

G. W. JORDEN *Planning Consultants Limited*

8 BELLEVUE CRESCENT, BARRIE, ONTARIO L4M 2T1

June 23, 2011

VIA EMAIL

Ms. Denise B. Holmes, AMCT
CAO/Clerk-Treasurer
Township of Melancthon
157101 Highway 10
R.R. #6
Shelburne ON L0N 1S9

Dear Ms. Holmes: **Elexco Ltd. Consent Applications**
 on Behalf of Canadian Hydro Developers, Inc.
 Leases for Melancthon II Wind Project

I have now briefly reviewed the 38 consent applications submitted for approval with regard to leases relating to the lands currently used for the wind turbines and other facilities in Phase II of the Melancthon Wind Project. Like the facilities, the subject leases already exist and have been in effect for some time. They have a term of 21 years less a day with a provision that gives the Lessee a perpetual right to extend it. In view of the latter provision, under the provisions of the Planning Act Committee of Adjustment approval is required.

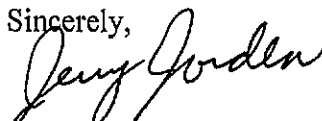
Each application form is accompanied by a copy of the subject lease and a survey showing the lands involved. I have reviewed one of the submitted application forms and briefly compared the description on each application form with the accompanying survey. With one exception, I have not reviewed the applications against the approved site plans for the project.

In general, the submitted material can be considered to be complete and ready for processing. I would note for your information and consideration the following 4 general and 4 site specific items concerning these applications.

1. The application forms are not signed by the property owners and there is no authorization on the part of the owners for Elexco Ltd., the company submitting the applications, to act on their behalf. The "affidavit or sworn declaration" section of the form is signed by the president of Elexco Ltd. This was the approach taken on the Phase I applications and accepted by Mr. Osyany. It may be appropriate to have Mr. Osyany confirm that this is still an acceptable approach. The applicant does note in the covering letter that the landowners will be contacted about the applications.
2. As with the applications relating to the wind project's first phase, the information provided on the applications is structured as though the wind project does not exist. The related wind power generation facilities are listed as proposed uses rather than existing uses. This is strange but does not appear to require a revision to the application forms.

3. The information on all the application forms indicates that the proposed leased areas would have access by a private right-of-way. However, as can be seen on the surveys, better than half of the lands included in the leased areas will have direct access to a public road. Again, although this information is inaccurate, it does not appear to be a major issue.
4. Also following the model of the first phase applications, the submitted application forms do not provide information on the "retained lands", the remainder of the subject land holding.
5. On the form relating to the Porteous property, there is a reference in part 7 on page 2 to the public guardian and trustee with regard to one of the owners. It may be necessary to check with Mr. Osyany as to whether or not there are any special processing requirements in light of this reference.
6. In the application relating to the Chemla property in Lots 265 - 267, Concession 3, SW, the survey shows a Part 7 which is to be included in one of the leases but which has no proposed lease area or easement connecting it to a public road. The site plan appears to indicate that there is a meteorological tower on or near the proposed Part 7. I would suggest that this be checked with the applicant.
7. According to the survey submitted with the Fernandes/D'Souza application, the proposed lease for a right-of-way will cross an existing right-of-way. It may be advisable to check with Mr. Osyany to ensure that there are no legal issues in this regard. Obviously, the wind turbine access road is already in place on the area shown on the application but there may be legal complexities in crossing one right-of-way with another.
8. The application submitted for the Schill Acres Ltd. property references the lease of a 20 metre by 15 metre block at the intersection of the 8th Line SW and 280 Sideroad. The site plans that I have do not show any wind power facilities at that location. As with the right-of-way proposal referenced in point 7 above, no doubt there is already something on these lands but it is not clear from the information submitted with the application as to exactly what it is. Unless you are familiar with this site, there may be a need to check on this with the applicant.

Sincerely,



G. W. Jorden, RPP

Shepherd, Osyany & King LLP
Barristers and Solicitors

155 Main Street West
P.O. Box 760
Shelburne, Ontario, L0N 1S0
☎ (519) 925-5331
Fax: (519) 925-3202

George H. Shepherd (retired 2002)
Andrew Osyany Professional Corporation - osyany@sok-law.com
Douglas J. King Professional Corporation - king@sok-law.com
Ruhia Jokhio - jokhio@sok-law.com

File No. 17849

July 6, 2011

Township of Melancthon
R.R. 6
Shelburne, Ont. L0N 1S9

Dear Mesdames & Sirs:

Re: Township of Melancthon - Canadian Hydro Developers

Mr. Jordan has provided his comments on the severance applications for Phase II. I am responding to his letter in regard to the "legal" questions.

1. I am satisfied that the signing of the severance applications by Elexco is proper and sufficient for the purposes of the Planning Act.
5. I have no concern about the involvement of the Public Guardian and Trustee; this application should be processed exactly as all the others.
7. I have no concern for this, the severance can be granted for this right of way, without regard to the existing right of way.

Yours véry truly,
SHEPHERD, OSYANY & KING, LLP
per:



Andrew Osyany

(ext. 233)

AO/ofa
cc. Jerry Jordan

Denise Holmes, AMCT

From: Marko Pasic <mpasic@aone-elexco.com>
Sent: July-15-11 2:18 PM
To: Denise Holmes, AMCT
Cc: Erica Locking; Jerry Jordan
Subject: Canadian Hydro Developers, Inc. (CHD) - Applications for Consent - Melancthon Township
Attachments: img-7051036-0001.pdf

Hi Denise,

In response to your e-mail below and the various numbered points in Mr. Jordan's attached Letter of June 23, 2011, we would like to provide you with the following responses:

Number 1

1. The facility Surface Lease for Schill Acres Ltd. (Elexco File 187003-14-147) contains the following landowner authorization in sub-clause 4(i) [Further Assurances] of the said Surface Lease: *"If compliance with the provisions of the Planning Act should be required, in the sole discretion of the Lessee, then the Lessor hereby appoints the Lessee or its authorized agents or servants to execute such consents or authorizations as may be necessary for the Lessee to obtain any required consents from the local Land Division Committee or Committee of Adjustment and agrees to cooperate in any such applications for consent."*
2. The Easement and Right-of-Way for both John Worley (Elexco File 187003-5-136) and Sutton/Aransevia (Elexco File 187003-5-146) contains the following landowner authorization in Clause 14 of the Easement and Right-of-Way Schedule: *"If, in the sole discretion of the Transferee, compliance with the provisions of the Planning Act should be required then the Transferor hereby appoints the Transferee to execute such consents or authorizations as may be necessary for the Transferee to obtain any necessary consents from the local Land Division Committee or Committee of Adjustment and agrees to co-operate in any such applications for consent"*.
3. All of the remaining Applications relate to Wind Turbine Leases, which contain the following landowner authorization provision in Article II - Additional Covenants, Section 4 [Planning Act]: *"The Lessee shall apply diligently to prosecute such application for such consent, and the Lessee shall be responsible for all costs, expenses, taxes and levies imposed, charged or levied as a result of such application and in order to obtain such consent. The Lessee shall at all times keep the Lessor informed of its progress in obtaining such consent and the Lessor shall co-operate with the Lessee with respect to such application."*

In the event that you would still like us to contact the individual landowners with respect to the Applications then please let us know.

Number 5

In relation to the Application for the Wind Turbine Lease on the Porteous/Stulp lands (Elexco File 187003-36), we have contacted Arun Sunda, Sr. Client Representative, Ministry of the Attorney General, Office of the Public Guardian and Trustee, Toronto Regional Office at 595 Bay Street, Suite 800, Toronto, Ontario M5G 2M6 [Tel: 416-314-2737; Fax: 416-314-2231; E-mail: arun.sunda@ontario.ca]. Since the Public Guardian and Trustee (PGT) has been appointed as the guardian of George Elvis Stulp's interest in the property, we have informed the PGT of the Application for Consent, including a copy of the Application and Hearing Date information. In addition, we have inquired with the PGT about eventually registering a short form Notice of the aforementioned Wind Turbine Lease and the necessary PGT consent to permit the same due to an Application To Annex Restrictive Covenants registered on title on August 13, 2010, as Instrument No. DC112807, which restricts anyone from dealing with the property without consent of the Public Guardian and Trustee. Mr. Sunda has informed us that the PGT's office is currently reviewing the information we provided to them and will respond to us.

Number 6

In relation to the Wind Turbine Lease for Walter and Eva Chemla (Elexco File 187003-89), CHD has informed us that Part 7 on Plan 7R-5955 is indeed for a met tower location. Article II - Additional Covenants, Section 3(f) [Access and Transmission] of the said

Wind Turbine Lease provides CHD with the right to access the defined met tower location across the landowner's adjacent property. CHD further informs us that for the met tower there is no need for a permanent access road or any cable to connect it with the rest of the project.

Number 7

In relation to the Wind Turbine Lease for Fernandes and D'Souza (Elexco File 187003-51), CHD was advised by its external legal counsel that CHD would be entitled to build an access road across the existing 33 foot wide right-of-way located at the rear or northeasterly portion of the landowner's property so long as there was no wrongful interference of the existing right-of-way. For your reference, the existing right-of-way is in favour of Mohan Singh Atwal and Hardev Singh Atwal pursuant to the Deed of Land registered on June 8, 1964 as Instrument No. MF18507.

Number 8

In relation to the facility Surface Lease for Schill Acres Ltd. (Elexco File 187003-14-147), CHD informs us that the infrastructure located on Part 1 on Plan 7R-5941 at the northwest intersection of 280 Sideroad and the 8th Line South West is a 6' Wide x 10' Long x 8' High above ground switchgear cabinet that is a connecting/switching point for underground electrical collection lines. It is an ancillary piece of equipment relating to the permitted underground electrical lines. It was not indicated on the site plans much in the same way that any utility would not include every piece of ancillary equipment in plans (ie. switching boxes along buried telephone line routes). The cabinet covers about sixty (60) square feet of ground and would presumably be small enough that it does not require a separate permit, much like a garden shed or similar structure.

We trust this is satisfactory and await your reply as to the sufficiency of our responses, including whether you require us to inform each of the landowners directly about the Application for their lands as well as the scheduled Hearing date.

Yours very truly,

Marko Pasic, In-house Counsel
The Elexco Group
Phone: (519) 686-0470
Fax: (519) 686-9088
mpasic@aone-elexco.com

~~~~~

If you received this communication in error and you are not the intended recipient of its contents, please notify us immediately by reply email or by calling 519-686-0470. This message is intended solely for the use of the person to whom it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, or an agent responsible for delivering the message to the intended recipient, any disclosure, dissemination, distribution or copying of this communication is strictly prohibited.

-----Original Message-----

From: Denise Holmes, AMCT [<mailto:dholmes@melanctontownship.ca>]  
Sent: Tuesday, July 05, 2011 2:47 PM  
To: Marko Pasic  
Subject: Applications for Consent

Good afternoon,

Attached please find a letter from Jerry Jorden, Township Planner regarding the applications.

Can you please advise the Township regarding # 6 & # 8 of the letter?

Thank you.

Denise Holmes

Denise B. Holmes, AMCT | CAO-Clerk/Treasurer | Township of Melancthon | [dholmes@melanctontownship.ca](mailto:dholmes@melanctontownship.ca) | PH: 519-925-5525

ext 101 | FX: 519-925-1110 P Please consider the environment before printing this e-mail This message (including attachments, if any) is intended to be confidential and solely for the addressee. If you received this e-mail in error, please delete it and advise me immediately. E-mail transmission cannot be guaranteed to be secure or error-free and the sender does not accept liability for errors or omissions.

---

Total Control Panel

[Login](#)

To: [dholmes@melanctontownship.ca](mailto:dholmes@melanctontownship.ca)

Message Score: 50

High (60): Pass

From: [mpasic@aone-elexco.com](mailto:mpasic@aone-elexco.com)

My Spam Blocking Level: High

Medium (75): Pass

Low (90): Pass

[Block](#) this sender

[Block](#) aone-elexco.com

*This message was delivered because the content filter score did not exceed your filter level.*