hearing. Notice for mediation meetings can be given on shorter notice.

Once dates are set, adjournments are not granted except where compelling circumstances exist and with the consent of all parties and/or the approval of the Board.

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

For general information concerning the Board's policies and procedures visit our website at www.eltto.gov.on.ca or you may contact the Board's offices at (416) 212-6349. You may wish to obtain a copy of the publication 'A Guide to the Ontario Municipal Board' to learn more about participating in matters before the Board and the hearing process. This publication is available on the Board's website or by calling the Board's offices.

Yours truly,



George Rayner
Case Management Administrative Assistant

c.c.
The Clerk (Mississauga)
Leo Longo, Aird & Berlis LLP
Mary E. Bench, City Solicitor, City of Mississauga

Environment and Land Tribunals
Ontario

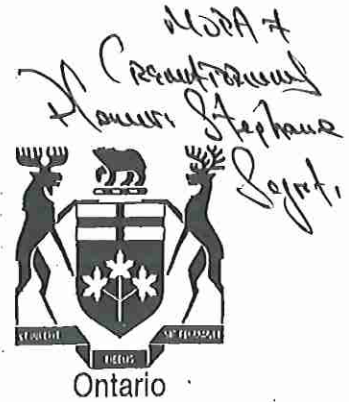
Ontario Municipal Board

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April 03, 2013

Diana Rusnov
Deputy Clerk
City of Mississauga
Civic Centre, 300 City Centre Drive
Mississauga, ON
L5B 3C1

Subject: Case Number: PL130269
File Number: PL130280
Related File Number(s): PL130270, PL130279
Municipality: Mississauga
Official Plan Number: 09/012
Property Location: 3263 Derry Road East
Applicant/Appellant(s): 1429036 Ontario Inc. & Benisia Funeral Home
Inc.
OPA / OZ - 09/012

The Board acknowledges receipt of the above referenced file. This file is now joined with the above-related file. When communicating with the Board please quote the Board's case and/or file number.

This file has been assigned to **Nazma Ramjaun, Planner**. For specific questions about this case, you may contact the Planner at **(416) 326-6796**.

The Planner will review the file to ensure that all the required material has been received and will identify if there are other related matters that may come to the Board. The Planner may contact the parties to:

- Identify issues
- Discuss whether the matter may be a candidate for a mediation meeting
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./2

The Board will schedule this case for the earliest available date on the Board's calendar. Parties should be prepared to proceed at any time. Parties will receive notice of the hearing event. Notice for prehearings and hearings are generally mailed 35 days before the hearing. Notice for mediation meetings can be given on shorter notice.

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Yours truly,

P. Arseneault
Case Management Administrative Assistant

c.c.
1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Gerald Swinkin
Kelly Yerxa
The Clerk (Mississauga)

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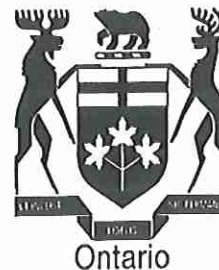
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IN THE MATTER OF subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: Proposed Official Plan Amendment No. OPA 7
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130269

IN THE MATTER OF subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: By-law No. CD.02. CRE
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130270

1429036 Ontario Inc. & Benisasia Funeral Home Inc. have appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the City of Mississauga to redesignate land at 3263 Derry Road East from "General Commercial" to "General Commercial Special Site" to permit a crematorium in addition to the existing funeral home

Approval Authority File No. OZ 09/012 W5

OMB File No. P130280

1429036 Ontario Inc. & Benisasia Funeral Home Inc have 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 neglect to enact a proposed amendment to Zoning By-law 0225-2007 of the City of Mississauga to rezone lands respecting 3263 Derry Road East from "C-3" (General Commercial) to "C3-Exception" (General Commercial) to permit a crematorium in the existing funeral home

OMB File No. PL130279

- **The hearing of motions.**
- **Such further matters as the Board considers appropriate.**

Everyone present should come prepared to consider specific dates for proceedings in this matter.

EVIDENCE

Evidence or formal statements may also be heard at the prehearing conference in an attempt to settle the matters in dispute. Note that even if no settlement is reached the Board may make a final decision on the evidence it received.

All parties or their representatives should attend the prehearing conference.

Pour recevoir des services en français, veuillez communiquer avec la Division des audiences au (416) 212-6349, au moins 20 jours civils avant la date fixée pour l'audience.

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

DATED at Toronto, this 15th day of May, 2013.

JOANNE HAYES
SECRETARY

ONTARIO MUNICIPAL BOARD RULES ON ADJOURNMENTS

61. **Hearing Dates Fixed** Hearing events will take place on the date set unless the Board agrees to an adjournment.
62. **Requests for Adjournment if All Parties Consent** If all of the parties agree, they may make a written request to adjourn a hearing event. The request must include the reasons, a suggested new date, and the signed consents of all parties. However, the Board may require that the parties attend in person or convene an electronic hearing to request an adjournment, even if all of the parties consent.
63. **Requests for Adjournment Without Consent** If a party objects to an adjournment request, the party requesting the adjournment must bring a motion at least 10 days before the date set for the hearing event. If the reason for an adjournment arises less than 10 days before the date set for the hearing event, the party must give notice of the request to the Board and to the other parties and serve their motion materials as soon as possible. If the Board refuses to consider a late request, any motion for adjournment must be made in person, at the beginning of the hearing event.
64. **Emergencies Only** The Board will grant last minute adjournments only for unavoidable emergencies, such as illnesses, so close to the hearing date that another representative or witnesses cannot be obtained. The Board must be informed of these emergencies as soon as possible.
65. **Powers of the Board upon Adjournment Request** The Board may,
- (a) grant the request;
 - (b) grant the request and fix a new date or, where appropriate, the Board will schedule a prehearing conference on the status of the matter;
 - (c) grant a shorter adjournment than requested;
 - (d) deny the request, even if all parties have consented;
 - (e) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
 - (f) grant an indefinite adjournment, if the request is made by the applicant or proponent and is accepted by the Board as reasonable and the Board finds no substantial prejudice to the other parties or to the Board's schedule. In this case the applicant or proponent must make a request that the hearing be rescheduled;
 - (g) convert the scheduled date to a mediation or prehearing conference; or
 - (h) make any other appropriate order.

August 11, 2008

ONTARIO MUNICIPAL BOARD DRAFT PROCEDURAL ORDER

This is a sample of the Procedural Order that the Board issues for most matters (except expropriation) after holding a prehearing conference. For further explanations and meanings of the terms used, see the attachment to this sample order. Note that the Board expects that the terms of the procedural order when issued will be met. If a party has not complied with a requirement of a procedural order, the Board will decide whether or not any part of or step in the proceeding, or any written or visual evidence or order is not valid as a result.

This is an appeal (referral)...

OMB Case and File Number:

1. The Board may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

Organization of the Hearing

2. The hearing will begin on (year) at ...a.m./p.m. atin the municipality of[Optional:... An evening session will be held on]
3. The length of the hearing will be about days.
4. The parties and participants identified at the prehearing conference (*see the Attachment for the meaning of these terms*) are: [Optional: listed in Attachment 1 to this Order.]
5. The Issues are: [Optional:... set out in the Issues List attached as Attachment 2.] There will be no changes to this list unless the Board permits, and a party who asks for changes may have costs awarded against it.
6. Any person intending to participate in the hearing should provide a telephone number to the Board as soon as possible (*preferably before the prehearing conference.*) Any such person who will be retaining a representative should advise the other parties and the Board of the representative's name, address and phone number as soon as possible.

Requirements Before the Hearing

- [7]. [Optional] Expert witnesses in the same field shall have a meeting before the hearing to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the parties and the municipal Clerk.
- [8]. [Optional] A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties and to the Clerk a list of the witnesses and the order in which they will be called. This list must be delivered at least calendar days before the hearing.
9. An expert witness shall prepare an expert witness statement which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section [12]. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony.
- [10]. [Optional] A [witness] [participant] must provide to the Board and the parties a [witness] [participant] statement at least calendar days before the hearing, or the witness or participant may not give oral evidence at the hearing.
11. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence, as in section [12].
12. On or before[a minimum of 30 calendar days before the hearing date], the parties shall provide copies of their [witness and] expert witness statements to the other parties and to the Clerk of
- [13]. [Optional] On or before....., the parties shall provide copies of their visual evidence to all of the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.

14. Parties may provide to all other parties and file with the Clerk a written response to any written evidence within 7 days after the evidence is received.
15. A person wishing to change written evidence, including witness statements, must make a written motion to the Board.
(See Rules 34 to 38, inclusive, of the Board's Rules, which require that the moving party provide copies of the motion to all other parties 10 days before the Board hears the motion.)
16. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Board at least 7 days before the hearing that the written evidence is not part of their record.
17. Documents may be delivered by personal delivery, facsimile or registered or certified mail, or otherwise as the Board may direct. The delivery of documents by fax shall be governed by the Board's Rules [26 – 31] on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
18. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

This Member is [not] seized.

So orders the Board.

ATTACHMENT TO SAMPLE PROCEDURAL ORDER

Purpose of the Procedural Order and Meaning of Terms

The Board recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Board to order following the conference. The Board will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Ontario Municipal Board, and the Board's Rules, from the Board Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-212-6349 or Toll Free 1-866-448-2248, or from the Board website at www.elfo.gov.on.ca.

Meaning of Terms Used in the Procedural Order

Party is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorization from the party.

NOTE that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board to permit this.

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing these statements. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

Written and Visual Evidence: **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

Witness Statements: A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- direct examination by any party of similar interest, in the manner determined by the Board;
- cross-examination by parties of opposite interest;
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Board.

ONTARIO MUNICIPAL BOARD RULES ON DOCUMENTS, EXHIBITS, FILING, SERVICE

18. Form of Documents Unless otherwise directed by the Board, every document filed or introduced by a party or participant in a proceeding shall be prepared on letter size paper (8 ½" x 11"), except for large documents such as plans or surveys, and shall have each page numbered consecutively, throughout the entire text and graphic content, even if there are dividers or tabs.

19. Other Exhibits Large graphic or other such types of visual evidence should not be glued to foam or other boards. They shall be on paper and be removed from the boards following the hearing event, and folded to 8 ½" x 11". Three-dimensional models must be photographed and the photographs must be introduced with the model. Visual evidence must be reviewed by the other parties before the hearing event or by an earlier date if set out in a procedural order.

20. Copies of Documents for Parties and Clerk A party who intends to introduce a document as evidence at a hearing event shall provide a copy of the document to all the parties, at the beginning of the proceeding or by an earlier date if set out in a procedural order. If the document is an official plan, those parts of the Plan to be referred to at the hearing event should be distributed to the parties, and a copy of the entire plan must be made available to the Board Member(s). If the Board orders that the clerk of the municipality keep copies of documents, they do not need to be certified copies, unless a party objects that they are not authentic copies.

21. Prefiling of Witness Statements and Reports If a hearing is expected to last more than 10 days, the Board may require that parties calling expert or professional witnesses serve on the other parties and file with the clerk of the municipality any experts witness statements and reports prepared for the hearing, at least 30 days in advance of the commencement of the hearing, unless otherwise directed by the Board. The Board may also make this prefiling order for hearings expected to last fewer than 10 days, at the request of a party. The expert witness statement must contain:

- (a) the expert's name, address and qualifications;
- (b) the issues the expert will address, their opinions on these issues, the reasons that support their opinions, their conclusions; and
- (c) a list of the reports or documents, whether prepared by the expert or by someone else, that the expert will refer to at the hearing.

The expert's complete report may be filed instead of this statement if it contains the required information.

An expert may not be permitted to testify if this statement or report is not served on all parties and filed with the Clerk of the municipality when so directed by the Board. Participants in the hearing wishing to examine expert witness statements and reports may do so at the Clerk's office.

21.01 Other Witnesses The Board may also require that a witness or a participant who is not presenting expert evidence provide a witness or participant statement. A witness or participant statement should contain (a) a short written outline of the person's background, experience, and interest in the matter, (b) a list of the issues that they will discuss, and (c) a list of reports that they will rely on at the hearing. A participant statement should also briefly outline the evidence to be presented. The Board may not allow the witness or participant to testify if this statement is required by the Board but is not provided to the other parties.

22. Amendment of Documents Documents filed with the Board can only be amended on the consent of the parties or by a Board Order. The Board may require that the person requesting an amendment do so by way of a motion under Rule 34.

23. Copies of Board Documents A person may examine any document filed with the Board and copy it after paying the Board's fee, unless a statute, a Court Order, a Board Order or these Rules provide otherwise.

24. **Return of Exhibits** Exhibits of all types introduced at a hearing will be kept for 180 days after the Board decision issues. The person introducing an exhibit may ask for its return after this time, and it may be given back if the Board agrees. If no such request is made, the exhibit becomes the property of the Board and may be archived.

25. **Final Approval of Plans of Subdivision** When a final plan is prepared for the Board's approval, the following wording shall be inserted on the original plan and copies:

This plan is approved by the Ontario Municipal Board under file [insert OMB case number] pursuant to the *Planning Act*, section _____.

Date

Secretary, Ontario Municipal Board

DOCUMENT EXCHANGE

A document may be served on another party or participant by e-mail, fax or such other manner as may be directed by the Board.

26. **Service by Fax or E-mail** Where any document is required to be served or filed, including the one commencing a proceeding or a motion or providing notice, it shall be served by fax or e-mail (unless a statute or the Board requires another method of service) and shall be sent to:

(a) the party's representative, if any;

(b) where the party is an individual and is not represented, to that party directly, where that party has provided a fax number and/or an e-mail address;

(c) where that party is a corporation and is not represented, to the corporation directly, to the attention of an individual with apparent authority to receive the document; or

(d) where served on or filed with the Board, a local board or commission, or any department, ministry or agency of the federal, provincial or municipal government, to an individual with apparent authority to receive the document.

Subject to Rule 27, if a document is served by fax or e-mail, then service is effective on the date of service.

27. **If Faxed or E-mailed After 4:30 p.m.** Any document served by fax or e-mail after 4:30 p.m. is deemed to have been served on the next business day.

28. **Permission to Fax if More Than 30 Pages** If a document is more than 30 pages including the cover page, it may only be served by fax between 8:00 a.m. and 4.30 p.m. with the prior consent of the person receiving the document. If more than 30 pages, it cannot be served by fax at any time without prior permission.

29. **Contents of Cover Page** A fax cover page must include (a) the Board's case and file number, (b) the type of matter, (c) the municipality in which the matter arose, and (d) full identification of the sender and receiver.

30. **Proof of Service by Fax or E-mail** A confirmation printout received by the sender is proof of the full transmission and receipt of the fax or e-mail.

31. **No Hard Copy Needed** A hard copy of a faxed or e-mailed document need not be sent by another means of transmission unless requested, and may then be sent by ordinary mail.

August 11, 2008

ONTARIO MUNICIPAL BOARD RULES ON PREHEARING CONFERENCES

70. Prehearing Conference At the request of a party or on its own initiative, the Board may direct parties to participate in a prehearing conference, which can include settlement conferences, motions or preliminary hearing matters, in order to:

- (a) identify the parties and participants and determine the issues raised by the appeal;
- (b) identify facts or evidence the parties may agree upon or on which the Board may make a binding decision;
- (c) obtain admissions that may simplify the hearing;
- (d) provide directions for exchange of witness lists, expert statements and reports, for meetings of experts to address the disclosure of information, including the disclosure of the information that was not provided to the Municipality before Council made its decision that is the subject of the appeal, and for further disclosure where necessary;
- (e) discuss opportunities for settlement, including possible use of mediation or other dispute resolution processes;
- (f) fix a date and place for the hearing and estimate its length, and encourage the parties to agree upon the dates for any procedural steps;
- (g) discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public or to seal documents;
- (h) address the production and cost sharing of joint document books; and
- (i) deal with any other matter that may assist in a fair, cost-effective, and expeditious resolution of the issues.

71. Sample Procedural Order and Meeting Before Prehearing Conference The Board may provide a sample procedural order to the parties before the prehearing conference. The parties are expected to meet before the prehearing conference to consider the matters set out in Rule 70 and present recommendations to the Board for the conduct of the hearing.

72. Serving Notice of a Conference The Board will give the applicant a Notice of Conference which provides the time and place of the prehearing conference. The applicant must serve this on those persons entitled to notice of the conference and provide an affidavit to the Board, at the conference, to prove service of the motion.

73. Board Member Presides The Chair will assign a Board Member to conduct the conference.

74. Public Attendance at a Prehearing A prehearing conference held in person will be open to the public. A prehearing conference held by electronic hearing will be open to the public where practical.

75. Conversion From One Procedure to Another The Board Member may, at any time, conduct a procedural discussion or a preliminary hearing and may convert from one to another. The Board will state in the notice of a prehearing conference that the parties are expected to arrive prepared for a procedural and settlement conference as well as a preliminary hearing, where evidence or formal statements may be heard. Even if no settlement is reached, the Board may proceed to make a final decision on any evidence received during the conference.

76. Results of Failure to Attend a Conference If a party fails to attend the conference in person or by authorized representative, the Board may proceed without that party. The non-attending party is not entitled to notice of subsequent hearing events in the proceedings.

77. Board Order Following The Member conducting the prehearing conference will issue an order that may decide any of the matters considered at the conference and provide procedural directions for any subsequent hearing event.

78. Hearing Member Bound The Member conducting the hearing or any subsequent hearing event is bound by the order resulting from the prehearing conference unless the Member is satisfied that there is good reason to vary the order.

79. **Methods of Holding Hearing Events** The Board may, in a proceeding, hold any or a combination of written, electronic or oral hearing events.

August 11, 2008

DECLARATION

Subsection 17 of the Planning Act

Applicant: City Initiated
Municipality City of Mississauga
Our File: OPA 7

I, Diana Rusnov, Deputy Clerk solemnly declare,

1. That the decision in respect of the above-noted matter was made on February 20, 2013, when By-law Number 0029-2013 was enacted and that notice as required by subsection 17 of the Planning Act was given on February 22, 2013.
2. That two appeals to the Ontario Municipal Board of the decision in respect of the above-noted matter were received under subsection 17 of the Planning Act within the time specified for submitting an appeal.

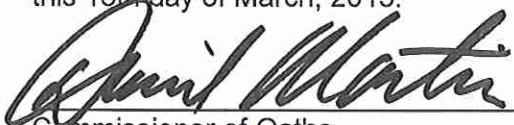
And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me

at the City of Mississauga

in the Regional Municipality of Peel

this 18th day of March, 2013.


Commissioner of Oaths


Declarant

DAVID LESLIE MARTIN, a Commissioner, etc.,
Regional Municipality of Peel, for the
Corporation of the City of Mississauga.
Expires May 10, 2014.

Memorandum



MOPA 7

FOR IMMEDIATE ATTENTION AND ACTION

TO: Ed Sajecki, Commissioner of Planning & Building

FROM: Diana Rusnov - Office of the City Clerk

DATE: March 11, 2013

RE: Appeal Pursuant to 17(24), 34(19), 34(11) and 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13,
Application to Amend Zoning By-law 0225-2007
The lands affected by this amendment are all lands within the City of Mississauga and lands designated "Industrial" in the Gateway and Northeast Employment Character Areas located east of Kennedy Road and North of Eglinton Avenue East. (Regulation of Crematoriums)
Our File: OZ-09/012-CD.02.CRE & /OPA 7- All Wards

Attached please find copy of a letter of appeal dated March 8, 2013, received March 11, 2013 from Blakes, Cassels & Graydon LLP, solicitor for 1429036 Ontario Inc. and Benisia Funeral Home Inc. with respect to OZ 09/012, CD.02.CRE & OPA 7.

In accordance with the Planning Act requirements, the City is required to submit the Notice of Appeal, Municipal Submission Form (including prescribed records) and appeal fee to the Ontario Municipal Board within 15 days after the Notice of Appeal is received. In order to meet this deadline, we request that you provide our office with the following information outlined on the attached Municipal Submission Form (R2) **no later than March 20, 2013.**

- **Part 4: Related Matters**
- **Part 5: By-law Information**
- **Part 6: Scheduling Information** (including the estimated number of days for the hearing)
- **Part 7: Municipal Representative Information** (Legal or Planning)
- **Part 8: Required Documentation** (include the applicable documents and information indicated by a tick)

Thank you for your co-operation.

Diana Rusnov, Deputy Clerk
Manager Legislative Services
Corporate Services Department
905-615-3200 X 5421

:mj

Att.

cc: Mary E. Bench, City Solicitor
Paulina Mikicich & Chris Rouse, Planning and Building



Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9 Canada
Tel: 416-863-2400 Fax: 416-863-2653

March 8, 2013

VIA COURIER

Ms. Crystal Greer
City Clerk
City of Mississauga
300 City Centre Drive
Mississauga, ON L5B 3C1

Gerald S. Swinkin
Partner

Dir: 416-863-5845
gerald.swinkin@blakes.com

Reference: 79959/1

RE: 1429036 Ontario Inc./Benisia Funeral Home Inc. - 3263 Derry Road East, Mississauga
Re: Appeal Against OPA 7 and Appeal Against Zoning Amendment By-law 0028-2013 and
Re: Appeal with Respect to the Failure to Deal with OPA & Zoning Amendment Application
OZ/09/012W5

Dear Ms. Greer:

Please be advised that we are counsel to 1429036 Ontario Inc., as landowner, and Benisia Funeral Home Inc., as operator, of the property at 3263 Derry Road East, in the City of Mississauga. On behalf of our clients, we are filing with you the following three Notices of Appeal by way of completed Appellant Forms (A1) for transmission to the Ontario Municipal Board in accordance with the requirements under the *Planning Act*. We are also enclosing herein by way of three separate cheques, the appeal fee for each as drawn from our firm general account and a separate cheque payable to the City for its administration fee:

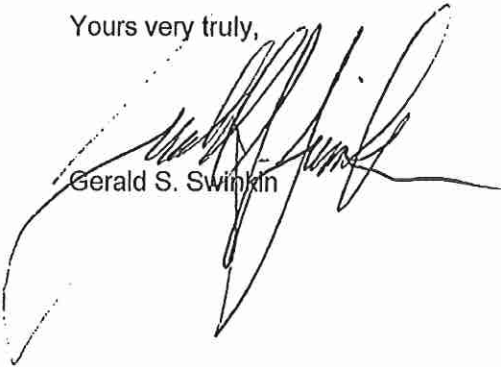
1. Notice of Appeal against OPA 7 adopted by City Council at its meeting on February 20, 2013;
2. Appeal fee cheque in the amount of \$125.00 payable to the Minister of Finance;
3. Notice of Appeal with respect to Zoning Amendment By-law 0028-2013, enacted by City Council at its meeting on February 20, 2013;
4. Appeal fee cheque in the amount of \$125.00 payable to the Minister of Finance;
5. Notice of Appeal with respect to the failure of City Council to deal with our clients' applications for Official Plan Amendment and Zoning Amendment relating to the lands at 3263 Derry Road East for the purpose of authorizing the establishment of a crematorium on the lands which was proceeding under City File OZ/09/012 W5;

6. Appeal fee cheque of \$250.00 payable to the Minister of Finance; and
7. A cheque from our firm General Account payable to the City of Mississauga in the amount of \$600.00, to cover the administration fee applied under the new Fees By-law regarding these four appeals.

We have identified in each of the Appellant Forms the cross-reference to the various matters under appeal by our clients. We trust that when you put together the required record for transmission to the Ontario Municipal Board regarding these matters that you will duly note same so that they can be managed together under a common case number and scheduled to be heard together.

In the event that you require any further or other information or material from us in order to deal with these matters, please do not hesitate to contact me.

Yours very truly,


Gerald S. Swinick

GSS/mjl
Encls.

- c. R. Benisasia
J. Johal
G. Broll
(e-mail – letter only)

22352726.1

PL 28-2013



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

City-wide
Address and/or Legal Description of property subject to the appeal:
Municipality/Upper tier: City of Mississauga, Region of Peel

Part 3: Appellant Information

First Name: _____ Last Name: _____

1429036 Ontario Inc. and Benisasia Funeral Home Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: benisasia@hotmail.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-678-0467 Alternate Telephone #: _____

Fax #: _____

Mailing Address: 3263 Derry Road East Mississauga
Street Address Apt/Suite/Unit# City/Town
ON L4T 1A8
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Gerald Last Name: Swinkin

Company Name: Blake, Cassels & Graydon LLP

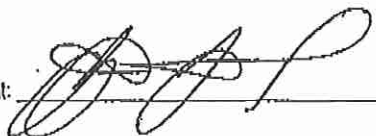
Professional Title: Barrister & Solicitor

E-mail Address: gerald.swinkin@blakes.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416-863-5845 Alternate Telephone #: _____

Fax #: 416-863-2653

Mailing Address: 199 Bay Street, Suite 4000, (P.O. Box 25, Commerce Court West), Toronto
Street Address Apt/Suite/Unit# City/Town
ON M5L 1A9
Province Country (if not Canada) Postal Code

Signature of Appellant: 

Date: 5/3/2013

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the Accessibility for Ontarians with Disabilities Act, 2005. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)
Zoning Amendment By-law 0028-2013 regarding permitted locations for a crematorium

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
With the *Funeral, Burial and Cremation Services Act, 2002* having come into force on July 1, 2012, crematoria may now be established and operated on lands which are not within a cemetery. The Appellant owns and operates a funeral establishment at 3263 Derry Road East. There is a direct connection between the business of a funeral establishment and a crematorium, and a functional advantage to the establishment of a crematorium within a funeral establishment.
The Appellant has a site specific Official Plan Amendment and Zoning By-law Amendment application in process under City File OZ/09/12W6, for the purpose of securing planning approvals to permit the establishment of a crematorium in the Appellant's funeral establishment at 3263 Derry Road East.
In order to address questions of environmental impact, the Appellant was required to submit an Environmental Impact Analysis of the proposed crematorium use. The Appellant submitted its consulting environmental engineer's report, which concluded that there would not be exceedences of the Ministry of the Environment ambient air quality standards as a result of the proposed operation of a crematorium on the site and therefore there would not be a health or environmental impact arising out of the proposed use. The City engaged a review environmental engineering consultant to review the Appellant's report. That peer review determined that the Appellant's consultant's report, subject to an update with respect to certain altered concentration standards, was modeled in accordance with accepted practice and that its conclusion as to absence of material environmental impact was sound and defensible.
The consultant's report and the peer review were in the possession of the City prior to the adoption of OPA7 and Zoning Amendment By-law 0028-2013.
The policies in OPA7 fail to recognize the functional rationale of permitting crematoria to be established within funeral establishments and fail to recognize the absence of environmental impact as a result of current incineration technologies.

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

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1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

Zoning Amendment By-law 0028-2013 regarding permitted locations for a crematorium

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

With the *Funeral, Burial and Cremation Services Act, 2002* having come into force on July 1, 2012, crematoria may now be established and operated on lands which are not within a cemetery. The Appellant owns and operates a funeral establishment at 3263 Derry Road East. There is a direct connection between the business of a funeral establishment and a crematorium, and a functional advantage to the establishment of a crematorium within a funeral establishment.

The Appellant has a site specific Official Plan Amendment and Zoning By-law Amendment application in process under City File OZ/09/12W5, for the purpose of securing planning approvals to permit the establishment of a crematorium in the Appellant's funeral establishment at 3263 Derry Road East.

In order to address questions of environmental impact, the Appellant was required to submit an Environmental Impact Analysis of the proposed crematorium use. The Appellant submitted its consulting environmental engineer's report, which concluded that there would not be exceedences of the Ministry of the Environment ambient air quality standards as a result of the proposed operation of a crematorium on the site and therefore there would not be a health or environmental impact arising out of the proposed use. The City engaged a review environmental engineering consultant to review the Appellant's report. That peer review determined that the Appellant's consultant's report, subject to an update with respect to certain altered concentration standards, was modeled in accordance with accepted practice and that its conclusion as to absence of material environmental impact was sound and defensible.

The consultant's report and the peer review were in the possession of the City prior to the adoption of OPA7 and Zoning Amendment By-law 0028-2013.

The policies in OPA7 fail to recognize the functional rationale of permitting crematoria to be established within funeral establishments and fail to recognize the absence of environmental impact as a result of current incineration technologies.

Based upon the evidence, and the rationale underlying the *Funeral, Burial and Cremation Services Act, 2002*, it is not reasonable to confine crematoria to cemeteries and to limited industrial areas within the City. It is also entirely arbitrary to establish a 300 metre separation distance from residentially zoned lands when the detailed analysis of impact does not sustain any need for such separation.

The Appellant's lands are closer to residential zoned lands than 300 metres but there is no basis to anticipate any adverse effect on the residentially zoned lands, both from an ambient air quality perspective as well as from a functional perspective since there is a watercourse which separates the Appellant's lands from the residentially zoned lands.

The policies in OPA7 and the implementation of those policies within Mississauga Zoning By-law 0025-2007 by way Amending By-law 0028-2013 are unduly restrictive and appear to be founded upon premises as to environmental impact which are not anchored in actual fact or the evidence available. The policies within Official Plan Amendment 7 should recognize funeral establishments as legitimate and appropriate locations for the establishment of crematoria in the City of Mississauga. None of the provisions of Zoning Amendment By-law 0028-2013 reflect the application of good planning principles and they should be modified to recognize crematorium use as a permitted use on lands which are zoned to permit a funeral establishment irrespective of the distance of those lands from residentially zoned lands.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO
Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
Zoning Amendment By-law 0028-2013, which is being simultaneously appealed by the Appellants and Private application for OPA zoning amendment under File OZ/09/12W5

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Three

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):

Consulting land use planner, consulting environmental engineer

Do you believe this matter would benefit from mediation?

(Mediation is generally scheduled only when all parties agree to participate)

YES

NO

Do you believe this matter would benefit from a prehearing conference?

(Prehearing conferences are generally not scheduled for variances or consents)

YES

NO

If yes, why?

To focus the issues and to provide for pre-hearing exchange of evidence

Part 9: Other Applicable Information **Attach a separate page if more space is required.

[Empty table area for Part 9]

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method:

Certified cheque

Money Order

Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

City-wide
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of Mississauga, Region of Peel

Part 3: Appellant Information

First Name: _____ Last Name: _____

1429036 Ontario Inc. and Benisasia Funeral Home Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: benisasia@hotmail.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-678-0467 Alternate Telephone #: _____

Fax #: _____

Mailing Address: 3263 Derry Road East Mississauga
Street Address Apt/Suite/Unit# City/Town
ON L4T 1A8
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Gerald Last Name: Swinkin

Company Name: Blake, Cassels & Graydon LLP


Professional Title: Barrister & Solicitor

E-mail Address: gerald.swinkin@blakes.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416-863-5845 Alternate Telephone #: _____

Fax #: 416-863-2653

Mailing Address: 199 Bay Street, Suite 4000, (P.O. Box 25, Commerce Court West), Toronto
Street Address Apt/Suite/Unit# City/Town
ON M5L 1A9
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: 5/8/2013

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

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Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

OPA 7 – Regulation of Crematoriums

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable), **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
With the *Funeral, Burial and Cremation Services Act, 2002* having come into force on July 1, 2012, crematoria may now be established and operated on lands which are not within a cemetery. The Appellant owns and operates a funeral establishment at 3263 Derry Road East. There is a direct connection between the business of a funeral establishment and a crematorium, and a functional advantage to the establishment of a crematorium within a funeral establishment.

The Appellant has a site specific Official Plan Amendment and Zoning By-law Amendment application in process under City File OZ/09/12W6, for the purpose of securing planning approvals to permit the establishment of a crematorium in the Appellant's funeral establishment at 3263 Derry Road East.

In order to address questions of environmental impact, the Appellant was required to submit an Environmental Impact Analysis of the proposed crematorium use. The Appellant submitted its consulting environmental engineer's report, which concluded that there would not be exceedences of the Ministry of the Environment ambient air quality standards as a result of the proposed operation of a crematorium on the site and therefore there would not be a health or environmental impact arising out of the proposed use. The City engaged a review environmental engineering consultant to review the Appellant's report. That peer review determined that the Appellant's consultant's report, subject to an update with respect to certain altered concentration standards, was modeled in accordance with accepted practice and that its conclusion as to absence of material environmental impact was sound and defensible.

The consultant's report and the peer review were in the possession of the City prior to the adoption of OPA7 and Zoning Amendment By-law.0028-2013.

The policies in OPA7 fail to recognize the functional rationale of permitting crematoria to be established within funeral establishments and fail to recognize the absence of environmental impact as a result of current incineration technologies.

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

OPA 7 – Regulation of Crematoriums

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
With the *Funeral, Burial and Cremation Services Act, 2002* having come into force on July 1, 2012, crematoria may now be established and operated on lands which are not within a cemetery. The Appellant owns and operates a funeral establishment at 3263 Derry Road East. There is a direct connection between the business of a funeral establishment and a crematorium, and a functional advantage to the establishment of a crematorium within a funeral establishment.

The Appellant has a site specific Official Plan Amendment and Zoning By-law Amendment application in process under City File OZ/09/12W5, for the purpose of securing planning approvals to permit the establishment of a crematorium in the Appellant's funeral establishment at 3263 Derry Road East.

In order to address questions of environmental impact, the Appellant was required to submit an Environmental Impact Analysis of the proposed crematorium use. The Appellant submitted its consulting environmental engineer's report, which concluded that there would not be exceedences of the Ministry of the Environment ambient air quality standards as a result of the proposed operation of a crematorium on the site and therefore there would not be a health or environmental impact arising out of the proposed use. The City engaged a review environmental engineering consultant to review the Appellant's report. That peer review determined that the Appellant's consultant's report, subject to an update with respect to certain altered concentration standards, was modeled in accordance with accepted practice and that its conclusion as to absence of material environmental impact was sound and defensible.

The consultant's report and the peer review were in the possession of the City prior to the adoption of OPA7 and Zoning Amendment By-law 0028-2013.

The policies in OPA7 fail to recognize the functional rationale of permitting crematoria to be established within funeral establishments and fail to recognize the absence of environmental impact as a result of current incineration technologies.

Based upon the evidence, and the rationale underlying the *Funeral, Burial and Cremation Services Act, 2002*, it is not reasonable to confine crematoria to cemeteries and to limited industrial areas within the City. It is also entirely arbitrary to establish a 300 metre separation distance from residentially zoned lands when the detailed analysis of impact does not sustain any need for such separation.

The Appellant's lands are closer to residential zoned lands than 300 metres but there is no basis to anticipate any adverse effect on the residentially zoned lands, both from an ambient air quality perspective as well as from a functional perspective since there is a watercourse which separates the Appellant's lands from the residentially zoned lands.

The policies in OPA7 and the implementation of those policies within Mississauga Zoning By-law 0025-2007 by way Amending By-law 0028-2013 are unduly restrictive and appear to be founded upon premises as to environmental impact which are not anchored in actual fact or the evidence available. The policies within Official Plan Amendment 7 should recognize funeral establishments as legitimate and appropriate locations for the establishment of crematoria in the City of Mississauga. None of the provisions of Zoning Amendment By-law 0028-2013 reflect the application of good planning principles and they should be modified to recognize crematorium use as a permitted use on lands which are zoned to permit a funeral establishment irrespective of the distance of those lands from residentially zoned lands.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:

**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO
Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
Zoning Amendment By-law 0028-2013, which is being simultaneously appealed by the Appellants and Private application for OPA and zoning amendment under File OZ/09/12W5

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Three

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Consulting land use planner, consulting environmental engineer

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____ To focus the issues and to provide for pre-hearing exchange of evidence

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

07-09-12
02/29/12



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input checked="" type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

City-wide
Address and/or Legal Description of property subject to the appeal:
Municipality/Upper tier: City of Mississauga, Region of Peel

Part 3: Appellant Information

First Name: _____ Last Name: _____
1429036 Ontario Inc. and Benisasia Funeral Home Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)
Professional Title (if applicable): _____
E-mail Address: benisasia@hotmail.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-678-0467 Alternate Telephone #: _____
Fax #: _____

Mailing Address: 3263 Derry Road East Mississauga
Street Address Apt/Suite/Unit# City/Town
ON L4T 1A8
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Gerald Last Name: Swinkin
Company Name: Blake, Cassels & Graydon LLP
Professional Title: Barrister & Solicitor
E-mail Address: gerald.swinkin@blakes.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.
Daytime Telephone #: 416-863-5845 Alternate Telephone #: _____

Fax #: 416-863-2653
Mailing Address: 199 Bay Street, Suite 4000, (P.O. Box 25, Commerce Court West), Toronto
Street Address Apt/Suite/Unit# City/Town
ON M5L 1A9
Province Country (if not Canada) Postal Code

Signature of Appellant: [Handwritten Signature] Date: 5/3/2013

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the Accessibility for Ontarians with Disabilities Act, 2005. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)
Official Plan Amendment and Zoning By-law Amendment application -- File OZ/09/012/W6

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
The Appellant filed its applications for Official Plan Amendment and Zoning amendment to permit a crematorium use on the subject lands on August 24, 2009 and the application was certified by City staff as complete on September 16, 2009. Although a Community Meeting was held on May 5, 2011 and the application was the subject matter of an Information Report to Planning and Development Committee at its meeting on September 6, 2011, there has been no further formal dealing with the application by the City since that time. The Appellant has filed with the City the various reports requested to explain and justify the proposal. Specifically, the Appellant has filed with the City an Emission summary and Dispersion Modeling report prepared by RWDI Air Inc. dated August 10, 2010, which report has now been Peer Reviewed by the Engineering consulting firm of SENES Consultants Limited retained by the City of Mississauga, who has provided a confirming report to the City dated January 21, 2013, which essentially corroborates the view expressed by the Appellant's consultants that there is not anticipated to be any environmental impacts as a result of the proposed establishment of a crematorium on these lands. Apart from the matter of potential environmental impact, no other issues of materiality have been identified through the course of the agency circulation. Through a parallel process, city council has adopted OPA 7 and enacted an amendment to the City Zoning by-law by way of Zoning Amendment By-law 0028-2013, both of which deal with permitted locations for the establishment of crematoria. The adopted policy and enacted zoning amendment failed to take account of the Appellant's proposal and have been appealed by the Appellant.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

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Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

Official Plan Amendment and Zoning By-law Amendment application – File OZ/09/012 W5

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

The Appellant filed its applications for Official Plan Amendment and Zoning amendment to permit a crematorium use on the subject lands on August 24, 2009 and the application was certified by City staff as complete on September 16, 2009. Although a Community Meeting was held on May 5, 2011 and the application was the subject matter of an Information Report to Planning and Development Committee at its meeting on September 6, 2011, there has been no further formal dealing with the application by the City since that time. The Appellant has filed with the City the various reports requested to explain and justify the proposal. Specifically, the Appellant has filed with the City an Emission summary and Dispersion Modeling report prepared by RWDI Air Inc. dated August 10, 2010, which report has now been Peer Reviewed by the Engineering consulting firm of SENES Consultants Limited retained by the City of Mississauga, who has provided a confirming report to the City dated January 21, 2013, which essentially corroborates the view expressed by the Appellant's consultants that there is not anticipated to be any environmental impacts as a result of the proposed establishment of a crematorium on these lands. Apart from the matter of potential environmental impact, no other issues of materiality have been identified through the course of the agency circulation. Through a parallel process, city council has adopted OPA 7 and enacted an amendment to the City Zoning by-law by way of Zoning Amendment By-law 0028-2013, both of which deal with permitted locations for the establishment of crematoria. The adopted policy and enacted zoning amendment failed to take account of the Appellant's proposal and have been appealed by the Appellant.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: AUGUST 24, 2009 – CERTIFIED COMPLETE SEPTEMBER 16, 2009

(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:

**If more space is required, please continue in Part 9 or attach a separate page.

The subject lands are presently zoned C3 under Mississauga Zoning By-law 0225-2007, which permits a funeral establishment. The Appellant operates a funeral establishment on the lands and proposes to introduce a crematorium to the facility. The requested amendment seeks to create an exception provision which will expressly permit use of the lands for a crematorium as part of the funeral establishment. The lands affected are part of Block A on Registered Plan 470 municipally known as 3263 Derry Road East.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
 (For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
 OPA7 and Zoning Amendment By-law 0028-2013, both of which are being appealed by the Appellant.

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
 Three

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
 Consulting land use planner, consulting environmental engineer

Do you believe this matter would benefit from mediation? YES NO
 (Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
 (Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____ To narrow and define issues and to provide for pre-hearing exchange of evidence

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ 250.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.



File Number: OPA 7
Municipality: City of Mississauga
Subject Lands: The lands affected by this amendment are all lands within the City of Mississauga and lands designated "Industrial" in the Gateway and Northeast Employment Character Areas located east of Kennedy Road and North of Eglinton Avenue East. (Regulation of Crematoriums)
Date of Decision: February 20, 2013
Date of Notice: February 22, 2013
Last Date of Appeal: March 14, 2013

NOTICE OF DECISION
With respect to an Official Plan Amendment
Subsection 17(23) of the Planning Act
BILL 51

A decision was made on the date noted above to approve all of Amendment Number 7 to the Mississauga Plan (Official Plan) Amendment for the City of Mississauga as adopted by By-law 0029-2013.

Purpose and Effect of the Official Plan Amendment

The purpose of this amendment is to introduce policy criteria in Section 6.6 Air Quality to be applied in the evaluation of development proposals for crematoriums. This amendment was prepared in response to the *Funeral, Burial and Cremation Services Act, 2002* which allows crematoriums outside of cemeteries. The policies are intended to ensure that new crematoriums or the expansion of existing crematoriums do not impact sensitive land uses or the long-term planned function of surrounding lands.

The amendment also amends Mississauga Official Plan to allow a crematorium as a permitted use on lands designated "Industrial" in the Gateway and Northeast Employment Character Area Policies. A copy of By-Law 0029-2013 adopting this Amendment is attached.

When and How to File An Appeal

Any appeal to the Ontario Municipal Board must be filed with the City of Mississauga no later than 20 days from the date of this notice as shown above as the last date of appeal.

The appeal should be sent to the attention of the City Clerk, at the address shown below and it must,

- (1) set out the specific part of the proposed official plan amendment to which the appeal applies.
- (2) set out the reasons for the request for the appeal, and
- (3) be accompanied by the fee prescribed under the Ontario Municipal Board Act in the amount of \$125.00 payable by certified cheque or money order to the Minister of Finance, Province of Ontario.
- (4) be accompanied by an administration fee of \$150.00, payable by Certified Cheque to the Treasurer of City of Mississauga.

If you wish to appeal to the OMB a copy of an appeal form is available from the OMB website at www.omb.gov.ca

Who Can File an Appeal

Only individuals, corporations or public bodies may appeal a decision of the City of Mississauga to the Ontario Municipal Board. A notice of appeal may not be made by an unincorporated association or group. However, a notice of appeal may be made in the name of an individual who is a member of the association or the group on its behalf.

No person or public body shall be added as a party to the hearing of the appeal unless, before the plan was adopted, the person or public body made oral submissions at a public meeting or written submissions to the council or, in the opinion of the Ontario Municipal Board, there are reasonable grounds to add the person or public body as a party.

When the Decision Is Final

The proposed official plan amendment is exempt from approval by the Regional Municipality of Peel. The decision of the City of Mississauga is final if a Notice of Appeal is not received on or before the last date of appeal noted above.

Getting Additional Information

Additional information about this amendment is available for public inspection during regular office hours at the City of Mississauga at the address noted below or from Paulina Mikicich of the City of Mississauga, Planning and Building Department at (905) 615-3200 X-5514.

Mailing Address for Filing a Notice of Appeal

City of Mississauga
Office of the City Clerk
300 City Centre Drive
MISSISSAUGA ON L5B 3C1

Amendment No. 7

to

Mississauga Official Plan

for the

City of Mississauga Planning Area

By-law No 29-2013

A by-law to Adopt Mississauga Official Plan Amendment No. 7.

WHEREAS in accordance with the provisions of sections 17 or 22 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, Council may adopt an Official Plan or an amendment thereto;

AND WHEREAS, pursuant to section 17(10) of the *Planning Act*, the Ministry of Municipal Affairs and Housing may authorize an approval authority to exempt from its approval any or all proposed Local Municipal Official Plan Amendments;

AND WHEREAS, the Minister of Municipal Affairs and Housing has authorized the Region of Peel to exempt Local Municipal Official Plan Amendments;

AND WHEREAS, on January 27, 2000, Regional Council passed By-law Number 1-2000 which exempted all Local Municipal Official Plan Amendments adopted by local councils after March 1, 2000, provided that they conform with the Regional Official Plan and comply with conditions of exemption;

AND WHEREAS, the Commissioner of Public Works for the Region of Peel has advised that, with regard to Amendment No. 7, in his opinion the amendment conforms with the Regional Official Plan and is exempted;

NOW THEREFORE the Council of The Corporation of the City of Mississauga ENACTS as follows:

1. The following text attached hereto, constituting Amendment No. 7 to Mississauga Official Plan, specifically Section 6.6 Air Quality, Section 17.5 Gateway Employment Character Area and Section 17.8 Northeast Employment Character Area Policies of Mississauga Official Plan, of the City of Mississauga Planning Area, are hereby adopted.

ENACTED and PASSED this 20th day of FEBRUARY, 2013.

ORIGINAL SIGNED BY
HAZEL MCCALLION

Signed _____
MAYOR

Signed Crystal Green
CLERK

Amendment No. 7

to

Mississauga Official Plan

for the

City of Mississauga Planning Area

The following text attached hereto constitutes Amendment No. 7.

Also attached hereto but not constituting part of the Amendment are Appendices I and II.

Appendix I is a description of the Public Meeting held in connection with this Amendment.

Appendix II is a copy of the Planning and Building Department report dated October 30, 2012, pertaining to this Amendment.

PURPOSE

The purpose of this Amendment is to introduce policy criteria in Section 6.6 Air Quality to be applied in the evaluation of development proposals for crematoriums. This amendment was prepared in response to the *Funeral, Burial and Cremation Services Act, 2002* which allows crematoriums outside of cemeteries. The policies are intended to ensure that new crematoriums or the expansion of existing crematoriums do not impact sensitive land uses or the long-term planned function of surrounding lands.

The amendment also amends Mississauga Official Plan to allow a crematorium as a permitted use on lands designated "Industrial" in the Gateway and Northeast Employment Character Area Policies.

LOCATION

The lands affected by this amendment are all lands within the City of Mississauga and lands designated "Industrial" in the Gateway and Northeast Employment Character Areas located east of Kennedy Road and north of Eglinton Avenue East.

BASIS

Crematoriums will continue to be a permitted use in conjunction with a cemetery on lands designated Open Space or Parkway Belt. This amendment will allow crematoriums as a permitted use on lands designated "Industrial" in the Gateway and Northeast Employment Character Areas. This amendment also introduces policy criteria to be taken into consideration when evaluating crematorium proposals in locations where such development is not permitted as-of-right.

Mississauga Official Plan came into effect on November 14, 2012, save and except for those policies and land use designations still under appeal to the Ontario Municipal Board. The subject policies are not under appeal.

The proposed Amendment is acceptable from a planning standpoint in that it ensures that new crematorium development:

1. Is consistent with Provincial legislation;
2. Is situated in appropriate locations and compatible with adjacent lands; and
3. Minimizes impacts to sensitive land uses and the long-term planned function of surrounding lands.

Details regarding this Amendment to Mississauga Official Plan are contained in the Planning and Building Report dated October 30, 2012, attached to this Amendment as Appendix II.

DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

1. Section 6.6 Air Quality of Mississauga Official Plan, is hereby amended by adding the following subsection:

6.6.6 Development proposals for a crematorium facility may be considered subject to the following:

- air, noise, dust, odour and other fugitive emissions are appropriately mitigated at the source in accordance with Provincial requirements;
- sensitive land uses are not located within the area of influence of the proposed facility;
- there is no impact to the long-term planned function or viability of the surrounding lands;
- the proposed development is not located within a multi-unit building;
- the scattering or interment of human remains is not permitted, except in cemeteries;
- the development is appropriately screened from adjacent uses and the public realm; and
- the site is appropriately buffered and landscaped.

2. Section 17.5 Gateway Employment Character Area is amended by adding the following subsection:

17.5.1.3 Notwithstanding the Industrial policies of this Plan, the following use will also be permitted subject to a rezoning:

- a. crematorium.

3. Section 17.8 Northeast Employment Character Area is amended by adding the following subsection:

17.8.1.3 Notwithstanding the Industrial policies of this Plan, the following use will also be permitted subject to a rezoning:

- a. crematorium.

IMPLEMENTATION

Upon the approval of this Amendment by the City of Mississauga, the Mississauga Official Plan will be amended in accordance with this Amendment.

INTERPRETATION

The provisions of the Mississauga Official Plan, as amended from time to time regarding the interpretation of that Plan, shall apply in regard to this Amendment.

This Amendment supplements the intent and policies of the Mississauga Official Plan.

Upon approval of this Amendment, the various Sections, will be amended in accordance with this Amendment, subject to technical revisions being permitted to this Amendment without official plan amendments with respect to: changing the numbering, cross-referencing and arrangement of the text, tables, schedules and maps; altering punctuation or language for consistency; and correcting grammatical, dimensional and boundary, mathematical or typographical errors, provided that the purpose, effect, intent, meaning and substance of this Amendment are in no way affected.

APPENDIX I

PUBLIC MEETING

All property owners within the City of Mississauga were invited to attend a Public Meeting of the Planning and Development Committee held on May 14, 2012 in connection with this proposed Amendment.

At the Public Meeting, residents, existing crematorium operators, and a development proponent stated their opinions with the proposal. Residents were in support of the proposed amendment. Crematorium operators were concerned about the impact of the amendments on their existing operations or possible future expansions. One development proponent was concerned that the proposed amendment would impact their active development application.

The comments were addressed in the Planning and Building Report dated October 30, 2012 attached as Appendix II to this amendment.



Corporate Report

Clerk's Files

Originator's
Files

CD.02.CRE

PDC NOV 19 2012

DATE: October 30, 2012

TO: Chair and Members of Planning and Development Committee
Meeting Date: November 19, 2012

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: Proposed Amendments to Mississauga Official Plan (2011) and
Zoning By-law 0225-2007 respecting Crematoriums – Report on
Comments

RECOMMENDATION: That the official plan and zoning amendments proposed in the report titled "Proposed Amendments to Mississauga Official Plan (2011) and Zoning By-law 0225-2007 respecting Crematoriums – Report on Comments" dated October 30, 2012 from the Commissioner of Planning and Building, be approved.

**REPORT
HIGHLIGHTS:**

- A public meeting was held on May 14, 2012 to hear comments regarding the proposed official plan and zoning amendments regarding crematoriums. Where appropriate, the proposed amendments have been revised in response to comments and issues raised;
- The recommendations regarding Mississauga Official Plan (2011) propose to:
 - continue to permit crematoriums in conjunction with a cemetery on lands designated "Open Space" and "Parkway Belt West";

- allow crematoriums on lands designated “Industrial” in the Gateway and Northeast Employment Character Areas; and
 - introduce a new policy which identifies criteria to be taken into consideration when evaluating development proposals for a crematorium facility.
- The amendment to Zoning By-law 0225-2007 proposes to:
 - introduces a 300 m (985 ft) minimum separation distance between a crematorium and a Residential Zone, Mainstreet Commercial Zone and City Centre Zone; and
 - remove as-of-right zoning permissions for a crematorium on lands zoned PB2.

BACKGROUND:

On April 11, 2012 City Council considered the report titled, “*Funeral, Burial and Cremation Services Act, 2002 - Proposed Official Plan and Zoning By-law Amendments Respecting Crematoriums*” dated March 13, 2012 (Appendix 1), from the Commissioner of Planning and Building and directed that a public meeting be held to consider proposed official plan and zoning amendments as recommended in the report.

The statutory public meeting, to fulfill the requirements of the *Planning Act*, was held by the Planning and Development Committee on May 14, 2012. The meeting was attended by residents, existing crematorium operators, owners of industrial/employment lands and/or their representatives.

At its meeting of May 23, 2012 City Council adopted the following recommendations:

1. That the submissions made at the public meeting held at the Planning and Development Committee meeting on May 14, 2012 to consider the proposed Mississauga Official Plan and Zoning By-law amendments respecting crematoriums, be received.

That Planning and Building Department staff report back on the submissions made with respect to the proposed Mississauga Official Plan and Zoning By-law amendments respecting crematoriums as outlined in the report attached as Appendix 1.

2. That the following correspondence be received:
 - (a) Letter dated March 23, 2012 from The Concerned Citizens of Malton;
 - (b) Letter dated April 25, 2012 from Leo Klug, Barrister & Solicitor;
 - (c) Letter dated May 9, 2012 and attachment dated April 2, 2012, from John B. Keyser, Barrister & Solicitor, Keyser Mason Ball, LLP; and
 - (d) Letter dated May 10, 2012 from Philip Stewart, Pound and Steward Planning Consultants.

Subsequent to the public meeting the following correspondence was received:

1. Letter dated May 24, 2012 from Mike Everard, Augusta National Inc., on behalf of Catholic Cemeteries Archdiocese of Toronto, registered owner of Assumption Cemetery, 6933 Tomken Road;
2. Letter dated July 23, 2012 from Philip Stewart, Pound and Steward Planning Consultants, on behalf of Orlando Corporation;
3. Written submission (undated) from Charles A. Barclay, The Concerned Citizens of Malton; and
4. Written Submission dated September 12, 2012 from Marjorie Austin, 4058 Justine Drive re Benisasia Funeral Home dated September 12, 2012.

This report highlights the comments received at the public meeting and through written correspondence. Written correspondence is attached as Appendix 2 to this report. Appendix 3 contains a table identifying the issues raised and staff's response. Where appropriate, revisions are proposed to the draft Mississauga Official Plan amendment and zoning by-law amendment to address these concerns.

Based on the comments received, the proposed changes to the amendments presented at the public meeting are as follows:

- remove proposed as-of-right zoning permission for crematoriums on lands zoned E3 (Industrial Zone) and designated “Industrial” in the Gateway and Northeast Employment Character Areas;
- continue to permit crematoriums in conjunction with a cemetery on lands designated “Parkway Belt West”;
- amend Mississauga Official Plan (2011) to include policies to guide development applications, including but not limited to rezonings, for crematorium purposes; and
- require a minimum separation distance of 300 m (985 ft.) between a crematorium and a Residential Zone, Mainstreet Commercial Zone and City Centre Zone.

COMMENTS:

The proposed planning amendments respond to the *Funeral, Burial and Cremation Services Act*, 2002 which came into effect on July 1, 2012. They address City Council’s concerns about potential land use conflicts between crematoriums and sensitive land uses and identify appropriate locations and conditions of approval for these facilities. Appendix 4 outlines the proposed amendments to Mississauga Official Plan (2011) and Zoning By-law 0225-2007.

Proposed Amendment to Mississauga Official Plan (2011)

Crematoriums are permitted in Mississauga Official Plan on lands designated “Open Space” in conjunction with a cemetery. No change is proposed to these policies.

A cemetery, which may include a crematorium, is also permitted under the “Parkway Belt West” designation through the Parkway Belt West Plan. The Parkway Belt is intended to be a multi-use corridor, urban separator and linked open space system. Cemeteries can

contribute to the open space system if the lands are not required for another purpose. Where a cemetery is found to be a desirable and viable use, a crematorium may be considered.

A policy is proposed to be added to the Gateway and Northeast Employment Character Areas to permit a crematorium on lands designated "Industrial".

As a result of concerns raised about potential impacts associated with the introduction of crematorium uses, particularly as-of-right outside of cemeteries, it is proposed that a new policy be added to Mississauga Official Plan which sets out air quality and other criteria to be considered through the evaluation of development proposals for a crematorium facility. These criteria were derived from research obtained to date and public comments. The advantage to this approach is twofold. First, through its ability to approve a change in use (e.g. rezoning), the municipality can attach conditions of approval which address contextual issues. Second, the applicant also has the ability to demonstrate the actual area of influence associated with a proposed facility and design appropriate mitigating measures.

Proposed Zoning By-law Amendment

The proposed zoning by-law amendment has been revised to require a minimum separation distance of 300 m (985 ft.) between a crematorium and a Residential Zone, Mainstreet Commercial Zone and City Centre. Under the provincial guidelines, residential uses are deemed to be the most sensitive. They include residential dwellings, schools, and daycares permitted in residential zones and mixed commercial-residential development permitted in Mainstreet Commercial and City Centre Zones. Parks and natural areas are not included in the zoning by-law amendment but may be identified as a sensitive land use when a change in use is contemplated under a rezoning application.

The proposed amendments recognize that emissions from industrial activities impact an area greater than the crematorium property. On the basis of available information, a crematorium facility can be categorized as a Type II facility based on the D6 guidelines with a “potential” area of influence ranging from 70 m (230 ft.) to 300 m (985 ft.). In an abundance of caution, a minimum separation distance of 300 m (985 ft.) is proposed as a buffer between a crematorium and a sensitive land use since the “actual” area of influence associated with a specific crematorium is not known.

There is only one property designated “Parkway Belt West” and zoned PB2 (Parkway Belt) which permits a cemetery as-of-right. It is located on the east side of Ninth Line south of the Highway 401. (See Appendix 6.) Because the lands on the west side of Ninth Line fall within a special study area, which may or may not allow sensitive land uses in the future, it is appropriate to remove the as-right zoning permission for crematoriums in conjunction with a cemetery on lands zoned PB2. In the event that a crematorium was proposed for this site, it would be evaluated through a site specific rezoning.

No change is proposed to lands zoned E2-93 located in Western Business Park across from Glen Oaks Cemetery and Crematorium in Oakville. This property permits a cemetery including a crematorium and appears to meet the proposed minimum separation distance requirement.

Effect of the Proposed Amendments

Crematoriums continue to remain a permitted use in conjunction with a cemetery. The proposed official plan amendments do not impact the existing and recently approved cremation operations at Assumption Cemetery and St. John’s Dixie Cemetery. However, the zoning by-law amendment will render the St. John’s Dixie site legal non-conforming with respect to the minimum distance separation.

Subject to a site specific rezoning, a crematorium could be established within a cemetery in the Parkway Belt and as a stand alone use on lands designated "Industrial" in the Gateway and Northeast Employment Character Areas. The establishment of new crematoriums or building expansions of existing crematoriums will be subject to the minimum separation distance requirement.

In a developed municipality such as Mississauga, where large vacant land parcels are limited, the development of a new cemetery is not without its challenges. To address the growing demand for alternative disposition methods, staff has identified appropriate locations for crematoriums outside cemeteries. Industrial lands within the Gateway and Northeast Employment Character Areas may be most suitable for this purpose provided that any potential adverse or land use impacts can be addressed through a rezoning.

STRATEGIC PLAN: Providing Mississauga residents with greater consumer choice in bereavement services indirectly supports the following Strategic Goals:

- Completing our Communities under the Connect Pillar; and
- Nurture Diverse Cultures under the Belong Pillar.

FINANCIAL IMPACT: Not applicable

CONCLUSION: Due to the growing demand for cremation services and limited supply of land for traditional burial grounds, consideration was given to permitting the establishment of crematoriums outside of cemeteries. While cemeteries remain the preferred location for crematoriums, it was determined that lands designated "Industrial" in the Gateway and Northeast Employment Character Areas would be a suitable location for crematoriums provided that they are situated sufficiently away from sensitive land uses and do not impact the planned function of other employment lands. The proposed amendments address these municipal objectives and are in keeping with the spirit and intent of the new *Funeral, Burial and Cremation Services Act*.

- ATTACHMENTS:**
- Appendix 1: Corporate Report dated March 13, 2012 titled
“*Funeral, Burial and Cremation Services Act, 2002 – Proposed Mississauga Official Plan and Zoning By-law Amendments Respecting Crematoriums*”
 - Appendix 2: Written Comments Received
 - Appendix 3 Proposed Amendments to Mississauga Official Plan (2011) and Zoning By-law 0225-2007 respecting Crematoriums - Response to Comments
 - Appendix 4: Proposed Mississauga Official Plan (2011) Amendment Re Crematoriums / Proposed Zoning By-law 0225-2007 Amendment re Crematoriums
 - Appendix 5: Map – Lands Designated “Industrial” in the Gateway and Northeast Employment Character Areas Where New Crematoriums May Be Considered Subject to a Site Specific Rezoning
 - Appendix 6: Map – Lands Zoned as PB2



Edward R. Sajecki
Commissioner of Planning and Building

Prepared By: Paulina Mikicich, Planner, Policy Planning Division





Corporate Report

Clerk's Files

Originator's Files CD.02-CRE

PDC APR 2 2012

DATE: March 13, 2012

TO: Chair and Members of Planning and Development Committee
Meeting Date: April 2, 2012

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: *Funeral, Burial and Cremation Services Act, 2002 - Proposed Mississauga Official Plan and Zoning By-law Amendments Respecting Crematoriums*

RECOMMENDATION: That a public meeting be held to consider proposed official plan and zoning amendments as recommended in the report titled "*Funeral, Burial and Cremation Services Act, 2002 - Proposed Official Plan and Zoning By-law Amendments Respecting Crematoriums*" dated March 13, 2012, from the Commissioner of Planning and Building.

BACKGROUND: Currently, the Province of Ontario licences all funeral homes, crematoriums and cemeteries under the *Cemeteries Act (Revised)*, and the *Funeral Directors and Establishments Act*. The legislation permits crematoriums only in cemeteries. On July 1, 2012, the *Funeral, Burial and Cremation Services Act, 2002* will come into effect and establish a new regulatory framework for most of the bereavement sector, including crematoriums. The new legislation will allow applications for a licence to operate a crematorium outside of a cemetery. Crematoriums currently require and will continue to require, a Certificate of Approval from the Ministry of the Environment (MOE) to ensure the environment is not adversely affected.

City Council has expressed concerns about potential land use conflicts between new crematoriums and residential uses. At its meeting of October 12, 2011, City Council passed Resolution 0237-2011 requesting that the Province amend the *Funeral, Burial and Cremation Services Act, 2002* to establish minimum separation distances from proposed crematoriums to sensitive land uses. That resolution also directed that the Commissioner of Planning and Building undertake a study to review the official plan policies and zoning by-law provisions with respect to the *Funeral, Burial and Crematorium Services Act, 2002*.

This report examines the land use planning implications and the potential health impacts of the *Funeral, Burial and Crematorium Services Act, 2002* and proposes revised official plan and zoning regulations to guide the location of crematoriums.

PRESENT STATUS: Existing Official Plan and Zoning Provisions

The existing and new official plan - Mississauga Plan (2003) and Mississauga Official Plan (2011) – restrict crematoriums to cemeteries. Cemeteries are only permitted on lands designated “Open Space” or “Parkway Belt West”.

Zoning By-law 0225-2007, as amended, defines a “cemetery” as land used or intended to be used for the interment of human remains and which may include a crematorium. A crematorium is defined as “a building, structure or part thereof used for the purposes of the cremation of human remains”.

Cemeteries are allowed in the following zones:

- OS3 (Open Space Zone 3), with the exception of zones OS3-1, OS3-2, OS3-4, OS3-5 and OS3-7 which do not permit crematoriums and mausoleums;
- PB2 (Parkway Belt Zone 2); and
- E2-93 (Employment Zone 2, Exception 93) (NE corner of Ninth Line and Dundas Street in Western Business Park Employment Area).

Existing and Proposed Burial and Cremation Facilities

Appendix 1 shows the location of existing cemeteries and crematoriums in Mississauga. The City owns and operates nine cemeteries of which four remain currently active in that burial interments or columbarium niches for cremated remains are available for sale. The perpetual upkeep, maintenance and long term operation of closed or abandoned cemeteries can be mandated in Ontario to the municipality and several of the City's cemeteries were assumed in this manner. An additional 15 cemeteries are privately-operated or affiliated with a religious congregation.

There are two crematorium facilities in Mississauga. These are Assumption Cemetery and Crematorium (#4) located at 6933 Tomken Road and operated by the Catholic Archdiocese of Toronto, and St. John's Cemetery and Crematorium located at 737 Dundas Street East (#1) and operated by St. John's Dixie Anglican Church.

Two additional crematoriums are located just outside the city limits - Glen Oaks Cemetery (#3) in Oakville and the Meadowvale Cemetery (#2) in Brampton. The City of Brampton recently approved an Official Plan amendment and rezoning application to permit a cemetery, crematorium and a funeral visitation centre at 10 Bramwin Court (#5) on lands designated and zoned "Industrial".

On August 24, 2009, Benisia Funeral Home (1429036 Ontario Limited) submitted Official Plan amendment and rezoning applications under File OZ 09/012 W5 to permit a crematorium in the existing funeral home located at 3263 Derry Road East (#6). A public meeting on the application was held on September 6, 2011.

COMMENTS:

Municipal Policy Responses

The Minister of Consumer Services has confirmed that a licence for a crematorium will not be granted by the Province until municipal approvals have been obtained (see Appendix 2). The *Funeral, Burial and Cremation Services Act, 2002* does not override the City's existing Official Plan and Zoning By-law which is based on existing legislation and restricts crematoriums to cemeteries. There is no requirement to amend municipal policies and regulations to conform to the new Act.

City staff consulted with staff from Toronto, Hamilton, Ottawa, Oakville, Waterloo, and Brampton to determine whether or not they were amending their municipal regulations concerning crematoriums in response to the new Act. At this point in time, none of these municipalities are proposing to amend municipal official plan and zoning regulations to permit crematoriums as-of-right outside of cemeteries. The recently approved crematorium in an industrial area in Brampton was considered under the existing legislative framework.

While the new Act does not require municipalities to expand the areas in which crematoriums may locate, the legislation was updated to be more responsive to consumer needs and to provide increased options for bereavement services. If the City chooses to maintain the status quo, it will have to evaluate each crematorium proposal on an individual basis in the absence of policies that meet the intent of the new provincial legislation. Without examining this matter on a city-wide basis, the City could be vulnerable to site specific appeals at the Ontario Municipal Board.

Demand for Cremation Services

In recent years, the demand for cremation has grown significantly. In 1995, 36% of deaths in Ontario resulted in cremation. Today, approximately 70% of deaths result in cremation.¹ The shift towards cremation is due to a variety of factors including: reduced land requirements; lower costs; religious/cultural beliefs; the desire for portability of the remains; and, a perceived lower impact on the environment. Mississauga has a culturally diverse and aging population and it is expected that many residents will choose cremation services.

Recommendation No. 43 of the City's Community Services Future Directions Report states that "the City should through its Cemetery Operations Business Analysis, continue to consider the needs and options for a new cemetery and other initiatives that can meet current trends in the bereavement industry and the cultural preferences of its residents."

¹ *Projection 2010 Figure 65%+, Cremation Association of North America (CANA)*

In view of the growing demand for cremation and the expanded Provincial licensing provisions for crematoriums, it is appropriate to examine municipal provisions regarding locations for crematoriums.

Planning Considerations

The two crematoriums operating in Mississauga are located in cemeteries. Assumption Cemetery is designated "Private Open Space" and is located within an Employment Area in the Northeast Character Area. St. John's Dixie is designated "Private Open Space" and located in the Applewood Neighbourhood Character Area. Both of these locations provide a range of funeral services and disposition options including cremation. They are situated in park-like settings and offer quiet contemplative focal areas for remembrance. While there have been no major concerns with existing crematoriums in cemeteries, any expansions should be subject to the same policy framework as for new crematoriums.

The *Funeral, Burial and Cremation Services Act, 2002* does not contain location criteria or separation distances to sensitive land uses. Decisions as to where crematoriums might be most appropriately located in Mississauga need to consider provincial policies, potential health impacts and plans that regulate land use, as well as local policies/objectives. These include supporting the city's long term vision, the need to minimize land use conflicts with existing uses and impacts to sensitive uses.

Provincial Policies

The Provincial Policy Statement, 2005, requires that land use be carefully managed to accommodate development to meet the full range of current and future needs while minimizing the undesirable effects of development impacts on air, water and resources. The Growth Plan for the Greater Golden Horseshoe, 2006, encourages development of complete communities that meet peoples' needs throughout an entire lifetime. Cemeteries provide passive open space and locations for remembrance which contribute to the quality of life for communities and form part of a complete community.

Supporting the City's Vision

Mississauga Official Plan sets out the vision to 2031 and beyond. It identifies a hierarchical city structure based on planned land use functions. Population and employment growth is directed to Intensification Areas. It is inappropriate to permit crematoriums in Intensification Areas where large concentrations of residents and/or employees are envisioned. As well, crematoriums in proximity to residential areas and sensitive land uses (e.g., daycares, schools) needs to be carefully considered.

Public Health

A review of the literature reveals that when human remains are cremated, a number of by-products or trace air pollutants are created that could pose potential public health impacts. These include particulate matter, volatile organic compounds, carbon monoxide, nitrogen oxides, sulphur dioxides, hydrogen chloride, heavy metals (cadmium, mercury and lead) and dioxins and furans. The toxic emissions are particularly evident when the following materials are cremated along with the remains:

- mercury amalgam dental fillings;
- organohalogens (dioxins, furan etc.) and other toxics accumulated through diet;
- pacemakers; and
- silicone, metal or plastic implants in humans.

The clothing and plastic wrap that often accompany the body can result in significant quantities of smoke, particularly early in the burn cycle. The magnitude of the emissions may depend upon the type of incinerator that is used and cremation practices (e.g. removal of dental fillings prior to cremation).

Studies regarding the ability to mitigate the health impacts of crematoriums are inconclusive, but in an abundance of caution, crematoriums should be directed away from locations that are in close proximity to residential and to other sensitive land uses (e.g. daycares, schools).

Separation Distances

The MOE requires that a Certificate of Approval be issued for crematoriums in order to address concentrations of air pollutants meeting provincial guidelines on and beyond a cemetery property under normal operations. However, the Certificate of Approval may not address the adverse impacts generally associated with odour and visible smoke emissions.

The City has the ability to impose separation distances between industrial uses and sensitive land uses to avoid or minimize the potential for land use conflicts that extend beyond the property limits of the industrial activity. Typical emissions that may affect the amenity of nearby sensitive land uses includes gaseous and particulate emissions, noise, dust and odour. Although not always the case, it is generally assumed that impacts on the environment will generally decrease with increased distance from the source of the emission.

The Minister of Consumer Services has indicated that a municipality may wish to introduce separation distances through its zoning powers under the *Planning Act*. In this regard, MOE's "Compatibility Between Industrial Facilities and Sensitive Land Uses (D-6-3) Separation Distances" (collectively know as the "D6 Guidelines") may be used as a guide to develop separation distances between new crematoriums and sensitive land uses.

Crematoriums have been identified by air quality experts as Type II facilities under the D6 Guidelines. The recommended minimum setback for a Type II industrial use from a sensitive land use is 70 m (230 ft.) with a potential area of influence of 300 m (985 ft.).²

Based on the above, crematoriums should be located a minimum 300 m (985 ft.) from residential and other sensitive land uses. According to the D6 Guidelines, residential land use shall be considered sensitive 24 hours/day.

² *The Government of Western Australia applies a 200 m/656 ft. to 300 m/985 ft. distance guideline to separate crematoriums from sensitive land uses. This distance is based on the experience of environmental agencies and scientific assessments of site specific operations. Source: Government of Western Australia, Environmental Protection Authority, Guidance for the Assessment of Environmental Factors, Separation Distances between Industrial and Sensitive Land Uses June 2005*

Proposed Locations

Based on the above, it is recommended that crematoriums be directed to lands designated "Industrial" in Employment Character Areas or on cemetery lands designated "Open Space," adequately separated from residential and other sensitive land uses.

a) Industrial Areas

The "Industrial" designation permits a range of industrial employment activities such as manufacturing and processing, including waste processing or transfer stations and composting facilities, which may be obnoxious due to outdoor activities (including air emissions), noise odour or visual aesthetics.

Lands designated "Industrial" are generally interior to employment areas and, thus, meet the D6 Guidelines separation distance from residential and sensitive land uses.

There are only three industrial areas of the city which could be considered for the establishment of a crematorium – Gateway, Northeast and Southdown Employment Character Areas. Lands designated "Industrial" within the Gateway and Northeast Employment Character Areas are interior lands and are not located in proximity to residential or sensitive lands uses. Noise restrictions due to the Airport already prohibit residential and sensitive land uses in these areas.

However, lands designated "Industrial" in the Southdown Employment Character Area are in close proximity to residential uses and other sensitive land uses. Further, the Province has identified Southdown as a taxed airshed due to cumulative air quality issues. As such, the Southdown Employment Character Area policies do not permit some uses permitted elsewhere on lands designated "Industrial" (e.g. trucking terminals, waste processing station or waste transfer stations and composting facilities and expansions to or new outdoor processing). Accordingly, it is recommended that crematoriums not be permitted in Southdown.

Appendix 3 shows the location of lands designated "Industrial" where it is proposed that crematoriums be permitted in the Mississauga Official Plan (2011).

Recommendation: That Mississauga Official Plan (2011) be amended to permit crematoriums on lands designated "Industrial" in the Gateway and Northeast Employment Character Areas.

b) Open Space – Cemeteries

Cemeteries have traditionally accommodated crematoriums and other related facilities (e.g., columbariums, areas for the scattering of cremated remains). There have been no concerns expressed regarding existing crematoriums in cemeteries and crematoriums are a complementary use to a cemetery. Provided that appropriate separation distances and other considerations are addressed, crematoriums should continue to be permitted in cemeteries.

Recommendation: That Mississauga Official Plan (2011) continue to permit crematoriums in cemeteries on lands designated "Open Space".

c) Parkway Belt West

While the Parkway Belt West Plan allows for some additional uses, its primary function is to create a multi-purpose utility corridor, urban separator and linked open space system. Lands designated "Parkway Belt West" are highly visible from major highways and are often adjacent to residential and sensitive land uses. As such, crematoriums are not considered an appropriate use in this designation.

Recommendation: That Mississauga Official Plan (2011) be amended to not allow crematoriums on lands designated "Parkway Belt West".

Zoning

The OS3 (Open Space Zone 3) is the appropriate zoning category for crematoriums establishing in cemeteries. The E3 (Employment Zone 3) accommodates the widest range of industrial uses and is the appropriate zoning category for crematoriums that establish outside of cemeteries. The as-of-right permissions in the PB2 (Parkway Belt Zone 2) should be removed.

To ensure that proposed crematoriums meet the location criteria outlined in this report, a 300 m (985 ft.) distance separation between a crematorium and a residential zone or sensitive land use should be introduced in the zoning by-law. Further, crematoriums should not be permitted in multi-unit buildings.

Recommendation: That the zoning by-law continue to permit crematoriums in OS3 (Open Space Zone 3).

Recommendation: That the zoning by-law be amended to permit crematoriums in E3 (Employment Zone 3) in the Gateway and Northeast Employment Character Areas on lands designated "Industrial".

Recommendation: That the zoning by-law be amended to remove crematoriums as a permitted use in PB2 (Parkway Belt Zone 2).

Recommendation: That the zoning by-law be amended to introduce a 300 m (985 ft) distance separation between a crematorium and a sensitive land use.

Recommendation: That the zoning by-law be amended to prohibit crematoriums in multi-unit buildings.

STRATEGIC PLAN:

Providing Mississauga residents with greater consumer choice in bereavement services indirectly supports the following Strategic Goals:

- Completing Our Communities under the Connect Pillar; and
- Nurture Diverse Cultures under the Belong Pillar.

FINANCIAL IMPACT: N/A

CONCLUSION: Staff have undertaken an examination of the impact of the *Funeral, Burial and Crematorium Services Act, 2002*, upon municipal regulations for crematoriums and identified a number of local planning issues. Revised regulations are proposed to address these concerns and at the same time, align local policies with the spirit and intent of the new Act and to offer greater bereavement options for the public.

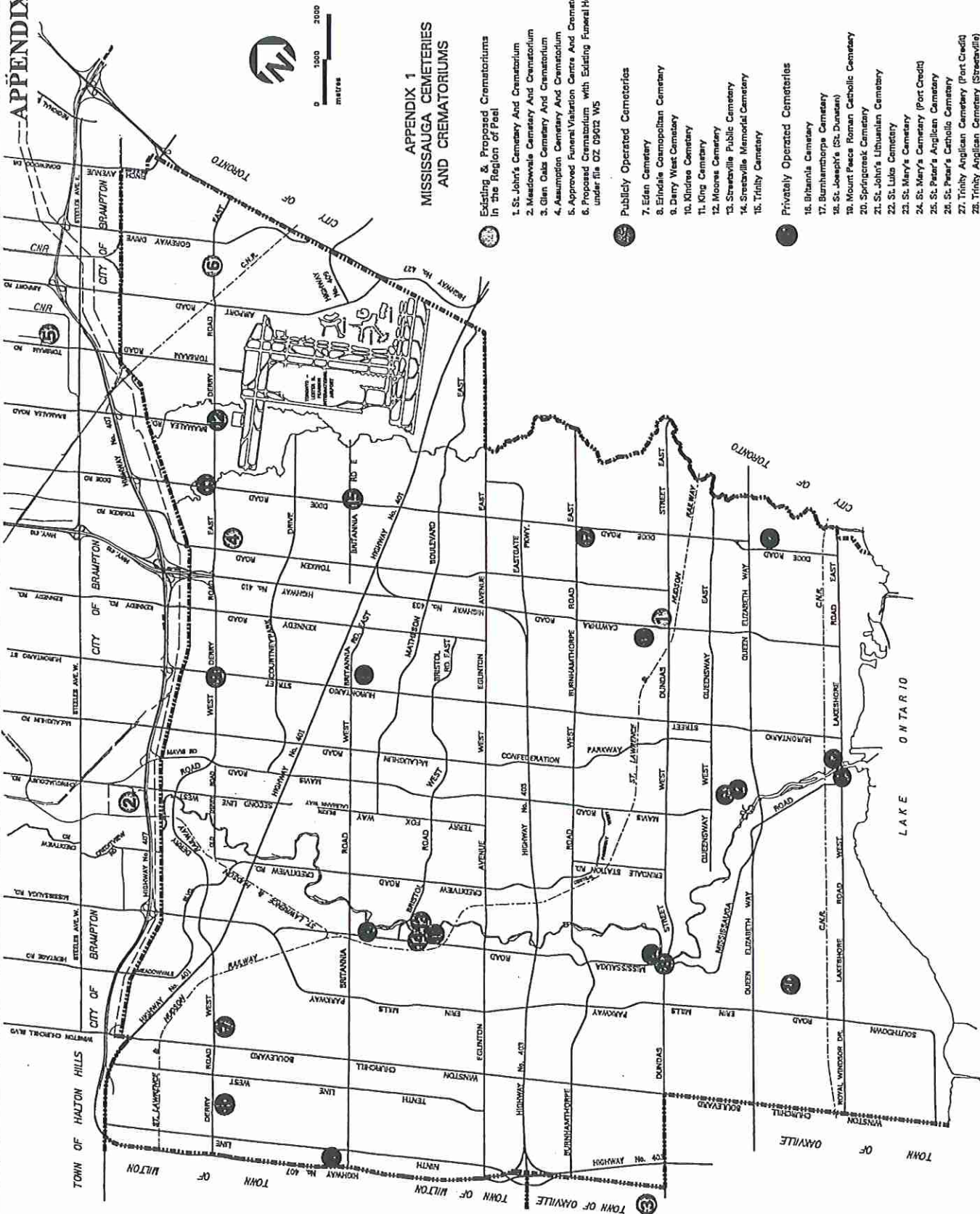
ATTACHMENTS: APPENDIX 1: Mississauga Cemeteries and Crematoriums
APPENDIX 2: Letter dated Feb 1, 2012 from the Ministry of Consumer Services, Office of the Minister including Council Resolution No. 0237-2011
APPENDIX 3: Mississauga Official Plan (2011) – Lands Designated “Industrial” in the Gateway and Northeast Employment Character Areas Where New Crematoriums May Be Considered Subject to a Site Specific Rezoning Application

Original Signed By:

Edward R. Sajecki
Commissioner of Planning and Building

Prepared By: Paulina Mikicich, Planner, Policy Planning Division

APPENDIX 1



**APPENDIX 1
MISSISSAUGA CEMETERIES
AND CREMATORIUMS**

Existing & Proposed Crematoriums
In the Region of Peel

1. St. John's Cemetery And Crematorium
2. Meadowdale Cemetery And Crematorium
3. Glen Oaks Cemetery And Crematorium
4. Assumption Cemetery And Crematorium
5. Approved Funeral Valuation Centre And Crematorium
6. Proposed Crematorium with Existing Funeral Home under file OZ 054012 W5

Publicly Operated Cemeteries

7. Eden Cemetery
8. Ethelville Commonwealth Cemetery
9. Derry West Cemetery
10. Kindree Cemetery
11. King Cemetery
12. Moonee Cemetery
13. Streetsville Public Cemetery
14. Streetsville Memorial Cemetery
15. Trinity Cemetery

Privately Operated Cemeteries

16. Britannia Cemetery
17. Burnhamthorpe Cemetery
18. St. Joseph's (St. Dunstan)
19. Mount Peace Roman Catholic Cemetery
20. Springbrook Cemetery
21. St. John's Lutheran Cemetery
22. St. Luke's Cemetery
23. St. Mary's Cemetery
24. St. Mary's Cemetery (Port Credit)
25. St. Peter's Anglican Cemetery
26. St. Peter's Catholic Cemetery
27. Trinity Anglican Cemetery (Port Credit)
28. Trinity Anglican Cemetery (Streetsville)

City of Mississauga Boundary

Ontario Association of Cemetery and Funeral Professionals,
Except for the City of Brampton Site at 10 Bramwin Court,
and proposed City of Mississauga crematorium at 3263
Derry Road East

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Ministry of
Consumer Services

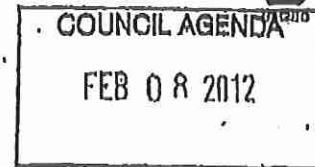
Office of the Minister

6th Floor, Mowat Block
800 Bay Street
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Ministère des
Services aux consommateurs

Bureau de la ministre

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Télécopieur: 416 328-1047



MCS3725MG-2011-1066

FEB 01 2012

Her Worship Mayor McCallon, C.M., LL.D.
Mayor of Mississauga
The Corporation of the City of Mississauga
300 City Centre Drive
Mississauga, ON L5B 3C1

Dear Mayor McCallon:

Thank you for the call with me and my staff to discuss a rezoning application that has been submitted to your municipality requesting approval to establish a crematorium in the basement of an existing funeral home. I also appreciate your taking the time to write to me about this issue and for enclosing a resolution asking that the *Funeral, Burial and Cremation Services Act, 2002 (FBCSA)* or the regulations be amended to establish minimum separation distances from proposed crematoria to other sensitive land uses. I apologize for the delay in responding to you.

Through extensive consultation over the years, we have worked closely with industry operators and consumer groups both in the development of the new Act itself and its supporting regulations. These stakeholders included the Association of Municipalities of Ontario, the Association of Municipal Managers, Clerks and Treasurers and the Municipal Cemetery Working Group. Concerns regarding the location of crematoria were not raised during the consultation process.

The FBCSA establishes the regulatory framework for most of the bereavement sector, including cemeteries, funeral establishments, transfer services, crematoriums and staff employed by these businesses. The primary purpose of the Act is to ensure consumer protection including defined consumer rights and entitlements.

Under the FBCSA, which is scheduled to take effect on July 1, 2012, establishing a crematorium off cemetery property:

- may be permitted if municipal by-laws and strict environmental standards are met;
- will continue to require municipal approval;
- will require the Ministry of the Environment's environmental compliance approval, which includes strict emissions limits and requirements to ensure that the environment is not adversely affected.

RECEIVED

REGISTRY NO.

DATE FEB 03 2012

FILE No.

11/192

MAYOR'S OFFICE

Municipalities may pass zoning by-laws under the *Planning Act* to control how land may be used, where buildings and other structures may be located and regulate other matters, including location, height and the size of buildings or structures. Where there are planning grounds, zoning by-laws may be passed in order to minimize or prevent land use conflicts and the locating of incompatible land uses. Municipalities have used separation distances to separate incompatible land uses in order to minimize the impact of the development of land.

While the issue of land use within a municipality remains a local matter, guidelines developed by the Ministry of the Environment are available to assist municipalities as they develop policies for land use compatibility. Each municipality continues to have the ability through its planning process to identify and impose unique requirements to address specific circumstances.

The MOE will ensure that stringent air standards are met before issuing an environmental compliance approval to establish a crematorium. An applicant must demonstrate to the MOE that it can meet all relevant air standards and operate in a way that will not cause adverse impacts to the community or environment. MOE regulations have set standards with regard to air quality for the protection of the environment and human health.

Before any consideration of an application for licensing under the FBCSA, municipal and MOE environmental approvals must be obtained. Absent these approvals, the application for a crematorium licence will not be considered.

Thank you, again, for writing.

Sincerely,



Margaret Best
Minister

c: The Honourable Kathleen Wynne, Minister of Municipal Affairs and Housing
The Honourable Jim Bradley, Minister of the Environment

<input checked="" type="checkbox"/> Receive	<input type="checkbox"/> Resolution
<input type="checkbox"/> Direction Required	<input type="checkbox"/> Resolution / By-Law
<input type="checkbox"/> Community Services	For
<input type="checkbox"/> Corporate Services	<input type="checkbox"/> Appropriate Action
<input checked="" type="checkbox"/> Planning & Building	<input type="checkbox"/> Information
<input type="checkbox"/> Transportation & Works	<input type="checkbox"/> Reply
	<input type="checkbox"/> Report



OFFICE OF THE MAYOR

October 13, 2011

Ministry of Consumer Services
6th Floor, Mowat Block
900 Bay Street
Toronto, Ontario
M7A 1L2

Dear Minister:

Re: Funeral, Burial and Cremation Services Act, 2002 and Regulations

The City of Mississauga has been dealing with a rezoning application to permit a crematorium in conjunction with an existing funeral home which is in close proximity to a residential area. A public meeting was held on September 6, 2011, at which the enclosed Planning staff report dated August 16, 2011, was considered. In addition to numerous emails and correspondence, many residents appeared at the Committee to express their objection to the proposed crematorium so close to their homes.

Subsequently, on October 12, 2011, the Council of the Corporation of the City of Mississauga adopted the enclosed Resolution 0237-2011 requesting changes to the Funeral, Burial and Cremation Services Act, 2002, and regulations to provide minimum separation distances from proposed crematoria to other sensitive land uses.



THE CORPORATION OF THE CITY OF MISSISSAUGA
300 CITY CENTRE DRIVE, MISSISSAUGA, ON L5B 3C1
TEL: 905-896-5555 FAX: 905-896-5879
mayor@mississauga.ca

-2-

Please give this matter your urgent attention as it is of grave concern to Mississauga Council and its residents. We look forward to receiving your positive response to the requested legislative changes.

Sincerely,



HAZEL McCALLION, C.M., LL.D.
MAYOR

cc: Minister of Municipal Affairs and Housing
Minister of the Environment
Mississauga MPPs
Clerk, Region of Peel
Clerk, City of Brampton
Clerk, Town of Caledon
Association of Municipalities of Ontario

Encs.



RESOLUTION 0237-2011
adopted by the Council of
The Corporation of the City of Mississauga
at its meeting on October 12, 2011

Moved by: Bonnie Cromble

Seconded by: Jim Tovey

WHEREAS on August 24, 2009, the City of Mississauga received Official Plan Amendment and Rezoning Applications submitted by 1429038 Ontario Inc., to permit a proposed crematorium in the existing funeral home on 3263 Derry Road East under File OZ 09/012 W5;

AND WHEREAS these applications were deemed complete by the City on September 16, 2009;

AND WHEREAS on September 6, 2011, the City of Mississauga Planning and Development Committee held a Public Meeting pursuant to the provisions of the *Planning Act*, as amended regarding the proposal;

AND WHEREAS the legislation currently in effect, namely the *Cemeteries Act (Revised)* and the *Funeral Directors and Establishment Act* permit crematoriums only in cemeteries;

AND WHEREAS the Province has enacted the *Funeral, Burial and Cremation Services Act, 2002*, and passed related regulations which will permit crematoriums outside cemeteries;

AND WHEREAS the *Funeral, Burial and Cremation Services Act, 2002*, and related regulations are scheduled to come into force on July 1, 2012;

AND WHEREAS the regulations of the *Funeral, Burial and Cremation Services Act, 2002*, do not include a minimum separation distance requirement from a residential zone to a proposed crematorium;

AND WHEREAS the City of Mississauga is concerned about the proximity of the proposed crematorium to existing residential development;

Resolution 0237-2011

- 2 -

October 12, 2011

AND WHEREAS it would be premature for the City of Mississauga to approve the proposal prior to the coming into force of the legislation and regulations that would permit a crematorium to be located outside of a cemetery;

NOW THEREFORE LET IT BE RESOLVED:

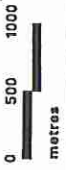
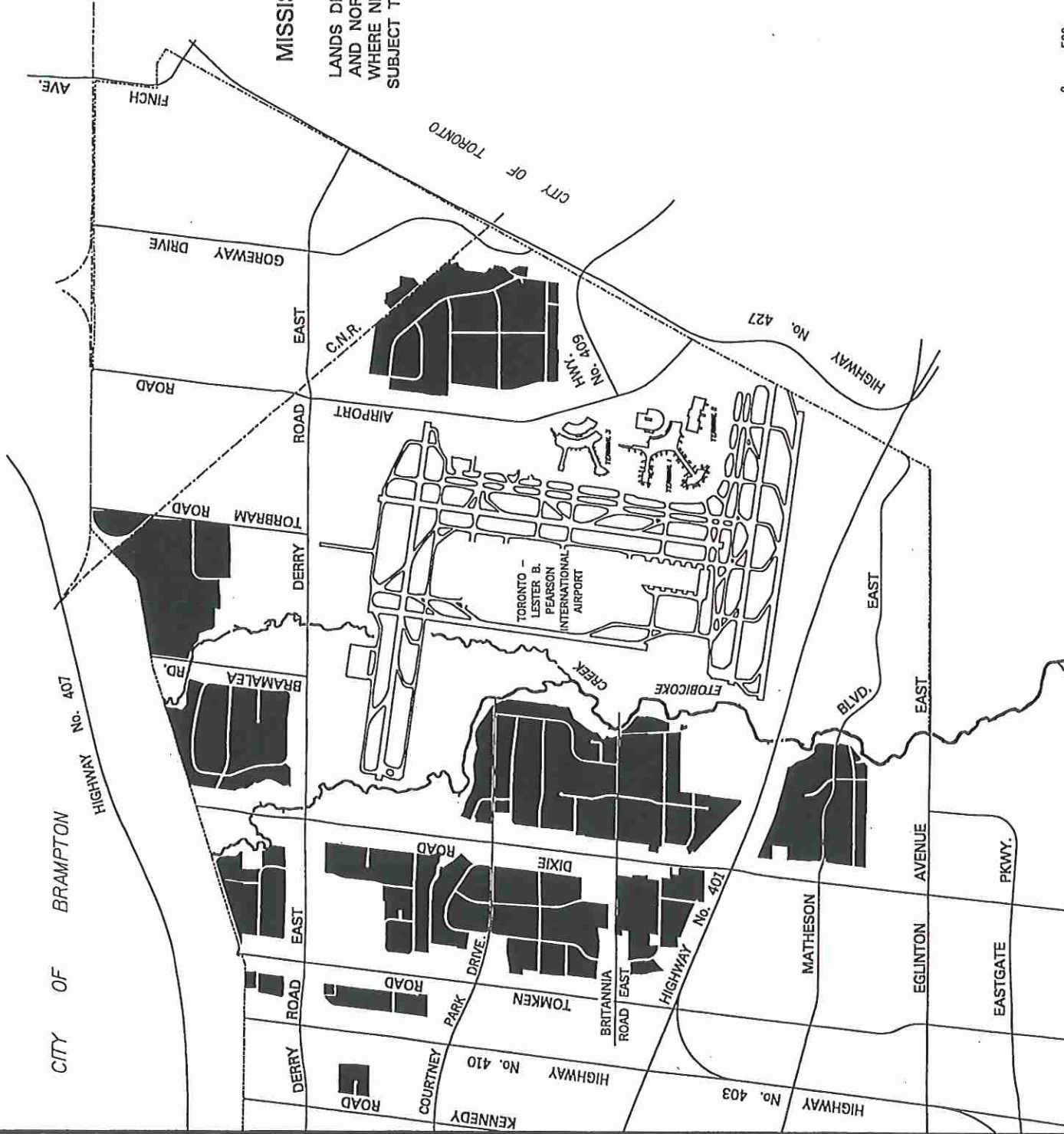
1. That the Minister of Consumer Services, be requested to amend the *Funeral, Burial and Cremation Services Act, 2002* or the regulations there under to establish minimum separation distances from proposed crematoria to other sensitive land uses.
2. That a copy of this resolution be sent to the Minister of Consumer Services, Minister of Municipal Affairs and Housing, Minister of the Environment, all local Members of Provincial Parliament, Region of Peel and the local area municipalities and Association of Municipalities of Ontario (AMO).
3. That the Commissioner of Planning and Building be directed to review the Official Plan and Zoning By-law with respect to the Funeral, Burial and Cremation Services Act, 2002 and report back to Council with any recommended changes to policy and zoning by early 2012.

APPENDIX 3

APPENDIX 3
MISSISSAUGA OFFICIAL PLAN (2011)

LANDS DESIGNATED "INDUSTRIAL" IN THE GATEWAY
AND NORTHEAST EMPLOYMENT CHARACTER AREAS
WHERE NEW CREMATORIALS MAY BE CONSIDERED
SUBJECT TO A SITE SPECIFIC REZONING APPLICATION

Industrial



MISSISSAUGA
Leading today for tomorrow
Produced by
T&W Geomatics

Appendix 2

**Proposed Amendments to Mississauga Official Plan (2011) and
Zoning By-law 0225-2007 Respecting Crematoriums**

Written Comments Received

Ministry of
Consumer Services

Office of the Deputy Minister

6th Floor, Mowat Block
900 Bay Street
Toronto ON M7A 1L2
Tel. (416) 212-2665
Fax (416) 314-7167

Ministère des
Services aux consommateurs

Bureau du sous-ministre

Edifice Mowat, 6e étage
900, rue Bay
Toronto ON M7A 1L2
Tél. (416) 212-2665
Télec. (416) 314-7167



OCMS # 2012-35

MAR 23 2012

The Concerned Citizens of Malton
concernedcitizensofmalton@gmail.com

Dear Ms. Parker:

Thank you for your correspondence regarding the proposed building of a crematorium in Malton. As Deputy Minister I am pleased to respond on behalf of the Minister of Consumer Services, the Honourable Margaret Best.

I am aware of this issue and appreciate the importance of local land uses that may affect air quality or other environmental concerns. I would like to take this opportunity to explain the process to establish a crematorium today and under the new *Funeral, Burial and Cremation Services Act, 2002*.

Currently, under the *Cemeteries Act (Revised)* (CA) all crematoria must be located on cemetery property. An application to establish a crematorium under the CA must be accompanied by:

- Evidence of municipal approval confirming that all applicable zoning and building requirements have been met.
- Evidence of approval by the Ministry of Environment (MOE), an Environmental Compliance Approval, which considers any possible adverse impacts on the surrounding environment and includes strict emissions limits and requirements to ensure that the environment is not adversely affected.

Evidence of municipal and environmental approvals must be provided to the Registrar of Cemeteries before an application for a license to establish a crematorium will be considered.

Under the FBCSA, which will take effect on July 1, 2012, establishing a crematorium off cemetery property will be permitted. A licence under the FBCSA will continue to be a requirement to operate a crematorium. As is the current requirement, municipal and environmental approvals must be obtained before any consideration of an application for licensing under the FBCSA.

Municipalities may pass zoning by-laws under the *Planning Act* to control how land may be used, where buildings and other structures may be located and regulate other matters, including location, height and the size of buildings or structures. Where there are planning grounds, zoning by-laws may be passed in order to minimize or prevent land use conflicts and the locating of incompatible land uses. Municipalities have used separation distances to separate incompatible land uses in order to minimize the impact of the development of land.

While the issue of land use within a municipality remains a local matter, guidelines developed by the MOE are available to assist municipalities as they develop policies for land use compatibility. Each municipality continues to have the ability through its planning process to identify and impose unique requirements to address specific circumstances.

The MOE will ensure that stringent air standards are met before issuing an environmental compliance approval to establish a crematorium. An applicant must demonstrate to the MOE that it can meet all relevant air standards and operate in a way that will not cause adverse impacts to the community or environment. MOE regulations have set standards with regard to air quality for the protection of the environment and human health.

I appreciate that you have taken the time to bring your concerns to the Minister's attention. I hope that the information I have provided will be of assistance to you.

Thank you again for writing.

Sincerely,



Gilles Gherson
Deputy Minister

cc: The Honourable Dalton McGuinty, Premier of Ontario
The Honourable Deb Matthews, Minister of Health
The Honourable Jim Bradley, Minister of the Environment
Her Worship Mayor McCallion, Mayor, City of Mississauga

Pg. 1/3

CD.02.CRE
ITEM 2

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LEO KLUG, B.Com, J.D.
Certified by the Law Society
of Upper Canada as a
Specialist in Civil Litigation

E-mail: betsyklug@kluglaw.ca
www.kluglaw.ca

BETSY E. KLUG, B.A., LLB.

File No. 1463

April 25, 2012

VIA FACSIMILE AND EMAIL

Her Worship Mayor McCallion
Mayor of Mississauga
The Corporation of the City of Mississauga
300 City Centre Drive
Mississauga ON L5B 3C1

Mr. Edward Sajecki
Commissioner of Planning and Building
c/o Diana Haas
Office of the City Clerk
300 City Centre Drive
Mississauga ON L5B 3C1

Mississauga City Council
c/o Diana Haas
Office of the City Clerk
300 City Centre Drive
Mississauga ON L5B 3C1

Dear Mayor and Commissioner and Members of Council:

Re: **Benisasia Funeral Home**

I am retained to act on behalf of Benisasia Funeral Home and 1429036 Ontario Limited and I am writing you arising out of a Notice of Public Meeting scheduled for May 14, 2012 concerning the proposed Mississauga Official Plan and the Zoning By-law Amendments, and in particular, the proposal to change the zoning regulations for

crematorium to introduce a 300 meter (985 foot) distance separation between a crematorium and a sensitive land use.

On August 24, 2009, Benisasia Funeral Home (1429036 Ontario Limited) submitted Official Plan Amendment and Rezoning Applications under file OZ09/012W5 to permit a crematorium in the existing funeral home located at 3263 Derry Road East (number 6). At the time of the valid application no by-law was in existence mandating a 300 meter distance separation between the crematorium and a sensitive land use.

Certain guidelines were in existence between industrial facilities and sensitive land uses. This is noted in the corporate report of the Commissioner of Planning and Building dated March 13, 2012 at page 7.

Benisasia Funeral Home at significant time, effort, retention of experts and expense submitted a Planning Justification Report and an Air Quality Report. At all material times, they were ready, willing and able to proceed with the approval of process.

The Minister of Consumer Services was requested by the City of Mississauga to amend the impending legislation and advised that this was an issue pertaining to land use within a municipality and remained a local matter.

It is abundantly clear to the writer that the intent of the proposal to introduce a 300 meter distance separation will have the effect of frustrating the application submitted by Benisasia Funeral Home in August of 2009.

No doubt, your Legal Department and legal advisers are familiar with the jurisprudence of the Ontario Municipal Board as approved by the Ontario Divisional Court and the Court of Appeal for Ontario in what is referred to as the *Clergy Principle* and the subsequent decision of *James Dick Construction Ltd. v. Caledon (Town)*, decision of the Ontario Municipal Board in 2003 and reported at 47 O.M.B.R. 87.

I am setting forth in this letter, certain principles that were set forth in the decision of the Ontario Municipal Board in the Town of Caledon case:

2. ...Simply stated, the *Clergy* principle says that every applicant is entitled to have their application evaluated on the basis of the laws and policies as they existed on the date that the application was made. Normally laws and policies are not applied retroactively. As many Board decisions have said – notably the *Clergy* decision [FN1] itself – this is regarded as fair.

34. In this respect, Mr. Fairbrother notes in *Dumart*, the Board asserted that where the new policies involved a “significant new imposition” it would not be fair to apply the new policies to an existing application. This is an

extension of what could be called the "*Kalmoni*" principle [FN4] which says that an applicant cannot be put to a standard imposed after the date of the application which would have the effect of defeating the application. This principle protects proponents from policy changes that are meant simply to frustrate an application retroactively.

52. The Board is especially concerned that the principles expressed in *Dumart* and elsewhere, are not offended. Where new policies are to be applied, they must not be permitted to apply if their only or main intent is to frustrate an application or to throw up politically inspired roadblocks retroactively. Retroactive policies should not become part of the arsenal of those whose only interest is to protect their own backyards from any and all development.

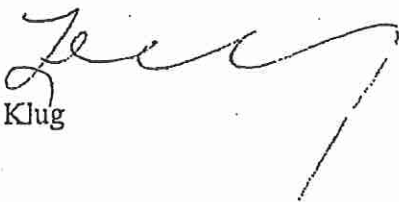
In the writer's submission, it is abundantly clear that the intent of the proposal to introduce a 300 meter distance separation is targeted towards the Benisasia Funeral Home.

In accordance with the jurisprudence and as well, in accordance with what is fair and equitable in the circumstances, Benisasia Funeral Home should and must be excluded and exempted from any amendment to the Official Plan and Zoning By-law as it pertains to the 300 meter distance separation.

Would you please confirm and acknowledge that the Funeral Home will be excluded and exempted from this proposed Official Plan and Zoning By-law Amendment.

I look forward to your response on or before Monday, April 30, 2012.

Yours truly,


Leo Klug



John B. Keyser, Q.C.
(905) 276-0410
keyser@kmblaw.com

Four Robert Speck Parkway
Suite 1600
Mississauga, Ontario
Canada L4Z 1S1
Telephone (905) 276-9111
Facsimile (905) 276-2298
Web site www.kmblaw.com

ITEM 2

May 9, 2012

Mayor and Members of Council
City of Mississauga
300 City Centre Drive
Mississauga, ON L5B 3C1

**Re: St. John The Baptist Anglican Church – Dixie
737 Dundas Street East, Mississauga
Proposed Mississauga Official Plan and Zoning By-Law Amendments
Respecting Crematoriums**

We wish to advise you that we are the solicitors for St. John The Baptist Anglican Church hereinafter referred to as "St. John's" situate at 737 Dundas Street West in Mississauga, and we have been asked to respond to the notice of the calling of the Planning and Development Committee Meeting of May 14, 2012.

As your records will disclose, we appeared before Council on behalf of St. John's with respect to the same subject matter on April 2, 2012.

For the purposes of your information, we have provided to the meeting of Council on April 2, 2012, some of the background with regard to St. John's.

The crematorium has been operated by St. John's since 1990 and so far as our client's records are concerned, there have been no responses, whatever, with respect to the use of the Church facilities, the chapel and the crematorium.

As your report discloses, the zoning of our client's property is OS3 (Open Space Zone 3-6 with provision for a crematorium). Our records indicate that the cemetery has been used by St. John's during the life of the parish which has been in existence at this location for perhaps 100 years or longer. It is proposed that St. John's will continue to operate the existing cemetery and crematorium and surrounding parklike lands and has a current Rezoning By-Law application before you with respect to the expansion of the current cemetery facilities. The building which contains the new Chapel and the crematorium is not to be altered in any fashion, apart from the introduction of a third Retort (cremator).

Page 2

As I have advised you in the past, St. John's has secured professional assistance and made application to the Province of Ontario, Ministry of Environment, to be able to expand the crematorium services at the above-captioned address to include a third Retort. A copy of the Ministry of the Environment approval has been examined by your staff.

The single outstanding issue that is troublesome for St. John's is the suggested separation of the crematorium from the sensitive uses (residential). At the present time, the current Retorts are approximately 500 ft. distant from the homes on Hollyhill Court, the lands which have been developed with residences in the area surrounding our client's property on the northerly boundary.

St. John's is not asking for any other relief except for an exception as it relates to the setback from the last-mentioned residences or any other residences which may be created in the future.

The adjoining lands include the Dixie Union Cemetery operated by the City of Mississauga which makes up the westerly boundary.

To the northwest of this is the Presbyterian Church and a new complex which is being developed for townhouse purposes. Again, the setback or distance from these proposed homes is substantial. I believe the setback to be more than 500 ft.

The view that our client takes is that the zoning recommendations which have been made to you are satisfactory in substance with the exception of the setback requirements, which cannot be met by reason of the fact that the homes were built sometime after the creation of the cemetery. Correspondingly, the crematoriums have existed for almost 25 years in the present location without any complaint.

The purpose, as we see it, of having an increased setback is to make certain that the public is protected from emissions and other by-products which may or may not be created from the presence of a crematorium.

From a public health standpoint, we are comforted by the fact that the regulations under the *Funeral, Burial and Cremation Services Act* make provision that pacemakers, silicone, metal or plastic implants within human remains are required to be removed prior to cremation and I refer you to Section 31, sub-section 2(b) of Regulation 30/11 under the *Funeral, Burial and Cremation Services Act*, 2002:

31. (1) This section sets out conditions of a Crematorium Operator licence.
- (2) The crematorium operator shall not permit the cremation of a dead human body if,
 - (b) the body has a pacemaker or radioactive implant, is in a casket that consists of or has on or in it material made of or containing non-flammable or hazardous material or chlorinated or fibre-reinforced plastic, other than incidental metal used in the construction of the casket or accompanying material.

Page 3

In addition, the Certificate of Approval permits the upgrading of the stacks and the use of more modern equipment to make certain that there are no by-products created from the operation of a crematorium at St. John's.

By reference to the sketch which is attached to your report, you will observe that there are no other crematoriums located in the south-half of the City of Mississauga. The alternatives include the Assumption Cemetery at Derry and Tomken Road which is many miles to the north and located within Ward 5. In addition, there are two cemeteries located north of Highway 407 in Brampton, together with Glen Oaks Cemetery which is situated within the Parkway Belt West in neighbouring Oakville, on the westerly boundary of the City of Mississauga.

I am not aware of any other chapel or church within the City of Mississauga which provides a crematorium facility for the use of the public generally, where friends and family may meet and worship and recognize the death of a family member, friend or otherwise. St. John's appears to have the only available crematorium facility.

The parishioners of St. John's Dixie have earned the privilege of being permitted to carry out the necessary good work associated with the Chapel, the Cemetery, the Crematorium and the Anglican Parish Church of St. John's Dixie.

Many of the funeral homes in the south of Mississauga use St. John's crematorium facilities because of the location of the facilities and its convenience. The site is located on a well travelled bus route on Dundas Street East. As well, there is a surplus of available parking on site.

The presence of St. John's within the southerly half of our City is to provide an alternative to having funeral homes in the future apply under the new legislation passed under the *Funeral Burial and Cremation Services Act 2002*, to allow approved funeral homes to expand their facilities and to build their onsite crematoriums.

The impression we have is that the current funeral homes are located in residential areas in a manner that they would not meet the setback requirements from residences which are being suggested to you by your staff.

St. John's is able to meet all of the zoning recommendations made to you with respect to being zoned as Open Space, meaning the Chapel, administrative offices and St. John's existing crematorium.

In closing, I suggest to you that the continued supply of crematorium services at St. John's may be the effective answer to the conflict of uses which you are wishing to avoid by making the recommended changes to the Official Plan and Zoning By-Law which is more particularly described in the Report to Council by Commissioner Sajecki.

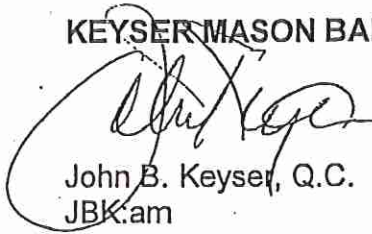
St. John's and the writer welcome an opportunity to discuss this matter further with you, if appropriate.

Page 4

Under the circumstances, we are respectfully asking Council to give special consideration to the preservation of the privileges which St. John's presently enjoys in operating its crematorium at the above-captioned site at the center of the City of Mississauga.

Yours very truly,

KEYSER MASON BALL, LLP


John B. Keyser, Q.C.

JBK:am

**St. John the Baptist Anglican Church – Dixie
737 Dundas Street, Mississauga**

**Planning & Development Committee Meeting
Monday, April 2, 2012**

The report of March 13, 2012 to Council is both inclusive and does not make any provision for an exclusion, by way of a recognition of the facilities which presently exist at St. John's within the range or scope of the 300 m., setback from the homes that are located north of the cemetery, that is the subject of one of the five recommendations made to you by staff. As a result of its application, St. John's has received a Ministry approval to allow the present crematorium facilities to be upgraded by providing the latest equipment in the 2 existing cremators and, further, to install a third cremator, again, with the latest standards of equipment. The location of the equipment is at the chapel which is located within the centre portion of the north half of the 10-acre property which is owned by St. John's. The current setback of the chapel and crematorium meet the 70 m. setback from residential development and does not meet the greater setback which is recommended to you of 300 m.

The homes on Hollyhill Court to the north are the closest to St. John's crematorium. These homes were built more than 40 years ago. The cremators were not installed until 1990 and there have been no complaints which the parish has been made aware of in the past 2 decades. The operation of the crematorium appears to take place without any notice.

By reference to the sketch which is attached to your report, you will observe that there are no other crematoriums located in the south half of the City of Mississauga and the alternatives include Assumption Cemetery at Derry and Tomken Road, two cemeteries located north of Highway 407 in Brampton and Glen Oaks Cemetery which is situated in the Parkway Belt West, in neighbouring Oakville.

I am not aware of any other chapel or church within the City of Mississauga which provides a facility to the public generally where their friends and family may meet and a crematorium facility.

We believe that St. John's Dixie has earned the privilege of being permitted to carry out the necessary good work associated with the chapel, the cemetery and the crematorium.

As an aside, the funeral homes within Mississauga generally use St. John's because of the location of its facilities and its convenience. The presence of St. John's within the southerly half of our city is to provide an alternative to having funeral homes apply under the new legislation passed under the *Funeral, Burial and Cremation Services Act 2002*, to allow approved funeral homes to expand their facilities and to build their own onsite crematoriums.

St. John's is able to meet all the zoning recommendations made to you with respect to being zoned as an open space, having the crematorium built within a multi-unit building, meaning the chapel, administrative offices and St. John's Crematorium.

In closing, I suggest to you that the continued supply of crematorium services at St. John's may be the effective answer to the conflict of uses which you wish to avoid and is more carefully described in the report to Council by Commissioner Sajecki.

If you have any questions, I would be pleased to receive them.

JBK:am

POUND & STEWART

PLANNING CONSULTANTS • CITYPLAN.COM

ITEM 2

May 10, 2012

BY EMAIL & REGULAR MAIL

City of Mississauga
300 City Centre Drive
Mississauga, Ontario
L5B 3C1

Attn: Chair & Members of Planning and Development Committee (PDC)

Re: **Item 2 – Proposed Mississauga Official Plan and Zoning By-law Respecting
Crematoriums - May 14, 2012 Public Meeting
City of Mississauga
Our File No. 1421**

We have been retained by Orlando Corporation to provide on-going professional planning services and advice respecting its lands located within the City.

The purpose of our submission is to provide comment on the proposed Mississauga Official Plan and Zoning By-law amendments respecting the location of Crematoriums. While we respect that there is a *“growing demand for cremation services by allowing licensing of cremation facilities outside of cemeteries”*, we cannot support the location of this bereavement services facility within all of the ‘Industrial Areas’ as set out on Appendix 3 Mississauga Official Plan (2011).

The City’s in effect Official Plan and comprehensive Zoning By-law 0225-2007, as amended; presently restricts a Crematorium to a cemetery. We support the continuance of the current planning policy on a go-forward basis because;

- The location of a Crematorium, outside of cemetery lands requires careful and meticulous planning and environmental analysis on a site specific basis. It is not good planning in our opinion to broadly permit this use in ‘Industrial Areas’, since a stand alone Crematorium in the ‘Industrial Area’, as set out on Appendix 3, may also result in undesirable land use conflicts.

Therefore, when a site specific Crematorium is proposed, outside of cemetery lands, such proposal should be subjected to the full scrutiny of the public planning process allowing for notice, hearing and appeal and be supported by appropriate planning and environmental analysis on a site specific basis.

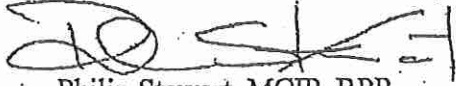
POUND & STEWART ASSOCIATES LIMITED

205 BELSIZE DRIVE, SUITE 101, TORONTO, ONTARIO, CANADA M4S 1M3 • 416 482 9797
305 RENFREW DRIVE, SUITE 101, MARKHAM, ONTARIO, CANADA L3R 9S7 • 905 305 9797
1 800 250 9056 • WWW.CITYPLAN.COM • INFO@CITYPLAN.COM



We ask that you take into consideration our opinion as part of your future deliberations on this matter.

Yours truly,
Pound & Stewart Associates Limited



Philip Stewart, MCIP, RPP

la/

1421ltr. PDC.May.09.12

cc. Mr. E. Sajecki, Commissioner of Planning and Building, City of Mississauga
cc. Ms. L. Wilson, Legislative Coordinator, Office of the City Clerk, City of Mississauga
cc. Messrs. P. King & G. Kramer, Orlando Corporation
cc. Mr. L. Longo, Aird & Berlis

POUND & STEWART ASSOCIATES LIMITED

205 BELSIZE DRIVE, SUITE 101, TORONTO, ONTARIO, CANADA M4S 1M3 • 416 482 9797
305 RENFREW DRIVE, SUITE 101, MARKHAM, ONTARIO, CANADA L3R 9S7 • 905 305 9797
1 800 250 9056 • WWW.CITYPLAN.COM • INFO@CITYPLAN.COM





COUNCIL AGENDA
SEP 12 2012

Augusta National Inc., Queens 400 Executive Offices, 178 Main Street, Unionville, Ontario L3R 2G9
Telephone: (905) 944-9709 Fax: (905) 944-9710 Cellular: (416) 464-0145 E-Mail: everard@rogers.com

May 24, 2012.

Mr. Edward R. Sajecki, RPP.,
Commissioner of Planning and Building,
The Corporation of the City of Mississauga,
300 City Centre Drive,
Mississauga, ON. L5B 3C1

Dear Mr. Sajecki:

Re: May 14, 2012, Crematorium Public Meeting
Proposed amendments to the Official Plan and Zoning By-law

Be advised, that the urban planning consulting firm, Augusta National Inc., acts on behalf of Catholic Cemeteries Archdiocese of Toronto, registered owner of Assumption Cemetery, 6933 Tomken Road.

The subject lands, designated on the Official Plan as 'Greenbelt' and 'Private Open Space (Cemetery)' and zoned 'G1' Greenbelt and 'OS3' Open Space, By-law 0225-2007, are presently occupied by a mausoleum, office, operations building and a 763 s.m. crematory.

In response to your request for comments concerning proposed amendments to the Zoning By-law and Official Plan in connection with the permitted location of crematoriums pursuant to the pending July 1, 2012, Provincial enactment of the Funeral, Burial and Cremation Services Act, 2002, please confirm your receipt of this submission.

We request confirmation that the five (5) expanded conditions together with any additional new permission in the proposed amendments to both the Official Plan and Zoning By-law are not applicable to the ongoing operation of the existing crematorium and/or any building expansion to the existing crematorium.

Thank you for your consideration in this matter.

Yours truly,
Mike Everard
Mike Everard, RPP.,
Principal.

<input checked="" type="checkbox"/> Receive	<input type="checkbox"/> Resolution
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<input checked="" type="checkbox"/> Planning & Building	
<input type="checkbox"/> Transportation & Works	

POUND & STEWART

PLANNING CONSULTANTS • CITYPLAN.COM

July 23, 2012

BY EMAIL & REGULAR MAIL

City of Mississauga
300 City Centre Drive
Mississauga, Ontario
L5B 3C1

Attn: Mr. John Calvert, Director of Policy Planning

**Re: Public Notice concerning proposed Official Plan & Zoning By-law
Amendments permitting Crematoriums in Industrial Areas (File: CD.02.CRE)
City of Mississauga
Our File: 1421**

Thank-you for meeting recently in response to our May 10, 2012 letter submission concerning the above captioned item, as filed at the May 14, 2012, Planning and Development Committee Public Meeting.

Given the significant planning policy and regulatory changes being contemplated to permit Crematoriums in Industrial Areas, it is recommended that sufficient and adequate public notice be provided to all registered landowners and tenants located within these affected Industrial Areas and bordering Business Employment Areas.

Under existing Mississauga Plan, and as maintained in the newly adopted Mississauga Official Plan, planning policies allow a Crematorium Use only in association with a Cemetery use and on Cemetery lands. Changing policy to broadly allow the Crematorium Use in Industrial Areas, as of right, is a substantial deviation from the City's existing and recently adopted planning policies.

Today, under the approved planning policy framework, a 'Crematorium Use' applicant would be required to process Official Plan and Zoning By-law Amendments to allow this use in an Industrial Area on a site specific basis. At the very least, under the *Planning Act*, all landowners and tenants within (120 m) 400 ft. would be forwarded a City Public Notice letter advising of a statutory Public Meeting. We also note that City Staff acknowledge the Crematorium Use, as a Class II Industrial facility, under the Ministry of the Environment D-6-1 Guideline, involving a potential Area of Influence extending some 300m (984 ft.). So therefore, in the public interest it is not unreasonable that sufficient public notice be provided to all affected Industrial Areas, but also extends to all bordering Business Employment Areas, as these areas as well are affected by the City's proposal.

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In summary, in support of good planning it is strongly recommended that adequate public notification be provided now, so as to fully inform all affected landowners and tenants about this potential looming deviation from existing planning policies, prior to a final decision by the City on this important matter.

Yours truly,
Pound & Stewart Associates Limited



Philip Stewart, MCIP, RPP

la/

1421ltr.Jul.23.12

- cc. Ms. C. Greer, Director of Legislative Services & City Clerk, City of Mississauga
- cc. Councillor B. Crombie, Ward 5, City of Mississauga
- cc. Mr. E. Sajecki, Commissioner of Planning & Building, City of Mississauga
- cc. Ms. P. Mikicich, Sr. Planner, City of Mississauga
- cc. Registrar, Ministry of Consumer Services
- cc. Director, Ministry of the Environment
- cc. Mr. L. Longo, Aird & Berlis
- cc: Orlando Corporation

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Division	Action	Info	Seen
Commissioner			
Building			
Policy Planning			
Dev. & Design			
Bus. Services			

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1 800 250 9056 • WWW.CITYPLAN.COM • INFO@CITYPLAN.COM

From : The Concerned Citizens of Malton

We, The Concerned Citizens of Malton, are all in agreement and fully support this By-law. File # CD.02-CRE (Proposed Mississauga Official Plan & Zoning By-law Amendments) regarding Crematoriums.

Our group has contacted all the following Provincial Government Ministries at least four (4) times each, and have received only one (1) reply from each :

Minister of Health, Hon. Deb Matthews,

Minister of Consumer Services, Hon. Margaret Best,

Minister of Environment, Hon. John Wilkerson and Hon. Jim Bradley.

We even wrote directly to Premier McGuinty.

We pointed out to them that crematoriums and residential/sensitive lands are not compatible. This finding is backed up by our research of several articles found on the internet. We also requested that they conduct new studies rather than use obsolete or outdated pre 1990's data. All Ministries and the Premier did eventually reply and all in the same way. Their answers were all the same as if rehearsed, "This is a municipal matter, not a Provincial one".

As stated in the Mississauga Official Plan vision to 2031 and beyond regarding Intensification areas where large concentrations of residents

reside, it is entirely inappropriate to permit crematorium use and we agree to this finding.

This By-law Amendment clearly outlines a specific location for crematorium use which adequately separates between Industrial uses and residential/sensitive land uses in order to minimize land use conflicts. This By-law also incorporates the MOE Guideline D6 minimum 300 meters (985ft) potential area of influence. Seeing that the new Regulation to be announced July 2012 will not have any distances defined, we are glad that this By-law does. We are extremely proud that The City of Mississauga and the Building & Planning Department do take the health, wellbeing and protection of its citizens seriously, whereby our Provincial Government at this time are still out on this matter and are not willing to commit to any decision.

As stated earlier, We, The Concerned Citizens of Malton fully support this By-law and are hopeful that you will accept it.

Thank You.

Charles A. Barclay, President
6974 Justine Drive,
Mississauga, Ontario
(Ward 5)

I-10

WRITTEN SUBMISSION

TO: Mississauga City Council
c/o Laura Wilson
Office of the City Clerk
2nd Floor
300 City Centre Drive
Mississauga ON L5B 3C1

COUNCIL AGENDA
SEP 12 2012

FROM: Margorie Austin
(First and Last Name)

4058 Justine Dr
(Street #, Street Name, Unit Number)

MISSISSAUGA ON L4T 1M5
(City, Province, Postal Code)

SIGNATURE: Margorie Austin

COMMENTS:

You cannot guarantee that what has happened before will not happen again. Crematoriums emit pollutants (Hazardous Metals & too much smoke for the crematorium. - St. James Cemetery. There is a public health impact. Particulate emissions, and no laws or supervision operating procedures except by the crematorium operator. I am enclosing documentation I have - THIS SHOULD NOT BE IN OR NEAR A RESIDENTIAL NEIGHBOURHOOD - Anywhere in MISSISSAUGA, ONTARIO, CANADA OR THE WORLD.

I-10(a)



WRITTEN SUBMISSION

FILE NUMBER:

CDOZ CASE - 0209/02 W5.

OWNER/ APPLICANT:

Revisgia Funeral Home (1429036 Ontario Ltd.)

SUBJECT LANDS:

Proposed Mississauga Official Plan and Zoning Bylaw Respecting Crematoriums

(Please ensure you have completed all sections. Information can be found on the Agenda Outline)

Under the *Planning Act*, R.S.O. 1990, c.P.13, as amended and with respect to Bill 51 applications:

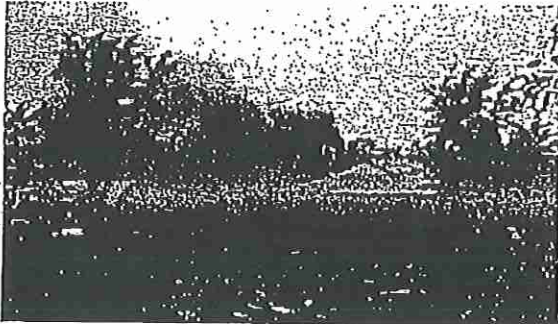
- i) If a person or public body does not make oral submissions at a public meeting, or make written submissions to the City of Mississauga before the by-law is passed, the person or public body is not entitled to appeal the decision of the City of Mississauga to the Ontario Municipal Board (OMB):
- ii) If a person or public body does not make oral submissions at a public meeting, or make written submissions to the City of Mississauga before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the OMB unless, in the opinion of the Board, there are reasonable grounds to do so.

A copy of your written submission will be forwarded to Mississauga City Council to become part of the public record with respect to the above noted matter.

The personal information requested on this form is collected under authority of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, and the applicable implementing Ontario Regulation. This information will be used to inform you of future meetings including OMB Hearings regarding the above application. Questions about the collection of personal information should be directed to the Access and Privacy Officer, City of Mississauga, 300 City Centre Drive, Mississauga, ON L5B 3C1 or by telephone at 905-615-3200, Ext. 5181.

NOTE: PLEASE COMPLETE THE BACK OF THIS FORM AND PLACE IN THE DROP BOX PROVIDED OR MAIL IT TO MISSISSAUGA CITY COUNCIL AT THE ADDRESS NOTED ON PAGE 2.
ALTERNATIVELY YOU MAY CHOOSE TO WRITE A LETTER ADDRESSED TO MISSISSAUGA CITY COUNCIL.

Crematorium soot envelops Ottawa homes



Smoke can be seen coming from the Hope Crematorium in Mike Ball's 2008 home video. A spokesman for the crematorium said the video was likely taken before a faulty cremator was shut down about 18 months ago. Soot from an Ottawa crematorium has been falling and blowing on nearby homes, residents say, making it impossible at times to open their windows or sit outside.

"We've all smelt it, we've all seen it, and it makes you ... feel sick," said Dawn Lynch, whose home is about 250 metres away from the crematorium. "It makes you feel like you're breathing in the remnants of a ... dead body."

The crematorium is located at the Hope Cemetery on Bank Street, south of Leitrim Road, where Tamarack Homes and Tartan Land Corp. have been building the Findlay Creek Village development, which is expected to be completed in three months.



"It makes you feel like you're breathing in the remnants of a ... dead body," Findlay Creek resident Dawn Lynch says. (CBC) Lynch's neighbour, Mike Ball, said Tuesday that since a row of trees was cut down to make room for new housing about three years ago, the soot has had "free reign" to blow into his backyard.

"It's very thick smoke and it'll last maybe about five or 10 minutes and then that could happen two or three times a day — it depends," said Ball, who encourages his kids not to play in the yard during those periods. "It's not pleasant."

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<input type="checkbox"/> Corporate Services	<input checked="" type="checkbox"/> Appropriate Action
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<input type="checkbox"/> Transportation & Works	<input type="checkbox"/> Reply
	<input type="checkbox"/> Report

I-10(c)

Ball showed CBC News a home video shot in 2008 demonstrating how bad the smoke can get. The images show an enormous black plume billowing from the crematorium's chimney, obscuring everything behind it.

Lynch, Ball and other residents of the Findlay Creek development said they have complained to the city and the developer for more than two years and nothing has changed.

Meets emissions regulations

Benoit Bariteau, director of cemeteries for the Catholic Archdiocese of Ottawa, which runs Hope Crematorium, said the facility has a certificate of approval from the Ontario Ministry of the Environment, is inspected by the ministry regularly, and adheres to strict emissions regulations for crematoriums. In addition, work has been going on in recent months to upgrade the crematorium with equipment that will further reduce emissions.

'My question is how the developer and the city has allowed that houses could be so near the line.'— *Benoit Bariteau, Archdiocese of Ottawa*

Bariteau added that he has received no complaints from residents for months.

There was a problem with one cremator at the cemetery about a year and half ago, he said, and suggested that was when Ball's video was taken. But that problem was solved and there is no issue now, he said.

"I don't want to push back and to say it's fun for people to have a crematorium in their backyard, but, you know, at the same time it's a reality and it's very, very controlled," he said Wednesday, adding that the cemetery wants to have a good relationship with its neighbours.

However, he said, he did not know whether the level of emissions allowed by the Ministry of the Environment could result in soot falling on nearby homes.

Bariteau said that when the cemetery opened in 1987, it was far from the city, which has since expanded. It was years later when the city approved the Findlay Creek development.

"My question is how the developer and the city has allowed that houses could be so near the line," Bariteau said.

Pierre Dufresne, a spokesman with Tartan Land Corp., said the developers have offered to cover the cost of moving the crematorium farther away from Findlay Creek, but even if that goes ahead, it won't happen for several years.

Local Coun. Steve Desroches said he thinks that's a fair offer and he wants to discuss it with church officials.

But Bariteau doesn't think relocation to another part of the narrow cemetery would help: "Everywhere you would move the crematorium, it would eventually be in the middle of the city."

I-10cd.



[Hide]



Crematorium smokes out neighbours

DONNA CASEY, SUN MEDIA

FIRST POSTED: THURSDAY, OCTOBER 01, 2009 06:28 AM EDT | UPDATED: THURSDAY, OCTOBER 01, 2009 07:01 AM EDT

Recommend

Tweet : 0

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Report an error

A residential developer says it's working with a south-end crematorium to relocate its facility away from houses now under construction after complaints that soot from human remains was covering nearby homes.

An official with Tartan Land Corp., which is one of the builders of the Findlay Creek Village development, says it's working with Hope Cemetery on Bank St. to relocate its crematorium away a new swathe of homes that will go up over the next year.

Pierre Dufresne, vice-president of land development at Tartan, acknowledged the builder has worked with the cemetery to fix a defective cremator unit that was releasing excessive emissions into the air - and nearby backyards.

"They are currently upgrading the existing facility so there will be no emissions," said Dufresne of ongoing upgrades.

Mike Ball has watched the smoke billow in the distance from the crematorium chimney from his backyard.

<http://www.ottawasun.com/news/ottawa/2009/09/30/11216466.html>

15/05/2012

I-10(f)

Ball, whose home is about 250 metres away from the crematorium, said he worries for his future neighbours whose homes will be literally on the facility's doorstep.

^{May 15}
"This is like a poster for bad city planning. We've got a cemetery, so let's build homes 10 feet away from this crematorium," said Ball who lives on Devonwood Circle with his wife Jennifer and their four children.

Benoit Bariteau, the director of cemeteries for the Catholic Archdiocese of Ottawa, said the Hope crematorium has replaced its defective unit.

Bariteau said the crematorium, which has been operating for 22 years, undergoes regular emissions testing by the Ministry of the Environment and has received no complaints over the last several months.

However, Bariteau said he was "very surprised" the developer and the city agreed to zoning that allows houses so close to the Hope Cemetery property boundary.

"I can understand how someone would be a bit reluctant to have a crematorium in their backyard," he said.

donna.casey@sunmedia.ca

I-10(g)

Too much smoke for a crematorium - YouTube - Windows Internet Explorer

http://www.youtube.com/watch?v=2U-fmC2...

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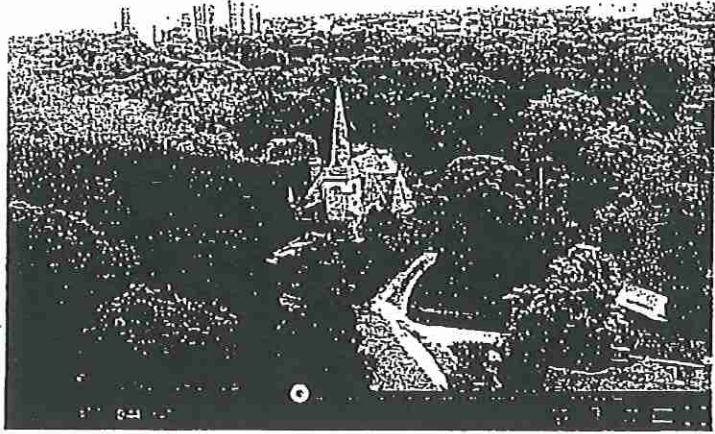
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- A MONSTER CREMATORIUM /** by ThePapsman 2,468 views
- The process of a cremation and a** by b2tmxk 16,267 views
- Fire Response To A Fire In A Crematory,** by matas21 8,559 views
- Cremation Smoke Stacks**

Done Start Marjorie - Marjorie_Aust... The Raven's Edge CS 2012 Respected ev... Microsoft Excel too much smoke for ... 1:21 PM

E-10(h)

Public Health impact of Crematoria

There are no legal requirements for emission control for crematoria in British Columbia.

This is in contrast with other jurisdictions where regulators often require strict temperature control and temperature recording at various locations. Some countries require continuous monitoring and have emission limits for specific pollutants and for parameters that indicate the completeness of combustion.

Crematoria are licensed to operate under the **Cremation, Interment and Funeral Services Act (CIFSA)**[1]. The agency overseeing the implementation of the Cemetery and Funeral Services Act is the BPCPA (Business Practices and Consumer Protection Authority of British Columbia).

- Section 28 of the act specifies:
 - That in order to get licensed a test of the operation of the crematorium has been completed and the test demonstrated that the crematorium operates in accordance with the manufacturer's specifications, the bylaws of the applicable local government and the laws of the Province.
 - That the professional engineer has the necessary knowledge, skill and experience to certify this document.
- Section 10: The container enclosing the human remains for the purpose of cremation does not contain: plastic; fiberglass; foam or styrofoam; rubber; polyvinyl chloride; and zinc.

Some shortcomings of the act are that there are no legal requirements for emission control, for monitoring, and for recordkeeping of maintenance activities to keep the unit operating at an optimal level to protect public health.

The *Business Practices and Consumer Protection Authority (BPCPA)* provides on their website a crematorium operator application checklist.
http://www.bpcpa.ca/Docs/cf_crematoria_application_guidelines.pdf (last updated Nov 2005, accessed Dec 2005). Some excerpts:

- The crematorium operator is required to create bylaws himself which address:
 - Cremation and operational procedures
 - Training
 - Document and authorization requirements
 - Proper processing of paper work
 - Housekeeping
 - Company policy matters
 - Identification process
- In addition each crematoria operator is required to keep a maintenance log.
- Another technical checklist to guide applicants who are working with a professional engineer in the design, construction and completion of a crematorium is provided at http://www.bpcpa.ca/Docs/cf_crematoria_checklist_technical_requirements.pdf.
 - The guide asks for a copy of temperature recording and stack emission analysis for:
 - Carbon Dioxide CO₂ %
 - Carbon Monoxide CO %
 - Oxygen O₂ %
 - Nitrogen N₂ %
 - Water H₂O %
 - Particulate emission
- The major public health concern for the people living in the vicinity of crematoria is probably not mercury but other pollutants such as particulate matter and pollutants from incomplete combustion.
- Mercury is of concern because of long-range transport. Most Mercury is volatilized as elemental mercury, some is oxidized and a small fraction is bound to particulate matter. Volatilized Mercury re-deposits and may bio-accumulate in the food chain after methylation by microbiota.

I-10(i)

- The best option would be to remove amalgam fillings before cremation, but in practice this might be difficult to achieve for practical and cultural reasons. This option is worth to explore with the crematorium operator.

The number of cremations is increasing in BC, as in the rest of North America.

- According to the Cremation association of North America (CANA) 78 % of deaths were cremated in BC in 2004, (approximately 23107 cremations). There has been a steady increase since 1996 when 71.4 % of bodies were cremated. CANA predicts that the absolute number and the percentage of deaths cremated will further increase in the future.
- The percentage of cremation for the whole of Canada was 56% in 2004.
- Emissions from crematoria contains a varying degree of pollutants such as particulate matter, volatile organic compounds, carbon monoxide, nitrogen oxides, sulfur dioxide, hydrogen chloride, heavy metals (cadmium, mercury, and lead), and dioxins and furans.
- Technology is available to reduce these emissions significantly. It is assumed that, if modern crematoria operate correctly, emissions are relatively small with a small impact on public health. Emission data in North America are sparse and only done on crematoria with new installations.
- Case 1: Crematory emissions testing at The Woodlawn Cemetery (New York, June 1999), one of the only crematoria in North America with additional pollution control equipment in New York, was funded jointly by CANA and the EPA. Sampling was done upstream and downstream from pollution control equipment (wet scrubber). The CANA website gives the test results but doesn't specify if the data are up or downstream from the scrubber. The data from this single test serve as national reference for mercury and other pollutants from crematoria for pollutant inventories. [2]
- Case 2: The environmental Protection Office of Toronto Public Health reported on stack testing for PM, heavy metals including Mercury, dioxins and furans, dispersion modeling and actual ambient air monitoring before and after Saint Johns crematorium became operational. They found low pollutant emission rates and concluded that the contribution of the studied crematorium to the ambient air quality was very small.[3]
- Case 3: In September 1997 the provincial government granted First Memorial Funeral Services a certificate to operate its crematorium. From the beginning of the operation, the crematorium has regularly contaminated the neighborhood with dense black smoke. First Memorial was ordered to stop its emissions by the Ministry of Environment, but appealed the order to the Environmental Appeal Board. The crematorium questioned the jurisdiction of the regional waste manager since crematoria are licensed to operate under the Cemetery and Funeral Services Act and are exempt from the provisions of the Waste Management Act. [4] The Board concluded that the air emissions being released from the Appellant's crematorium may be the subject of a Pollution Prevention Order under the *Waste Management Act*. The crematorium voluntarily closed the unit while they upgraded their equipment, and ultimately dropped their appeal.

Mercury:

Estimates of average mercury release per cremation of a human body vary considerably:

- 5 to 3.41g in Sweden and Finland[5]: Similar to the 3g in finding from studies from Mills in UK[6] and Kunzler and Andree[7] in Switzerland.
- Emissions from crematoria were estimated to be the third highest emission source of Mercury in Sweden[8].
- 1.5 g to 4.5 g in the UK (National Atmospheric Emissions Inventory or NAEI).
- NAEI estimates that in 1998, crematoria accounted for 11% of the United Kingdom's total atmospheric mercury emissions. Between 0.4 to 1.23 tonnes mercury (for 446,000 cremations)[9]
- 0.94×10^{-3} g in US. Results of the testing for uncontrolled mercury emissions of a propane-fired incinerator at a crematorium in California ranged from 3.84×10^{-8} to 1.46×10^{-6} kg/body burned; the average mercury emission factor was 0.94×10^{-3} g/body burned. The test results were obtained from a confidential test report to the California Air Resource Board (FIRE, 1995).[10]

- EPA estimated that all US crematories, together, would have produced a total of 108 kg of mercury emissions in 1999 (598,721 cremations).
- A US flow model estimates cremation as the third largest source of air emissions of mercury from products at 2436 kg a year in 2005 (3.4 g per cremation and approximate 709,000 cremations)[11].

I-10(j)

In Canada, amalgam continues to be used for tooth restorations due to its durability and low cost. The use of amalgam for new fillings in dentist office is declining and may eventually even become phased out. Maybe this problem resolves itself spontaneously in the future. In the immediate future though emissions from mercury will probably increase since there is an increase in the number of cremations and more people retain their heavily restored teeth into old age.

- Amalgam contains approximately 50% mercury. It is considered special waste through application of the BC Special Waste Regulation (BCSWR) under the BC Waste Management Act.[12]
- Canada-wide Standard (CWS) on Mercury for Dental Amalgam Waste was endorsed by the Canadian Council of Ministers of the Environment (CCME) in 2001.[13]
- The release from crematoria is not considered in the CWS for Dental amalgam waste.
- Dentists have a legal requirement to use a mercury separator in their office.
- According to environment Canada Approximately 1.3 T/yr of mercury in new filling material is placed each year in the mouths of Canadians and approximately 2 Tonnes/yr of mercury in amalgam waste is generated from the removal of old fillings and from the placing of new fillings. [14]
- Of the 215,742 deaths in Canada in 2004, 120,714 bodies have been cremated.[15].
- This gives an estimate of 109 kg to 411.6 kg mercury emissions from cremations for the year 2004 (If we use the estimates of 0.9 to 3.41 g mercury emissions per cremation).
- The total mercury emission for Canada in 2000 was estimated as 8,025 kg.[16]
- The OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic calls for Application of Best Available Techniques (BAT) to prevent the dispersal into the environment of mercury from crematoria[17].
- National emission standards that require gas cleaning to remove mercury vapor at new or large crematoria are in place in several European countries (Austria, Belgium, Germany, Great Britain, The Netherlands, Norway Sweden and Switzerland).

Mercury has been found to be significantly elevated in the hair of crematorium workers especially in administrators who work in closed environment with limited air ventilation. Of the 97 crematoria workers, 3% had concentrations higher than 6 ppm which is considered as the maximum tolerable level. Mean mercury concentrations were 1.96 ppm for administrative personnel and 1.47 ppm for ground personnel compared to 0.97 ppm for controls. The number of amalgam fillings was taken into consideration. A limiting factor of the study is that there is no information on possible diet exposure to mercury. The authors argue that fish is only a minor part in the diet in the UK. The authors conclude that this study contributes to the evidence that emission monitoring and control is warranted. [18]

- Mercury levels found around crematoria are below the levels that are believed to cause health problems. In New Zealand Nieschmidt and Kim [19] found soil mercury levels in the neighborhood of crematoria up to a maximum of six times the background level. They calculated that only 0.05% of the likely total mercury emissions were deposited in the local soil.
- A detailed review of references on Mercury emissions from crematoria is done by John Reindl from Wisconsin¹⁰.
- Canada Wide standards for mercury apply to industrial incinerators of which crematoria are exempt.

For new or expanding facilities of any size, application of best available pollution prevention and control techniques, such as a mercury waste diversion program, to achieve a maximum concentration in the exhaust gases from the facility as follows:

- Municipal waste incineration 8,9 20 µg/Rm³
- Medical waste incineration 20 µg/Rm³
- Hazardous waste incineration 50 µg Rm³
- Sewage sludge incineration 70 µg/Rm³

Dioxins and furans:

I-100K)

Since cremation is a combustion process of organic matter dioxin and furans may be formed during the process due to incomplete combustion or new formation in the stack induced by high temperatures.

In the USA the emission of dioxins and furans measured at a crematorium with new technology was 0.5 µg TEQ per cremated body.

European test data found higher values: 4.9 µg TEQ per body at two Dutch crematoria and 70–80 µg TEQ in a British crematorium with older technology. Reviewers of the EPA dioxin emission inventory report recommend to use the Dutch Data as reference.[20]

A Japanese study, Takeda et al (2001) found an average of 3.9 µg and a median of 1.8 µg TEQ/body with a maximum of 24 µg TEQ/body. The operational condition of the crematorium, mainly the temperature control, influenced to a large extent the emission of dioxins and furans. Takeda found in a study in Japan 1998 measurements ranging from 9.9pg to 6500 pg TEQ/m³ and in a second study in 2001 measurements between 64 pg TEQ/m³ and 24000 pg TEQ/m³. [21]

The authors concluded that it is necessary to take measures immediately to reduce emissions given the high volume of cremations.

A recent stack test conducted by Environment Canada at a crematorium located in Mainland, Ontario detected a dioxins and furans concentration of 227 picograms I-TEQ/m³ resulting in an estimated annual emission rate of .079 milligrams/year. Higher individual test run results have been noted in testing performed by a commercial source testing firm on a similar new facility in Windsor, Ontario.[22]

Canada-wide standards have been developed for waste incineration, burning salt laden wood in coastal pulp and paper boilers, iron sintering, electric arc furnace steel manufacturing, and conical municipal waste combustion, crematoria are exempt.

- Municipal waste incineration 80pg I-TEQ/m³
- Medical waste incineration 80pg I-TEQ/m³
- Hazardous waste incineration 80pg I-TEQ/m³
- Sewage sludge incineration 80pg I-TEQ/m³

Particulate matter and greenhouse gases.

Particulate matter produced by crematoria may impact the air quality level.

The production of greenhouse gases such as carbon dioxides and nitrogen oxides is another factor to consider. The required energy, mostly from natural gas, electricity or propane, for the combustion of human remains is considerable. Cremation generally takes 2-3 hours in a sealed chamber, during which the temperature ranges between 760 – 1149 °C.

In Sweden a liquid nitrogen freeze-dry process is under investigation as alternative for cremation. Another innovative idea in Sweden is the recuperation of heat generated in some crematoria. For example water used to cool exhaust gases to prevent the formation of dioxins and furans, contributes to the warming of municipal heating system.

Conclusion and recommendations:

- Crematoria have the potential to have a negative impact on public health.
- There is a lack of emission data of existing facilities in Canada and North America. The few emission studies that have been done are on new facilities.
- Internationally there is clearly a concern around the polluting capacity of crematoria. Crematoria emissions are strictly regulated in most European countries, Japan, and Hongkong. In Canada and the USA, emissions of crematoria are 'assumed' to have only a small impact on public health.
- Crematoria should use the best available technology economically achievable to reduce air pollutant emissions and should operate at an optimal level with strict temperature control to obtain complete combustion.

- Minimum operating temperatures, minimum oxygen levels, maximum carbon monoxide levels, maximum opacity measures, maximum PM levels should be established based on work in other jurisdictions. I-100(1)
- A crematorium should not be cited [*sic*] close to a neighborhood.
- Stack emissions and ambient air quality should be monitored before and after a crematorium starts functioning.

Veerle Willaëys

Resident Community Medicine UBC

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I-10(m)

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Many people choose cremation over burial because they think cremation is better for the environment. While it is true that cremation does not take up any space, it is also true that cremation creates a lot of air pollution. Think about it for a minute. A typical human body plus the cremation casket will weigh somewhere between 200 and 300 pounds. After cremation, just 1 or 2 pounds of ashes remain. Where did all the other material go? Well the answer is quite literally up in smoke.

Some of the pollutants found to come from the smokestacks of crematoria include heavy metals, hydrogen chloride, dioxins and furans. A few crematoria have installed scrubbers on their smokestacks, but most have not. Click [here](#) for results of air pollution tests that were done on the smokestacks of crematoria.

Nicholas Albery, Natural Death Centre director and an editor of *The New Natural Death Handbook*, writes, "Anyone with green pretensions should think twice about cremation," which pollutes the atmosphere "with dioxin, hydrochloric acid, hydrofluoric acid, sulfur dioxide and carbon dioxide."

A portion of the air pollution created during cremation comes from the foam rubber mattress, polyester fabric, urethane finish and composite wood of conventional caskets. Because the Eco Casket is made from all natural materials, it is also a good environmental choice as a cremation casket. The handles of the Eco Casket are bolted on, and can easily be removed by funeral home personnel just before the actual cremation.

APPENDIX 3

Proposed Amendments to Mississauga Official Plan (2011) and Zoning By-law 0225-2007 respecting Crematoriums – Response to Comments

#	Respondent	Issue/Comment	Staff Response
1	Letter dated March 23, 2012 from the Concerned Citizen's of Malton	This letter was prepared by Giles Gherson, Deputy Minister of the Ontario Ministry of Consumer Services and addressed to the Concerned Citizens of Malton. The letter indicates that under the new Act (<i>Funeral, Burial and Cremation Services Act, 2002</i>) municipal and environmental approvals must be obtained before any consideration of an application for licensing under the FBCSA. The letter also indicates that where there are planning grounds, zoning by-laws may be passed in order to minimize or prevent land use conflicts and the locating of incompatible land uses.	No change is required.
2	Statutory Public Meeting Planning and Development Committee Comments May 14, 2012	(a) What is meant by a sensitive land use? Are creeks included?	The term "sensitive land use" is included as a defined term in Mississauga Official Plan. A "sensitive land use" is defined as "buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences; day care centres; educational facilities and health facilities." Creeks and natural areas could be identified as a sensitive land use by the municipality. No change is recommended.
		(b) Are crematoriums required to monitor and report on their emissions annually?	Generally no, unless required as a condition of the Certificate of Approval for Air Emissions.

Respondent	Issue/Comment	Staff Response
	<p>(c) What are the current provisions for the scattering of human remains? What is the Credit Valley Conservation's position on the scattering of cremated remains?</p>	<p>Cremated remains may be stored in a niche within a columbarium or buried in a registered cemetery. It is also possible to purchase the right to scatter the cremated remains within a cemetery where this service is available.¹</p> <p>The Province recognizes the scattering of cremated ashes on land and water as an integral part of religious burial ceremonies. Individuals and families are permitted to scatter cremated ashes on unoccupied Crown, and those Crown lands covered by water. There is no requirement to obtain government consent to scatter cremated remains in provincial parks, conservation reserves and the Great Lakes. Cremated ashes may also be scattered on private property with the owner's consent.²</p> <p>While the Province encourages that the scattering of cremated ashes on water be conducted in an environmentally responsible manner, the Credit Valley Conservation does not permit the scattering of cremated ashes and ritual offerings from any CVC owned lands.³</p> <p>City of Mississauga Parks By-law 186-05 prohibits the scattering, burial or otherwise disposition of any cremated remains in a park or any park/greenbelt lands managed and maintained by the City of Mississauga for public open space.</p>
	<p>(d) Can lands be sterilized if the scattering of human remains is permitted on site?</p>	<p>Although the scattering of human remains on private property appears to be permitted with the land</p>

¹ Ontario Ministry of Consumer Services, Consumer Guide to Funeral, Burials and Cremation Services 2012 (*Funeral, Burial and Cremation Services Act, 2002*), p. 11

² Ontario Ministry of Consumer Services Website [www.sse.gov.on.ca/mcs/en/Pages/Cemeteries and Funerals_Scattering_Remains.aspx](http://www.sse.gov.on.ca/mcs/en/Pages/Cemeteries_and_Funerals_Scattering_Remains.aspx)

³ Credit Valley Conservation 446 Board of Director's Meeting September 11, 2009, Resolution 81/09 p.A-54

#	Respondent	Issue/Comment	Staff Response
			<p>owner's consent there is a concern that such activity could be perceived as an encumbrance on future land owners so as to impact the potential redevelopment of the property. For this reason it is proposed that the scattering of human remains only be permitted within a cemetery.</p>
		<p>(e) How many funeral homes are there in Mississauga?</p>	<p>There are 11 funeral homes located in Mississauga. The majority are located on major roads in employment, commercial and mixed commercial-residential zones.</p>
3	<p>Glen Broll of Glen Scharr & Associates on behalf of Benisasia Funeral Home and 1429036 Ontario Limited</p>	<p>(a) Expressed concerns regarding a perceived "lack of science" behind the proposed minimum separation distance.</p>	<p>The D6 guidelines do not list crematoriums as a specific industrial use. However given that such facilities require an Environmental Compliance Approval (Formerly Certificate of Approval) to operate, it is reasonable to apply the D6 guidelines to assist with the establishment of appropriate separation distances.⁴</p> <p>In the absence of specific information staff relied on the expert opinion of environmental engineers whose opinion it is that crematoriums can be classified as a Type II facility with a potential area of influence of up to 300 m (985 ft).⁵</p> <p>In the zoning by-law, a minimum separation distance of 300 m (985 ft) to zones permitting residential land uses is proposed for crematoriums on a city-wide basis in an abundance of caution. This requirement is proposed to be applied to all crematoriums including those located within a cemetery and to building expansions of existing crematoriums.</p>

⁴ According to the Ontario Ministry of the Environment Guideline D-1 Land Use Compatibility (July 1995), the separation distance guideline is applicable when a change in land use is proposed.

⁵ RWDI Air Inc. Air Quality Review, Holy Family Catholic Cemetery Crematorium, Milton Ontario, June 15, 2010 by Gregory J. Conley, B. E. Sc, P. Eng.

Respondent	Issue/Comment	Staff Response
		<p>Site specific proposals for a new crematorium, or the expansion of an existing crematorium, will be considered on their own merits through a development application which includes supporting environmental and planning studies. Each such proposal will be examined through a transparent public process. Where compelling evidence is provided, a lesser separation distance may be applied.</p>
	<p>(b) What are some potential land use impacts associated with crematoriums?</p>	<p>Although a crematorium operation may comply with provincial regulations air quality emissions, it may still pose a nuisance for nearby sensitive land uses in terms of air or odour emissions. When these adverse effects impact the use of other properties there is a conflict.</p> <p>In some prestige employment or mixed use areas the introduction of a crematorium could have a destabilizing effect on new investment in the area and ultimately the planned long term function of the development. This may be attributed to either tangible or perceived impacts. These concerns were raised by Orlando Corporation.</p> <p>For example, a crematorium use would not be compatible with other uses in a condominium multi-unit industrial complex with shared interior walls.</p> <p>Ideally crematoriums should be located in areas where they pose minimum risk to public health. For similar reasons establishing a crematorium in an intensification area where future population growth is directed is undesirable.</p> <p>No change is recommended.</p>
4	<p>Letter dated April 25, 2012 from Leo Klug on</p>	<p>Has a particular concern regarding the proposed amendments upon a development application which</p> <p>At the time this development application was submitted the in-force Provincial legislation required</p>

Respondent	Issue/Comment	Staff Response
<p>behalf of Benisasia Funeral Home and 1429036 Ontario Limited</p>	<p>is in progress.</p> <p>On August 24, 2009 Benisasia Funeral Home (1429036 Ontario Limited) submitted Official Plan Amendment and Rezoning Applications under File OZ 09/012 W5 to permit a crematorium at the existing funeral home at 3263 Dery Road East. At the time of the valid application there was no by-law in existence mandating a 300 meter distance separation between the crematorium and the sensitive land use.</p> <p>In accordance with the jurisprudence and as well, in accordance with what is fair and equitable in the circumstances, Benisasia Funeral Home should and must be excluded and exempted from any amendment to the Official Plan and Zoning By-law as it pertains to the 300 meter distance separation.</p>	<p>that crematoriums be located within a cemetery. Mississauga's official plan policies and zoning regulations reflected the Provincial legislation.</p> <p>As of July 1, 2012 the Province can grant a licence to operate a crematorium outside of a cemetery provided that the proposal obtains municipal zoning approval and applicable Environmental Compliance Approval (formerly Certificate of Approval) from the Ministry of the Environment.</p> <p>This study was done in response to the change in Provincial legislation and the need to address the growing demand for cremation services in a manner that is acceptable to the City and in the public interest. The study is not intended to frustrate any development application.</p> <p>No change is recommended.</p>
<p>5 Letter dated May 9, 2012 and attachment dated April 2, 2012 from John B. Keyser, Barrister & Solicitor, Keyser Mason Ball, LLP on behalf of St. John The Baptist Anglican Church - Dixie Crematorium, 737 Dundas Street West)</p>	<p>St. John's Dixie Cemetery and Crematorium wishes to be excluded from the proposed separation distance on the basis of its historical development and operational practice. The cemetery has been in existence since before the nearby residential uses were built. The two crematorium retorts on the property have been in operation for nearly 25 years without any complaint. St. John's provides burial and cremation services for the general public. Many of the funeral homes in the south of Mississauga use St. John's facilities.</p>	<p>Staff is not aware of any complaints associated with this facility.</p> <p>St. John's has obtained a Certificate of Approval from the Ministry of the Environment and a building permit (#12-1134) from the City for interior alterations to construct a new cremator room for a third retort in the existing chapel and crematorium building.</p> <p>The construction also involves upgrading the equipment in the present cremators. This work is currently underway but not yet completed. The proposed separation distance requirement will not impact the works under this permit.</p>

#	Respondent	Issue/Comment	Staff Response
6	<p>Letters dated May 10 and July 23, 2012 from Philip Stewart, Pound and Steward Planning Consultants on behalf of Orlando Corporation</p>	<p>(a) Orlando Corporation supports the continuance of restricting crematoriums to cemeteries. Orlando Corporation cannot support the establishment of cremation facilities within Industrial Areas. The establishment of a stand alone crematorium in these areas may result in undesirable land use conflicts and impact investment in surrounding lands.</p> <p>When a site specific crematorium is proposed, outside of cemetery lands, such proposal should be subjected to the full scrutiny of the public planning process allowing for notice, hearing and appeal and be supported by appropriate planning and environmental analysis on a site specific basis.</p> <p>Given the significant planning policy and regulatory changes being contemplated to permit crematoriums in Industrial Areas, it is recommended that sufficient and adequate public notice be provided to all registered landowners, tenants located within these affected Industrial Areas and bordering Business Employment</p>	<p>When the proposed amendments come into effect, an addition to the separation distance facility would be subject to the separation distance requirement. However, if a building permit, which could include an additional retort, requires only interior alterations within a portion of the building, which existed prior to the proposed amendments, the proposal would not be subject to the minimum separation distance requirement.</p> <p>No change is recommended.</p> <p>The purpose of this study was to determine whether crematoriums could be expanded outside of cemeteries and under what conditions this would be acceptable. The proposed amendments confirm where crematoriums are preferred and under what conditions.</p> <p>Crematoriums were proposed to also be permitted as-of-right on lands designated "Industrial" in the Gateway and Northeast Employment Character Areas and the E3 zone provisions. These areas are believed to be the least problematic from a compatibility perspective because sensitive land uses are already prohibited through the Airport Operating Area restrictions.</p> <p>In view of the concerns expressed by Orlando Corporation and the desire to have more extensive public input when new crematoriums are proposed outside of a cemetery, the proposed amendments have been revised to permit crematoriums as-of-right in Mississauga Official Plan (2011) subject to a site specific rezoning which considers, among other things appropriate distance separation from sensitive land uses and impact on the long term planned function of</p>

#	Respondent	Issue/Comment	Staff Response
		<p>Changing policy to broadly allow the Crematorium Use in Industrial Areas, as of right, is a substantial deviation from the City's existing and recently adopted planning policies.</p>	<p>surrounding lands. Through the rezoning process the City is also in the position to secure any site specific concessions or requirements as conditions of approval.</p> <p>Revised Recommendation: The proposed Mississauga Official Plan (2011) amendment has been revised to permit crematoriums on lands designated "Industrial" within the Gateway and Northeast Employment Character Areas subject to a rezoning application.</p>
		<p>(b) Provide a reference to the section of the legislation which indicates that crematoriums can locate in funeral homes.</p>	<p>The new Act no longer requires that crematoriums be located within a cemetery. Therefore, such facilities can be located in funeral homes or as stand alone facilities.</p> <p>According to the Ministry of Consumer Services, a crematorium could previously only be established on cemetery lands. As of July 1, 2012 a crematorium can be established off cemetery lands if:</p> <ul style="list-style-type: none"> • You have the appropriate zoning approval from the municipality where the crematorium will be located, and • You have the appropriate environmental approval from the Ministry of the Environment (Environmental Compliance Approval required under section 9 of the Environmental Protection Act)⁶
		<p>(c) Does a funeral home in an E2 zone have a</p>	<p>If a crematorium were to be permitted in conjunction with a funeral home additional Provincial approvals would be required.</p> <p>No. Funeral homes are not subject to a separation.</p>

⁶ Ontario Ministry of Consumer Services, Cemeteries Registrar's Bulletin on the Funeral, Burial and Cremation Services Act, June 2012, p. 3

#	Respondent	Issue/Comment	Staff Response
		separation distance from a residential use?	<p>distance requirement from residential zones. They are, however, required to locate on major roads in accordance with Section 2.1.2.2.2 of Zoning By-law 0225-2007.</p>
		(d) Explain the Ministry of the Environment approval process. Where in the development process does this happen?	<p>Any owner or business operator that discharges a contaminant into the natural environment or establishes, alters, extends or replaces a sewage works, or stores, transports or disposes of waste, must seek approval from the Ministry of the Environment to carry out these activities.⁷</p> <p>The Environmental Protection Act and the Ontario Water Resources Act specify the activities that require ministry approval and the activities which are exempt. Air emissions associated with a crematorium facility are not exempt.</p> <p>The Ministry's approval required for a crematorium is termed an Environmental Compliance Approval (ECA) (formerly Certificate of Approval).</p> <p>A land owner or business may submit an application for an ECA even if the subject property is not zoned to permit such a use. However, the Province will generally not consider applications for ECAs that are subject to the Environmental Assessment Act until all applicable requirements e.g. zoning or planning approvals, have been satisfied so that the use is permitted.</p> <p>If Ministry of the Environment approval is required it must be achieved prior to building permit issuance.</p>
		(e) Can a mausoleum be located outside of a cemetery?	<p>No. Under the new Act the interment of human remains, including those interred in a mausoleum,</p>

⁷Ontario Ministry of the Environment, Introductory Guide to Applying for an Environmental Compliance Approval, Dec 2011 p.4

#	Respondent	Issue/Comment	Staff Response
		(f) How will the 300 m (985 ft) separation distance be measured?	<p>must take place within a cemetery.</p> <p>The minimum separation distance is proposed to be measured from the nearest part of the building or structure or portion of the building or structure containing the crematorium to the closest lot line of a Residential Zone, a Mainstreet Zone or a City Centre Zone in accordance with Zoning By-law 0225-2007.</p> <p>The separation distance requirement would not apply if the crematorium facility was being expanded through only interior alterations into a portion of the building which existing prior to the amendment to the zoning by-law e.g. the construction of an additional retrofit without expanding the exterior of the building.</p>
7	<p>Letter dated May 24, 2012 from Mike Everard, Augusta National Inc., on behalf of Catholic Cemeteries Archdiocese of Toronto, registered owner of Assumption Cemetery, 6933 Tomken Road.</p>	<p>Requests confirmation that the proposed amendments do not impact the existing crematorium operation at Assumption Cemetery or any future building expansion to the existing crematorium.</p>	<p>No change is recommended.</p> <p>Assumption Cemetery is located within an Employment Area and within the Airport Operating Area.</p> <p>Existing crematorium operations are not impacted by the proposed amendments but any expansion of the crematorium building would be subject to the minimum separation distance requirement. The existing crematorium does not appear to be within 300 m (985 ft) of any of the sensitive lands uses proposed under the zoning by-law amendment.</p>
8	<p>Undated attachment from Charles A. Barclay, President, The Concerned Citizens of Malton</p>	<p>The Concerned Citizens of Malton support the establishment of the 300 m (985 ft) separation distance. They do not support the establishment of crematoriums where there are large concentrations of residents.</p>	<p>No change is recommended.</p> <p>No change is recommended.</p>

Respondent	Issue/Comment	Staff Response
<p>9 Letter and submission received September 12, 2012 from Marjorie Austin, 4058 Justine Drive</p>	<p>Is concerned with the potential public health impacts associated with crematoriums near residential neighbourhoods. Submitted an article entitled "Crematorium soot envelops Ottawa homes" concerning the Hope Crematorium" which had a faulty cremator a few years ago emitting visible signs of smoke and soot despite having a valid Certificate of Approval.</p>	<p>The proposed amendments including a minimum separation distance are intended to minimize conflicts between crematoriums and sensitive land uses. While the issue of air emissions is mitigated at the source and regulated by the Province through the ECA (formerly C of A) it is assumed that a greater physical separation between sensitive land uses and crematoriums will afford some additional protection.</p> <p>According to the provincial guidelines for land use compatibility, distance is often the only effective buffer and therefore adequate separation distance, based on a facility's influence area, is the preferred method of mitigating adverse effects.⁸</p> <p>No change is recommended.</p>

⁸ Ontario, Ministry of the Environment, Guideline D-1, July 1995

Proposed Mississauga Official Plan (2011) Amendment re Crematoriums

Add

6.6 *Air Quality*

6.6.6 *Development proposals for a crematorium facility may be considered subject to the following:*

- *air, noise, dust, odour and other fugitive emissions are appropriately mitigated at the source in accordance with Provincial requirements;*
- *sensitive land uses are not located within the area of influence of the proposed facility;*
- *there is no impact to the long-term planned function or viability of the surrounding lands;*
- *the proposed development is not located within a multi-unit building;*
- *the scattering or interment of human remains is not permitted, except in cemeteries;*
- *the development is appropriately screened from adjacent uses and the public realm; and*
- *the site is appropriately buffered and landscaped.*

17.5 *Gateway Employment Character Area*

17.5.1.3 *Notwithstanding the Industrial policies of this Plan, the following use will also be permitted:*

a. *crematorium.*

17.8 *Northeast Employment Character Area*

17.8.1.3 *Notwithstanding the Industrial policies of this Plan, the following use will also be permitted:*

a. *crematorium.*



Retain 11.2.4 policies regarding Open Space (11.2.4.2 and 11.2.4.4)

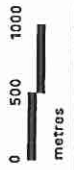
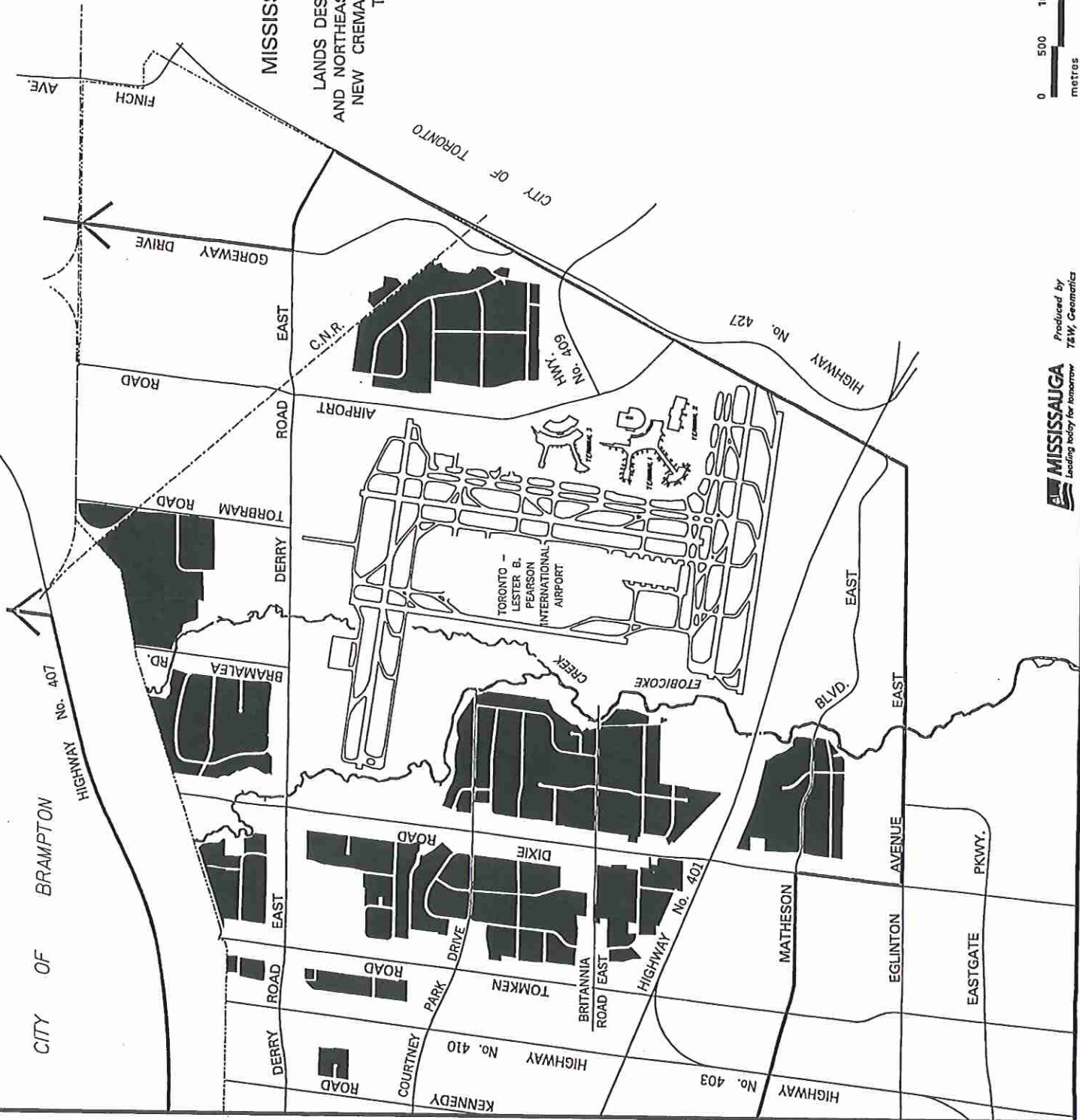
Proposed Zoning By-law 0225-2007 Amendment re Crematoriums

- *introduce a 300 m (985 ft) minimum separation distance between a crematorium and lands zoned R Residential Zone, Mainstreet Commercial Zone, and City Centre Zone;*
- *remove the as-of-right permission for crematoriums on lands zoned PB2 (Parkway Belt).*

APPENDIX 5
MISSISSAUGA OFFICIAL PLAN (2011)

LANDS DESIGNATED "INDUSTRIAL" IN THE GATEWAY
AND NORTHEAST EMPLOYMENT CHARACTER AREAS WHERE
NEW CREMATORIUMS MAY BE CONSIDERED SUBJECT
TO A SITE SPECIFIC REZONING

-  Industrial
-  Airport Operating Area



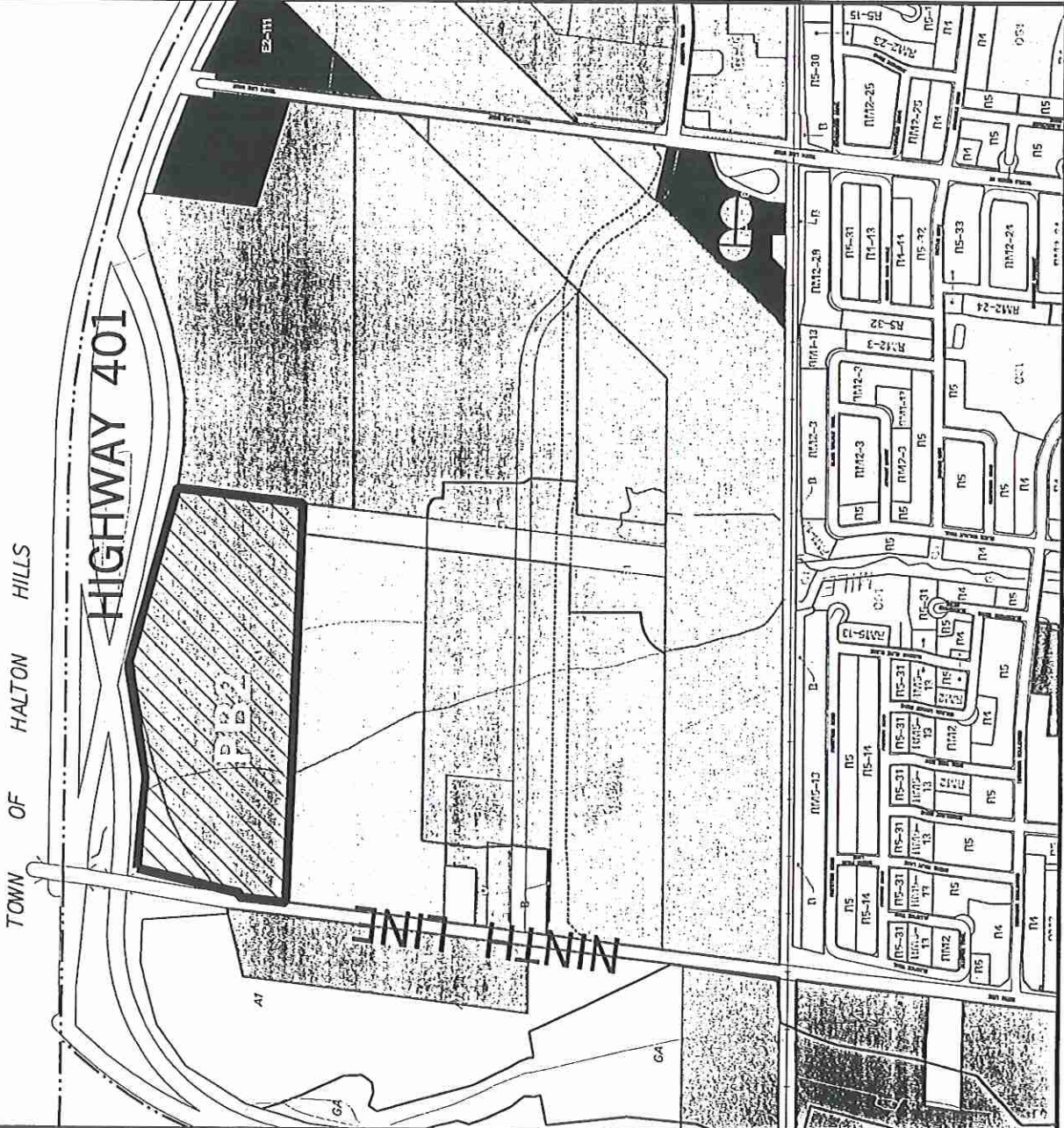
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APPENDIX 6

Existing Land Use Codes Legend

- RES1 Residential Detached
- RES2 Residential Semi-Detached
- RES3 Residential Row Dwellings
- RES4 Residential Apartments
- RES5 Residential Other Multiples
- RETI General Retail Commercial
- RETS Automotive Service Commercial
- RETI Other Retail
- REIS Mixed Residential Commercial (3 Storeys or more)
- MDC2 Mixed Residential Commercial (less than 5 Storeys)
- OFF Office
- IND1 Industrial General
- IND2 Industrial and Commercial Multiples
- IND3 Industrial Heavy
- OS Open Space/Greenbelt
- CC Community/Cultural
- PA Places of Religious Assembly
- PUB Public/Institutional
- SCH School
- PROW Transportation Right-of-Way
- PM Public or Municipal Parking
- UP Utilities/Public Works
- FEM Farm
- VAC Vacant
- Z Other
- UNK Unknown



LANDS ZONED PB2