

RioCan seeks to quash bylaws in bid to thwart rival outlet mall

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needed agreements and issuing the necessary building permits to allow the construction of the new outlet mall."

Also on Monday, Calloway REIT joined with the Town of Halton Hills in opposing RioCan's lawsuit.

RioCan, a competitor of Calloway REIT, has been proposing a similar outlet mall at James Snow Parkway and Highway 401, but is believed to be awaiting an Ontario Municipal Board (OMB) hearing after Calloway REIT appealed to the OMB a minor variance it sought on that property.

RioCan has indicated to the Town it intends to proceed with the Tanger Outlet Mall at James Snow Parkway, but it has also recently, with Tanger Outlet Centers, agreed to buy the Cookstown Outlet Mall in Innisfil to turn it into the first full-scale Tanger Outlet Center in Canada.

Before the application was filed with the court, the Town had already issued the first phase building permit, foundation permit and will be in a position shortly to issue the next phase- the super structure permit.

If RioCan wants to stop the issuance of the next permit it has to file an injunction with the court by Friday. If that isn't filed, the Town intends to issue the super structure permit Monday (March 19), said Perlin.

RioCan is claiming the Town shouldn't have proceeded to give the necessary approvals, pass the necessary bylaws and enter into the needed agreements because of the retail cap in the Official Plan which provides 100,000 sq. ft. of retail in total unless a specific zoning bylaw amendment is passed to increase the number of sq. ft. based on the provision of certain studies indicating that the site can manage that extra development.

The Town's position is that the zoning bylaw implementing the Official Plan did not have that 100,000 sq. metre cap in it and that once the bylaw came into effect it was deemed to conform with the Official

Plan, thus the Calloway-proposed outlet mall could, and did, proceed by way of site plan approval.

The Town also contends the various issues that the Official Plan raised for any proposed development over 100,000 sq. ft. were all dealt with by Calloway in the processing of the site plan approval and the agreements entered into with the Town and Region.

RioCan had set a date in July for the hearing of its application but after Calloway joined the litigation and sought to have the application dealt with immediately, rather than July, the hearing was moved up to May 2 and 3 in Superior Court in Milton.

Calloway believes it was, and is, in a legal position to proceed with construction and has done all that was necessary in terms of approvals and agreements to move forward with the new Outlet Mall, it was stated in the Town-issued press release.

Calloway also believes the application is without merit and should be dealt with expeditiously so as not to delay Calloway in moving forward with the project.

The Town and Region concur with Calloway's position.

"The Calloway Luxury Outlet Mall is a \$200 million project which will see the addition of 500-plus jobs to our community and significant tax assessment for our Town," said Bonnette. "RioCan's actions may jeopardize this project causing significant harm to the Town. It is our hope that this matter can be dealt with quickly and confirm the right of the Town and the Region to approve the mall. In the meantime the Town will vigorously oppose the application. Miller Thomson LLP has been retained to handle the litigation. While we will await the determination of the courts, we are confident that the Town's actions were proper and will be upheld."

Perlin said if the litigation continues through to a hearing it could cost the Town \$10,000 to \$20,000 to defend its position.



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