



THE CORPORATION OF THE CITY OF BRAMPTON

# BY-LAW

Number 226-91

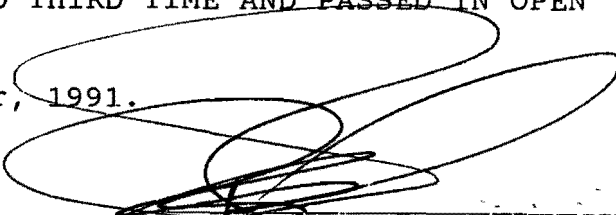
**An interim control by-law  
applicable to part of the  
area subject to By-law 200-82  
(former Town of Brampton  
Comprehensive Zoning By-law)**

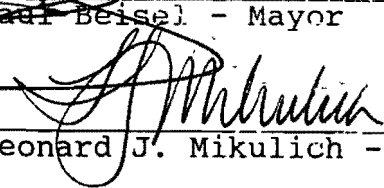
The Council of the Corporation of the City of Brampton  
ENACTS as follows:

1. The lands which are subject to By-law 200-82 (being the lands within the boundaries of the former Town of Brampton) and within any zone wherein a single-family detached dwelling is permitted, shall not be used for the purposes of a Group Home as defined by section 5.0 of By-law 200-82, as amended.
2. The lands which are subject to By-law 200-82 (being the lands within the boundaries of the Former Town of Brampton), and within any zone where a single family detached dwelling, semi-detached dwelling or multiple family dwelling is permitted, shall not be used for the purposes of an Auxillary Group Home as defined by section 5.0 of By-law 200-82, as amended.
3. The lands which are subject to By-law 200-82 (being the lands within the boundaries of the Former Town of Brampton) and within the Residential Two Extended Zone (R2B), shall not be used for the purposes of a Lodging House as set out in section 12.2 (7), as defined in section 5.0 of By-law 200-82, as amended.
4. This by-law shall be in effect from October 16, 1991 until October 15, 1992.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN  
COUNCIL,

this 16th day of October, 1991.

  
Paul Beisel - Mayor

  
Leonard J. Mikulich - Clerk

IN THE MATTER OF the Planning Act,  
R.S.O. 1990, c.P.13, as amended, section 38;


AND IN THE MATTER OF the City of  
Brampton Interim Control By-law 226-91  
passed by the Council of The Corporation  
of the City of Brampton on the 16th day  
of October, 1991, to amend comprehensive  
zoning By-law 200-82, as amended  
(Interim Control By-law - Group Homes - P45IN)

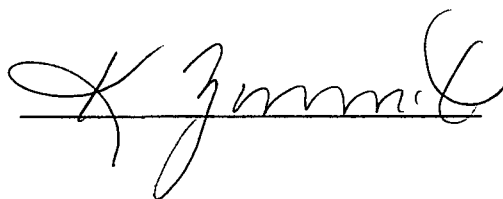
DECLARATION

I, KATHRYN ZAMMIT, of the Village of Erin, in the  
County of Wellington, DO SOLEMNLY DECLARE THAT:

1. I am the Deputy Clerk of The Corporation of  
the City of Brampton and as such have  
knowledge of the matters herein declared.
2. By-law 226-91 was passed by the Council of the  
Corporation of the City of Brampton at its  
meeting held on the 16th day of October, 1991.
3. Written notice of By-law 226-91 as required by  
section 38(3) the Planning Act, was given on  
the 30th day of October, 1991, in the manner  
and in the form and to the persons and  
agencies prescribed by the Planning Act.
4. A notice of appeal was filed under section  
38(4) of the Planning Act, on or before the  
final date for filing objections; however, by  
Order M920011, the Ontario Municipal Board  
ordered that the Notice be amended such that  
the appeal was filed in objection to By-law  
225-91, and not By-law 226-91, with the effect  
that there was no longer a notice of appeal to  
By-law 226-91.

DECLARED before me at the )  
City of Brampton in the )  
Region of Peel this 7th )  
day of May, 1992. )

  
A Commissioner, etc.

  
\_\_\_\_\_



Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

RECEIVED

MAR 30 1992

BRAMPTON  
LAW DEPARTMENT

IN THE MATTER OF Section 37 of the Planning Act, (R.S.O. 1983)

AND IN THE MATTER OF an appeal by the Children's Aid Society of The Region of Peel;

IN THE MATTER OF Section 37 of the Ontario Municipal Board Act, (R.S.O. 1980, c. 347);

AND IN THE MATTER OF Section 38 of the Ontario Municipal Board Act, (R.S.O. 1980, c. 347);

AND IN THE MATTER OF an application by the Children's Aid Society of The Region of Peel for the issuance of an order amending the Notice of Appeal of the City of Brampton interim control by-law referred to in the Notice of Appeal as By-law No. 226-91, filed by the Children's Aid Society of The Region of Peel

B E F O R E :

D.S. COLBOURNE  
Vice-Chairman

)  
)  
)

Thursday, the 12th day  
of March, 1992

UPON THE MOTION of the Children's Aid Society of The Region of Peel, and upon the consent of the parties to these proceedings having been filed;

The Board orders:

1. That the Notice of Appeal of the City of Brampton interim control by-law referred to in the Notice of Appeal filed by the Children's Aid Society of The Region of Peel as By-law No. 226-91 be amended so as to read and refer to City of Brampton Interim Control By-law No. 225-91, together with all consequent changes thereby required;

2. That the amended Notice of Appeal in the form annexed hereto as Schedule "A" be filed with the Board as the Notice of Appeal of City of Brampton Interim Control By-law No. 225-91 by the Children's Aid Society of The Region of Peel, and that the said amended Notice of Appeal be considered in all respects to constitute a Notice of Appeal filed on the date of the filing of the original Notice of Appeal herein.

*Liana Macri*  
SECRETARY

<b>ENTERED</b>
O.B. No. .... <i>m92-1</i> .....
Folio No. .... <i>3</i> .....
MAR 26 1992
<i>[Signature]</i>
SECRETARY, ONT. MUNICIPAL BOARD



Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

SCHEDULE "A"

IN THE MATTER OF Section 37 of the  
Planning Act, (R.S.O. 1983),

AND IN THE MATTER OF an appeal by the  
Children's Aid Society of The Region  
of Peel,

IN THE MATTER OF Section 37 of the  
Ontario Municipal Board Act, (R.S.O.  
1980, c. 347),

AND IN THE MATTER OF Section 38 of  
the Ontario Municipal Board Act,  
(R.S.O. 1980, c. 347),

AND IN THE MATTER OF an appeal by the  
Children's Aid Society of The Region  
of Peel from the enactment by the  
City of Brampton of its Interim  
Control By-law No. 225-91

AMENDED NOTICE OF APPEAL

Amended by order of the Ontario Municipal Board  
the 12th day of March, 1992

1. We act as solicitors for the Children's Aid Society of The Region of Peel. On October 16, 1991, the Council of The Corporation of the City of Brampton purported to enact a series of interim control by-laws, including By-law No. 225-91 being an interim control by-law affecting the establishment of group homes on lands which lie within the boundaries of the former Township of Chinguacousy and which are governed by Zoning By-law No. 151-88, as amended.

2. The Children's Aid Society of the Region of Peel, pursuant to Section 37 of the Planning Act, (R.S.O. 1990, c. P13), hereby appeals Interim Control By-law No. 225-91 of the Council of the City of Brampton, (the "Interim Control By-law"), to the Ontario Municipal Board.

3. The Children's Aid Society of The Region of Peel ("the Society") currently owns property on Inder Heights Drive and is proposing to develop certain lands at the location for group home purposes. In the six or seven months preceding the enactment of the interim control by-law, representatives of the Society and of the Peel Non-Profit Housing Corporation had extensive discussions with City officials with regard to the pending group home application, the requirements of Zoning By-law No. 151-88 and the group homes registration process. While the City has advised that it will continue to process the current group home application, the interim control by-law as passed effectively prohibits the development of the Society's lands for their desired purpose.

4. It submitted that in enacting the interim control by-law, Council did not act in accordance with the provisions of the Planning Act which govern the implementation of such a restrictive land use control, not in accordance with the intent of such provisions.

5. Interim Control By-law 225-91 is fundamentally flawed for a wide variety of reasons, both procedural and substantive in nature. From a procedural standpoint, given the chronology of events leading up to the passage of the by-law and other pertinent evidence, the by-law was enacted in bad faith and is wholly discriminatory, to the extent that it was motivated largely by efforts to stop this particular group home application from proceeding. The intent and effect of the provisions of the Planning Act which govern interim control by-laws are to provide a municipality with the opportunity to undertake a review of the matters which the by-law seeks to address. By-law 225-91 runs counter to this express intent, to the extent that it seeks to prohibit a specific use on the pretext of undertaking such a review.

6. Moreover, there is clear evidence that this matter was not properly placed on the agenda before Council prior to its meeting of October 16, 1991; that members of Council were not given proper notice of the matter, nor were they given an adequate opportunity to

familiarize themselves with the issues involved, and, in particular, with the Planning Report of October 16, 1991 which recommended enactment of the by-laws; and that at least one Council member was improperly excluded from the meeting at the commencement of Council's consideration of the matter.

7. From a substantive point of view, it is submitted that there exists no sound planning rationale in support of the by-law. This is apparent in a number of respects. First, the Planning Report of October 16, 1991, which purports to set out the underlying rationale for the by-law, states that the "original intent of the City's planning policies with respect to residential care facilities was to accommodate the functional integration of lodging houses and group homes in appropriate areas of the City. For example, group homes are intended to be located within existing dwellings where they could blend with the scale and character of the host community." However, there is nothing in the original Planning Report of 1981 to indicate that group homes were only contemplated for existing residential dwellings. To the contrary, the City's Official Plan explicitly contemplates the establishment of group homes in new as well as existing residential communities, which certainly suggests that the use ought not to be restricted to existing structures. Moreover, the objective of ensuring that group homes "blend with the scale and character of the host community" can certainly be accomplished by means of general zoning provisions which apply equally to all residential uses, as well as by means of site plan control pursuant to Section 41 of the Planning Act.

8. Second, the Planning Report of October 16, 1991 suggests that some group home uses may take on an institutional function which is "not appropriate for single family residential areas". The planning considerations reflected in such statements run counter to established provincial policies respecting deinstitutionalization and the encouragement of municipalities to make efforts to integrate

individuals with emotional, mental, social or physical problems back into the mainstream community through the establishment of group homes. Considerable planning evidence to be led before the Board will show that there is a wide range of activities which are by definition ancillary to the ordinary functioning of a group home, which can properly be carried out without placing an intolerable burden on the host community, and without converting the group home into what is and what ought to be commonly understood as an "institutional" use.

9. Third, the Planning Report of October 16, 1991 contemplates the continued processing of "new [group home] proposals of an appropriate nature" through site-specific exemptions to the interim control by-law, as may be approved by City Council. It is a ground of this appeal that the very fact that site-specific exemptions are even contemplated reflects a disregard for sound and equitable planning principles. In effect, it contemplates that Council may now decide on a wholly discretionary basis, what is in keeping with the intent behind the original policies. It is wholly inappropriate for a municipality to use its extraordinary powers under Section 37 of the Planning Act to freeze development of a particular nature on the basis that the current provisions regulating that land use do not conform to the "original intent" of the City's planning policies, while at the same time granting site-specific exemptions from the interim control by-law where Council, in its sole discretion, determines that the original intent of those policies is in fact being met.

10. Fourth, it is submitted that the Planning Report of October 16, 1991 reflects a wide-ranging number of alleged concerns, some of which do not properly fall within the jurisdiction of the municipality in its regulation of group homes. This includes the following:

- (a) concerns respecting the "licensing" procedures for new group home applications; and
- (b) concerns with respect to "resaleability" of the group home as a single family residence after the property ceases to



operate as a group home.

11. Fifth, it is a ground of the appeal that By-law 225-91 runs counter to the objectives reflected in the 'Land Use Planning For Housing' Policy Statement promulgated by the Ministry of Housing pursuant to Section 3 of the Planning Act and, in particular, the objective of promoting intensification of existing uses within municipalities. The study which is contemplated by the interim control by-law, in our submission, forms part of the broad land use planning study which ought to have been done by the City prior to implementing the affordable housing policy statement within the municipality, which it was required to do by August, 1991. It is therefore submitted that what is currently contemplated in the interim control by-law essentially constitutes a deferral of the City's obligations under the Planning Act, and for that reason does not reflect sound planning considerations.

12. Sixth, By-law 225-91 runs counter to policies expressed in the City's Official Plan, in a number of respects. For example, Part III of the Official Plan explicitly sets out a "comprehensive policy to facilitate the establishment of group homes, crisis care facilities and residential care facilities" (emphasis added). Moreover, Section 2.1.1.8.1 states that the City "supports the principle of integrating Group Homes approved by the appropriate government regulatory agency ...". Certainly, this suggests that if the particular Ministry which will be funding the group home sought to be established, is satisfied that the proposal falls within the purview of Ministerial policies and guidelines respecting group homes, the City ought to be equally satisfied that the proposal is properly characterized as a group home use, and ought not to prohibit such uses under the guise of concerns regarding the "institutionalization" of group homes within the City.

13. The Society remains willing to proceed with its group home application through the pre-existing application process. In our

submission, the City erred on a number of procedural and substantive grounds by attempting to resort to the extraordinary measures contemplated in Section 37 of the Planning Act, which departs from traditional methods of planning, instead of processing the Society's group home application through the normal channels. It is a ground of this appeal that the City cannot discharge the onus which lies upon it to justify the enactment and to show that the by-law reflects proper planning principles, rather than the underlying political motives which appear to have inspired it.

DATED this 13th day of December, 1991.

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George H. Rust-D'Eye  
of Weir and Foulds  
Counsel for the Appellant,  
The Children's Aid Society  
of the Region of Peel