## ONTARIO MUNICIPAL BOARD Commission des affaires municipales de l'ontario

IN THE MATTER OF subsection 17(40) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: Appellant: Appellant:	451082 Ontario Limited 861945 Ontario Ltd. et al County of Simcoe
Appellant:	Estate of Mary Louise Frankcom; and others
Subject:	Failure of to announce a decision respecting Proposed Official Plan
	Amendment No. 43-OP-2008
Municipality:	Upper Tier County of Simcoe
OMB Case No.:	PL091167
OMB File No.:	PL091167

#### **MOTION RECORD**

(Returnable December 8, 2014)

AIRD & BERLIS LLP Barristers and Solicitors 181 Bay Street, Suite 1800 Toronto, Ontario M5J 2T9

Christopher Williams Tel: 416.865.7745 Fax: 416.863.1515

Solicitors for the Township of Oro-Medonte

#### TO: ALL APPELLANTS/PARTIES SET OUT IN ATTACHMENTS "A" AND "B"

# AND TO: ONTARIO MUNICIPAL BOARD

655 Bay Street, 15<sup>th</sup> Floor, Toronto, Ontario M5G 1E5

Attention: Kimberly Livingstone, Planner (<u>kimberly.livingstone@ontario.ca</u>) Phone: 416-326-6773; Fax: 416-326-5370

### ATTACHMENT "A"

# LIST OF APPELLANT PARTIES- COUNTY OF SIMCOE OFFICIAL PLAN PL091167

No.	Appellant	Lawyer/Agent*	E-mail Address
1	County of Simcoe	Roger Beaman	rbeaman@thomsonrogers.com
2	<ul> <li>2a Carson Road Development Inc.</li> <li>2b Midhurst Development Doran Road Inc.</li> </ul>	Susan Rosenthal David White	susanr@davieshowe.com david.white@devrylaw.ca
3	Craighurst Land Corp.	Susan Rosenthal	susanr@davieshowe.com
4	Huntingwood Trails (Collingwood)	Susan Rosenthal	susanr@davieshowe.com
	Ltd.	Meaghan McDermid	meaghanm@davieshowe.com
5	Midhurst Rose Alliance Inc.	Ira Kagan	ikagan@ksllp.ca
- 12		Paul DeMelo	pdemelo@ksllp.ca
6	Township of Springwater	Barnet Kussner	bkussner@weirfoulds.ca
7	451082 Ontario Limited	James Feehely	jfeehely@feehelygastaldi.com
8	8a 861945 Ontario Ltd.	David White	David.white@devrylaw.ca
	8b-Golfview Estates Limited-W/D	Cory Estrela	Cory.estrela@devrylaw.ca
	8c Mark Rich Homes Limited		
	8d Silver Spring View Estates		
	Limited		
	8e Simcoe Estates Limited		
	8f Royal Heights Estates Limited		
0	8g OMC Development Corp. W/D Innisfil Alcona Limited	Lunda Taumaand	Itownsend@weirfoulds.com
9	[appeal withdrawn]	Lynda Townsend Jennifer Meader	imeader@weirfoulds.com
10	Tesmar Holdings Inc.	Michael Melling	michaelm@davieshowe.com
10	resmar Holdings inc.	Meaghan McDermid	meaghanm@davieshowe.com
11	Janice & David Wright	David White	David.white@devrylaw.ca
11	Jamee & David Wright	Cory Estrela	Cory.estrela@devrylaw.ca
12	12a Snow Valley Planning	David White	David, white@devrylaw.ca
	Corporation	Cory Estrela	Cory.estrela@devrylaw.ca
	12b 453211 Ontario Limited		
13	McMahan Woods Development Ltd	David White	David.white@devrylaw.ca
en del	· · · · · · · · · · · · · · · · · · ·	Cory Estrela	Cory.estrela@devrylaw.ca
14	Innisfil Beach Farms Inc.	David White	David.white@devrylaw.ca
1		Cory Estrela	Cory.estrela@devrylaw.ca
15	Estate of Marie Louise Frankcom	James Feehely	jfeehely@feehelygastaldi.com
16	Midhurst Ratepayers' Association	David Strachan*	davidistrachan@yahoo.com
	[Appeal Dismissed]	Margaret Hutchison*	mhutchis1000@gmail.com
17	Narinder Mann	Ian Rowe	irowe@barristonlaw.com
124		Adrianna Pilkington	apilkington@barristonlaw.com
18	Yorkwood Group of Companies	Patricia Foran	pforan@airdberlis.com
19	19a Rama Resorts International Inc.	Brian Goodreid*	briangoodreid@hotmail.com
	19b Fernbrook Homes (Rama)		
	Limited [Appeal Resolved]		
20	1091402 Ontario Limited	David White	David.white@devrylaw.ca
	[Appeal Withdrawn]	Cory Estrela	Cory.estrela@devrylaw.ca
21	Nicole and Brent Fellman	David White	David.white@devrylaw.ca
		Cory Estrela	Cory.estrela@devrylaw.ca

22	Travel-Rite Property Corp.	David White	David.white@devrylaw.ca
		Cory Estrela	Cory.estrela@devrylaw.ca
23	Aqua-Gem Investments Ltd.	David White	David.white@devrylaw.ca
		Cory Estrela	Cory.estrela@devrylaw.ca
24	442023 Ontario Limited	David White	David.white@devrylaw.ca
		Cory Estrela	Cory.estrela@devrylaw.ca
25	1045901 Ontario Limited	David White	David.white@devrylaw.ca
		Cory Estrela	Cory.estrela@devrylaw.ca
26	Kellwatt Limited	David White	David.white@devrylaw.ca
		Cory Estrela	Cory.estrela@devrylaw.ca
27	27a Ontario Potato Distributing Inc.	Chris Barnett	cbarnett@davis.ca
2.2.19	27b 1567219 Ontario Limited		
28	Black Marlin Management Inc.	Caterina Facciolo	cfacciolo@bratty.com
1372		Barry Horosko	<u>bhorosko@bratty.com</u>
29	Ahmadiyya Muslim Jama'at Canada	Caterina Facciolo	cfacciolo@bratty.com
	Inc. (AMJC)	Barry Horosko	bhorosko@bratty.com
30	D.G. Pratt Construction Limited	Jane Pepino	jpepino@airdberlis.com
1.1		Andrea Skinner	askinner@airdberlis.com
31	Hanson Development Group	Patricia Foran	pforan@airdberlis.com
32	Town of New Tecumseth	James Feehely	jfeehely@feehelygastaldi.com
33	Township of Adjala-Tosorontio	Stephen Waqué	swaque@blg.com
		Isaac Tang	itang@blg.com
34	Robert Schickedanz in Trust	Ian Rowe	irowe@barristonlaw.com
i.		Adrianna Pilkington	apilkington@barristonlaw.com
35	2115441 Ontario Limited	David White	David.white@devrylaw.ca
		Cory Estrela	Cory.estrela@devrylaw.ca
36	Carson Trail Estates	David White	David.white@devrylaw.ca
·****		Cory Estrela	Cory.estrela@devrylaw.ca

### ATTACHMENT "B"

## LIST OF PARTIES- COUNTY OF SIMCOE OFFICIAL PLAN PL091167

No.	Party	Lawyer/Agent*	E-mail Address
A	Ministry of Municipal Affairs and Housing	Ken Hare Ugo Popadic Michael F. Spagnolo (Student-at-Law)	ken.hare@ontario.ca Ugo.Popadic@ontario.ca Michael.F.Spagnolo@ontario.ca
B	Town of Collingwood	Leo Longo	llongo@airdberlis.com
С	C1 Town of Penetanguishene C2 Township of Ramara	Edward Veldboom	eveldboom@russellchristie.com
D	Town of Innisfil	Quinto Annibale/ Mark Joblin	<u>qannibale@loonix.com</u> mjoblin@loonix.com
E	Town of Bradford West Gwillimbury	Tom Halinski	thalinski@airdberlis.com
F	Town of Midland	Paul Peterson	ppeterson@hgrgp.ca
G	G1 Township of Clearview G2 Township of Tiny G3 Town of Wasaga Beach	Ian Rowe Adrianna Pilkington	irowe@barristonlaw.com apilkington@barristonlaw.com
H	[Now Appellant 32]		
<b>I</b>	[Now Appellant 33] J1 Ontario Stone, Sand and	Mary Bull	mbull@woodbull.ca
J	Gravel Association J2 CBM Aggregates, a division of St.	Alexandra Sadvari	asadvari@woodbull.ca
	Marys Cement (Canada) Inc. J3 Lafarge Canada Inc. J4 Holcim (Canada) Inc. J5 James Dick Construction		
	JS James Dick Construction Limited J6 Walker Aggregates Inc.		
K	Georgian International Land Corp.	Mary Bull Alexandra Sadvari	mbull@woodbull.ca asadvari@woodbull.ca
L	San Marco in Lamis Ltd.	Michael Vaughan	michaelbvaughan@yahoo.ca
M	White Water Holdings Ltd.	Barry Horosko Caterina Facciolo	bhorosko@bratty.com cfacciolo@bratty.com
N	[Now Appellant 28]		
Ð	No Jet Construction Inc. Remington Homes (Manhattan) Inc. [Withdrawn]	Caterina Facciolo Barry Horosko	<u>efacciolo@bratty.com</u> <u>bhorosko@bratty.com</u>
<b>P</b>	Sleeping Lion Development Corporation	John Dawson	jdawson@mccarthy.ca
Q	John Barzo Limited	John Barzo	jbarzo@barzolaw.com
R	Innisfil Mapleview Developments Limited	Susan Rogers	susan.rogers@sdrogerslaw.ca
S	2133952 Ontario Inc.	Harold Elston Aynsley Anderson	harold@elstons.ca aynsley@elstons.ca
Т	Talisker Corporation	Harold Elston Aynsley Anderson	harold@elstons.ca aynsley@elstons.ca
U	U1&U2 [Now Appellant 27 a & b]		
v	1651012 Ontario Ltd. now Sandycove Acres Limited	Ian Rowe Adrianna Pilkington	irowe@barristonlaw.com apilkington@barristonlaw.com

W	Township of Oro-Medonte	Chris Williams	cwilliams@airdberlis.com
x	998991 Ontario Inc.	Ian Rowe Adrianna Pilkington	irowe@barristonlaw.com apilkington@barristonlaw.com

# Index

## ONTARIO MUNICIPAL BOARD COMMISSION DES AFFAIRES MUNICIPALES DE L'ONTARIO

IN THE MATTER OF subsection 17(40) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant:	451082 Ontario Limited
Appellant:	861945 Ontario Ltd. et al
Appellant:	County of Simcoe
Appellant:	Estate of Mary Louise Frankcom; and others
Subject:	Failure of to announce a decision respecting Proposed Official Plan
	Amendment No. 43-OP-2008
Municipality:	Upper Tier County of Simcoe
OMB Case No .:	PL091167
OMB File No.:	PL091167

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Affidavit of Andria Leigh, MCIP, RPP (sworn November 26, 2	2014) 2

# Tab 1

## ONTARIO MUNICIPAL BOARD

IN THE MATTER OF subsection 17(40) of the Planning Act, R.S.O. 1990, c. P.13, as amended

451082 Ontario Limited Appellant: 861945 Ontario Ltd. et al Appellant: Appellant: County of Simcoe Appellant: Estate of Mary Louise Frankcom; and others Failure of to announce a decision respecting Proposed Official Plan Subject: Amendment No. 43-OP-2008 Upper Tier County of Simcoe Municipality: PL091167 OMB Case No.: PL091167 OMB File No.:

## NOTICE OF MOTION

**TAKE NOTICE** that the Township of Oro-Medonte (the "**Township**") will make a motion to the Ontario Municipal Board (the "**Board**") on **Monday, December 8, 2014** at 10 a.m., or as soon thereafter as the motion can be heard, at Nottawasaga Inn Resort & Conference Centre, 6015 Highway 89, Alliston, Ontario L9R 1A4.

#### THE MOTION IS FOR:

- An Order of the Board modifying and approving Schedule 5.1 Land Use Designations of the new County of Simcoe Official Plan ("County Plan"), on a site-specific basis, to reflect a Rural land use designation, as it applies to certain properties in the Township of Oro-Medonte along Highway 11, known as Gasoline Alley;
- 2. If necessary, an Order of the Board abridging the time for the filing of this Notice of Motion; and
- 3. Such further and other relief as may seem just and appropriate.

#### THE GROUNDS FOR THE MOTION ARE:

- 4. The Township is a lower-tier municipality in the County of Simcoe and a party to these proceedings.
- 5. Travel-Rite Property Corp. ("**Travel-Rite**") is Appellant 22 to these proceedings.
- 6. Travel-Rite and the Township have identified several properties in the Township of Oro-Medonte along Highway 11, known as Gasoline Alley, that are designated as

Commercial and Industrial lands in the in-effect Township's Official Plan, but which are not recognized as such in the County of Simcoe's new Official Plan (the "**Properties**").

- 7. The Properties, shown in Exhibit "A" of the Affidavit of Andria Leigh, are identified as follows:
  - (a) Concession 1, Part of Lots 10, 11, D and E; Plan 1169, Lot 1;
  - (b) Concession 2, Part of Lots 11 and A; Plan 1237, Lots 1-3; and
  - (c) Concession 3, Part of Lot 20.
- 8. Map Schedule 5.1 Land Use designations of the new County Official Plan currently proposes to designate the Properties as Agricultural. This does not reflect the current uses or permissions for the Properties as designated and provided for in the Township's Official Plan.
- 9. It is appropriate and represents good planning for the Properties to be designated in the new County Plan as "Rural" instead of "Agricultural". The Rural designation is consistent with, and conforms to, the mapping for the Properties that is identified and approved through the Township's Official Plan.
- 10. Modifying and approving Schedule 5.1 of the County Plan, on a site-specific basis so that the designation of the Properties is shown as Rural, will resolve Travel-Rite's appeal (namely, the Schedule 5.1 mapping issues) in part.
- 11. To the Township's knowledge, no other party or appellant has identified any interest or opposition to the proposed modification of the Map Schedule 5.1 to reflect a Rural designation for the Properties instead of an Agricultural designation.
- 12. The proposed modification and approval of Schedule 5.1 of the County Plan, on a site specific basis, as it relates to the Properties, meets all applicable policies of the Province and represents good planning.
- 13. Sections 17, 24 and 27 of the *Planning Act* R.S.O. 1990, c. P. 13.
- 14. Sections 34, 87 and 88 of the Ontario Municipal Board Act R.S.O. 1990, c. O.28.
- 15. The Ontario Municipal Board Rules of Practice and Procedure.

16. Such further and other grounds as counsel may advise and the Board may permit.

#### THE FOLLOWING DOCUMENTS WILL BE USED AT THE HEARING OF THE MOTION:

- 17. The Affidavit of Andria Leigh, sworn November 26, 2014.
- 18. The material served or filed to date in this matter.
- 19. Such further and other evidence as counsel may advise and the Board may permit.

November 27, 2014

AIRD & BERLIS LLP Barristers and Solicitors 181 Bay Street, Suite 1800 Toronto, Ontario M5J 2T9

**Christopher Williams** Tel: 416.865.7745 Fax: 416.863.1515

Solicitors for the Township of Oro-Medonte

# Tab 2

#### **ONTARIO MUNICIPAL BOARD**

IN THE MATTER OF subsection 17(40) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant:	451082 Ontario Limited
Appellant:	861945 Ontario Ltd. et al
Appellant:	County of Simcoe
Appellant:	Estate of Mary Louise Frankcom; and others
Subject:	Failure of to announce a decision respecting Proposed Official Plan Amendment No. 43-OP-2008
Municipality:	Upper Tier County of Simcoe
OMB Case No.:	PL091167
OMB File No.:	PL091167

#### **AFFIDAVIT OF ANDRIA LEIGH**

I, ANDRIA LEIGH, of the Township of Oro-Medonte, hereby MAKE OATH AND SAY AS FOLLOWS:

- 1. I am the Director of Development Services at the Township of Oro-Medonte and, as such, I have knowledge of the matters herein deposed.
- 2. I am a registered professional planner with over 20 years of experience in land use planning in the Province of Ontario. A copy of my curriculum vitae is attached as **Exhibit "A"** to this affidavit.
- 3. Map Schedule 5.1 Land Use Designations of the updated County Official Plan remains under appeal in its entirety.
- 4. Travel-Rite Property Corp. ("Travel-Rite") is Appellant 22 to these proceedings. Travel-Rite has identified several properties in the Township of Oro-Medonte along Highway 11, known as Gasoline Alley that are designated as "Commercial" and "Industrial" lands in the local Official Plan, but which designations are not appropriately reflected in the County Official Plan.
- 5. Map Schedule 5.1 Land Use Designations currently proposes to designate these properties as "Agricultural." This designation would not reflect the current use or permissions for these properties as designated and provided through the Township Official Plan.
- 6. In my opinion it is appropriate to modify Schedule 5.1 on a site specific basis for the Highway 11 (Gasoline Alley lands) located in Concession 1, Part of Lots 10, 11, D and E; Plan 1169, Lot 1; Concession 2 Part of Lots 11 and A; Plan 1237, Lots 1-3; and Concession 3, Part of Lot 20, Township of Oro-Medonte, to reflect a "Rural" designation, as shown on Exhibit "B." A "Rural" designation is consistent with the approved land use schedules for the Gasoline Alley lands in the Township's Official Plan.
- 7. A "Rural" designation for the Gasoline Alley lands as shown on **Exhibit** "**B**", is more appropriate than an "Agricultural" designation and better recognizes the permissions and uses on these existing commercial and industrial properties which are designated in the local Official Plan.

- 8. I understand that the modifications and approval of map Schedule 5.1 for the specific sites described in paragraphs 5 through 7 above and shown on Exhibit "B", if approved, will resolve the mapping and land use designation issues identified by Appellant 22 (Travel-Rite) to this hearing and is an opportunity to resolve some of the matters through consent where no others have listed these items as being of concern.
- In my professional planning opinion the proposed modifications to map Schedule 5.1 9. Land Use Designations as reflected in Exhibit "B" and described above in paragraphs 5 through 7, accurately reflect the appropriate designations on the subject properties which are consistent with the existing Commercial and Industrial designations as contained in the local Official Plan schedules.
- 10. It is my professional opinion that the proposed modifications to map Schedule 5.1 of the County Official Plan as shown in Exhibit "B" are consistent with the PPS and conform to the Growth Plan and all applicable policies and represent good planning.
- 11. I make this Affidavit in support of the Township's request for an order of the Board to modify and approve the land use designations for those parts of Schedule 5.1 Land Use designations as reflected in Exhibit "B", for the subject properties and for no other purpose.

SWORN BEFORE ME at the Township of Oro-Medonte, in the Province of Ontario This 26th day of November, 2014

omnissioner, etc.

J. Douglas Irwin, an ex officio Commissioner, while Clerk for the Corporation of the Township of Oro-Medonte, County of Simcoe, Province of Ontario, Canada

ANDRIA LEIGH. MC

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# Tab A

THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT OF ANDRIA LEIGH SWORN BEFORE ME THIS 26<sup>TH</sup> DAY OF NOVEMBER, 2014. A Commissioner, etc. J. Douglas Irwin, an ex officio Commissioner, while Clerk for the Corporation of the Township of Oro-Medonte, County of Simcoe, Province of Ontario, Canada

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# Exhibit "A"



# Andria Leigh, MCIP, RPP

#### DESIGNATIONS

- Full Member, Canadian Institute of Planners
- Full Member, Ontario Professional Planners institute
- Registered Professional Planner

#### EDUCATION

- Masters Certificate in Municipal Leadership York University –Schulich School of Business, February 2011
- Leading Education and Development Program (LEAD), Darden School of Business, University of Virginia, November 2008
- Municipal Administration Program, Georgian College
- Honours Bachelor of Arts (Geography), Wilfrid Laurier University

#### **EMPLOYMENT**

•	August 2008-Present	Director of Development Services, Township of Oro-Medonte
•	April 2005-August 2008	Associate, MacNaughton Hermsen Britton
		Clarkson Planning Limited
•	Dec 2004-April 2005	Director of Planning, Township of Oro
		-Medonte
•	July 1997-Dec 2004	Senior Planner, Township of Oro-Medonte
0	Jan 1994-June 1996	Zoning Administrator, Township of Oro
•	July 1990- Dec 1993	Planning Assistant, Township of Oro

#### **PROFESSIONAL ASSOCIATIONS**

OPPI Provisional Member Mentor OPPI Examination "A" Examiner and Exam "B" marker OPPI 2011 & 2012 Nominating Committee Member CADS - Volunteer ski assistant – 2010-2013

148 Line 7 South, Box 100	P: (705) 487-2171
Oro, Ontario LOL 2X0	F: (705) 487-0133

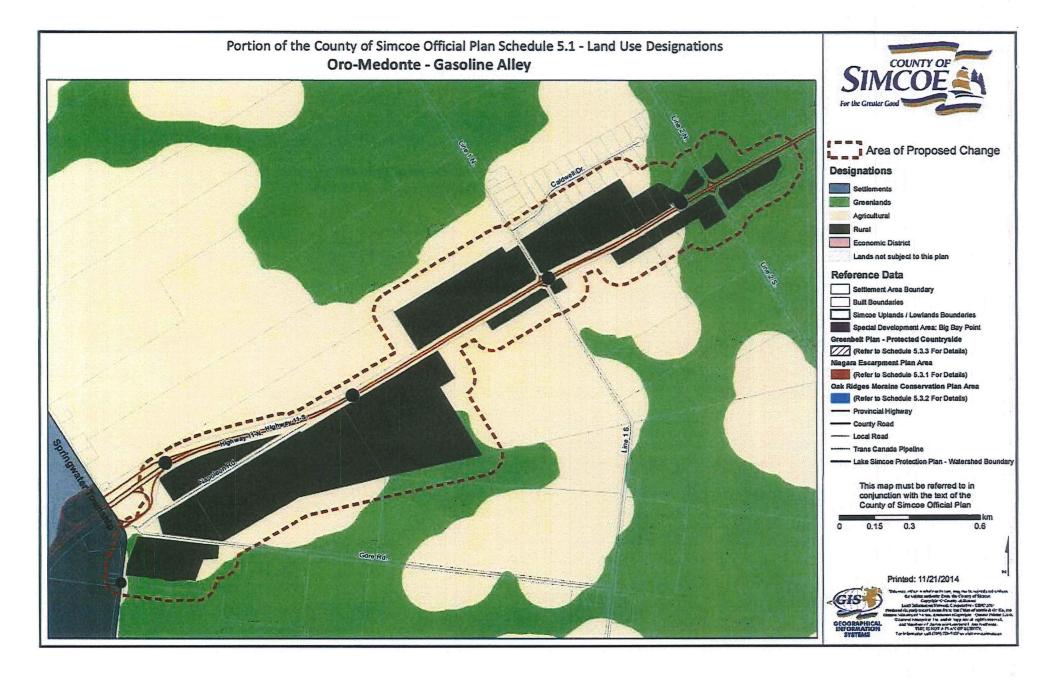
www.oro-medonte.ca

# Tab B

THIS IS EXHIBIT "B" REFERRED TO IN THE AFFIDAVIT OF ANDRIA LEIGH SWORN BEFORE ME THIS 26TH DAY OF NOVEMBER, 2014. A Commissioner, etc. J. Douglas Irwin, an ex officid Commissioner, -while Clerk for the Corporation of the Township of Oro-Medonte, County of Simcoe, Province of Ontario, Canada

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# Exhibit "B"



Appellant:	451082 Ontario Limited
Appellant:	861945 Ontario Ltd. et al
Appellant:	County of Simcoe
Appellant:	Estate of Mary Louise Frankcom; and others
Subject:	Failure of to announce a decision respecting Proposed
	Official Plan Amendment No. 43-OP-2008
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#### ONTARIO MUNICIPAL BOARD

#### **MOTION RECORD**

### AIRD & BERLIS LLP

Barristers and Solicitors Brookfield Place Suite 1800, Box 754 181 Bay Street Toronto, ON M5J 2T9

Christopher Williams LSUC# 19748D

Tel: 416.863.1500 Fax:416.863.1515

Lawyers for the Township of Oro-Medonte