

Citizens for an Accountable Mega-Hospital Planning Process to Seek Leave to Appeal LPAT Decision Regarding Windsor “Mega” Hospital Location

December 18, 2019 – Windsor, Ontario – CAMPP has served a motion for leave to appeal a recent decision of the Ontario Local Planning Appeal Tribunal (“LPAT”). Citizens for an Accountable Mega-Hospital Planning Process (“CAMPP”) is a Windsor-Essex residents’ advocacy group established in 2014 to represent the interests of the many residents with concerns over the proposed location of the new Windsor-Essex single site acute care hospital.

CAMPP initially appealed to the LPAT on a variety of grounds. On December 3, 2019, its appeal was dismissed. The residents’ group is now seeking permission to appeal to the Ontario Divisional Court on four questions of law.

First, the proposed appeal addresses the apparent failure of the LPAT to follow the Province’s Policy Statement and the City of Windsor’s own Official Plan. Both strongly encourage municipalities to locate emergency services in proximity to where people live.

“Even if new suburban residential development takes place near the proposed site, the hospital location will be very far from where the majority of the region’s residents already reside. It will significantly reduce access to essential healthcare services for tens of thousands of residents,” said Philippa von Ziegenweidt of CAMPP.

“We are especially concerned about elderly people, people with disabilities and mobility issues, and those with limited transportation options or financial resources.

“The policy framework referenced by the LPAT does not appear to support the current plan, which locates major emergency services many kilometers from the neighbourhoods with the greatest population density. Not everybody has a car. Those with impaired mobility or who use public transportation are most likely to live closer to the heart of the city,” she said.

Second, the appeal aims to address the apparent lack of consultation with First Nations. “The LPAT expressly finds the City’s Official Plan requires consultation with First Nations. The LPAT also finds this means ‘discussion.’ Yet, the LPAT finds no discussion took place. The LPAT further finds ‘... more could have been done to consult with local Indigenous communities.’ When these findings are reviewed, and in an era of reconciliation, it is hard for many to understand why the appeal was dismissed,” said Eric Gillespie, legal counsel for CAMPP.

Third, there appears to be a disconnect between the findings of the LPAT, and numerous policies in the Provincial Policy Statement and Windsor’s Official Plan regarding climate change. The LPAT decision does not address evidence that clearly supports what to many seems obvious: the plan will significantly increase motor vehicle

use. Locating major hospital and emergency services 10-15 kilometers from the population centre of Windsor-Essex is not transit-friendly, pedestrian-friendly, nor cycle-friendly. It does not promote numerous policies designed to address major climate change issues. In light of the global climate crisis, Windsor's recent declaration of a "climate change emergency," as well as greenhouse gas reduction targets in the City of Windsor's 2017 Community Energy Plan, it is difficult to understand why the City continues to pursue an objective that appears to contradict many of its own policies.

Finally, the LPAT relies on expert evidence, provided primarily by the City, that often conflicts with other expert evidence also provided by the City. The LPAT had the opportunity to call experts as witnesses at the hearing, but this did not occur. Consequently, it appears this contradictory evidence remains unresolved.

"There are clearly a number of concerns about the decision," Gillespie said. "Some people were critical when the appeal to the LPAT was filed. However, the LPAT allowed the appeal to proceed. It released a lengthy decision that did not suggest there was anything improper in the appeal. This group of Windsor-Essex residents is now exercising the same rights given to all Ontario residents, to ask a court to review the tribunal's decision. It's difficult to imagine being critical of people taking steps the Province has specifically created for these types of cases," he said.

Mark Nesbitt, an Ontario Ministry of Health spokesperson, recently stated that work on planning the proposed hospital is "*not* being impacted" by deliberations over its location [emphasis added]. "People may not be aware that the Ministry of Health has already said this project isn't going to be built for at least another half decade or more," Gillespie noted. "The leave to appeal will likely be heard in a few weeks. As has been the case to date, this should continue to have no impact on what everybody wants in the long run: a new hospital in the right location."

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