

Final arguments wrap up in bid to squash case

OMB decision expected soon on proposed development

By **Melanie Hennessey**
CANADIAN CHAMPION STAFF

A local developer has run out of chances when it comes to seeking the Ontario Municipal Board's approval of its subdivision, says the Town, Region and Niagara Escarpment Commission (NEC).

The notion came as part of the trio's argument before the board last week at a hearing that dealt with their request to have Central Milton Holdings Limited's (CMHL) case thrown out.

The company, which has been periodically before the joint OMB board since 2000, is proposing to build almost 300 homes in the shadow of the Niagara Escarpment, west of Bronte Street and north of Main Street.

Now the NEC and two local municipalities have made a motion for dismissal that alleges CMHL has failed to comply with previous board orders, such as by not delivering evidence and certain studies on time or at all.

For this reason and others, Town solicitor Hal Watson argued Thursday that CMHL "isn't entitled to another opportunity" to make its case before the board.

"There has to be a point where the only appropriate remedy is dismissal, and in my opinion, I think this is it," he said. "There needs to be finality."

He also wondered why two years after an adjournment — requested by CMHL so that it could go out and gather more evidence — information is still being submitted just days before and on the day of the hearing.

"It's ridiculous. It's unconscionable," he said.

NEC counsel Jane Thompson claimed the same issues that arose at the time of adjournment still haven't been properly addressed.

"The only rational remedy is a dismissal," she said. "You (CMHL) have had four chances to make your case."

Thompson went on to say that it's "inconceivable for the board to grant a fifth hearing date, set new timelines and repeat the whole process."

She highlighted the fact a large number of hearing dates have been held since 2000.

CMHL lawyer Bert Arnold then argued that under the Consolidated Hearings Act, the board has a duty to hold a hearing.

"The hearing isn't defined by the number of days or numbers of times we appear (before the board)," he said.

"Until a hearing has been conducted with procedural fairness, there has not been a hearing."

In reply, Thompson told the board, "You have provided more than enough opportunity to CMHL to have a hearing. You have no obligation to reschedule a hearing."

The trio stood by its previous claim that the concept plan submitted for the subdivision by CHML lacked certain information on urban design guidelines and standards.

But Arnold once again disagreed, explaining urban design guidelines were included in the concept plan's supporting documentation. He also said it was never the intention to provide "detailed" guidelines.

"That's getting into a municipal role this board did not intend to take on," he said. "Your role is at the conceptual level."

The two sides also continued to butt heads on — among other things — whether a subwatershed impact study was required by the board, with the three parties alleging it was and Arnold claiming it wasn't.


After the final arguments were heard, hearing officer Norman Jackson explained if he makes a decision in favour of the motion, there'd be no further hearing dates.

If he doesn't allow the motion, he said, a continuation of the hearing would be scheduled.

Jackson said he hopes to have his decision issued in a "reasonable" amount of time.

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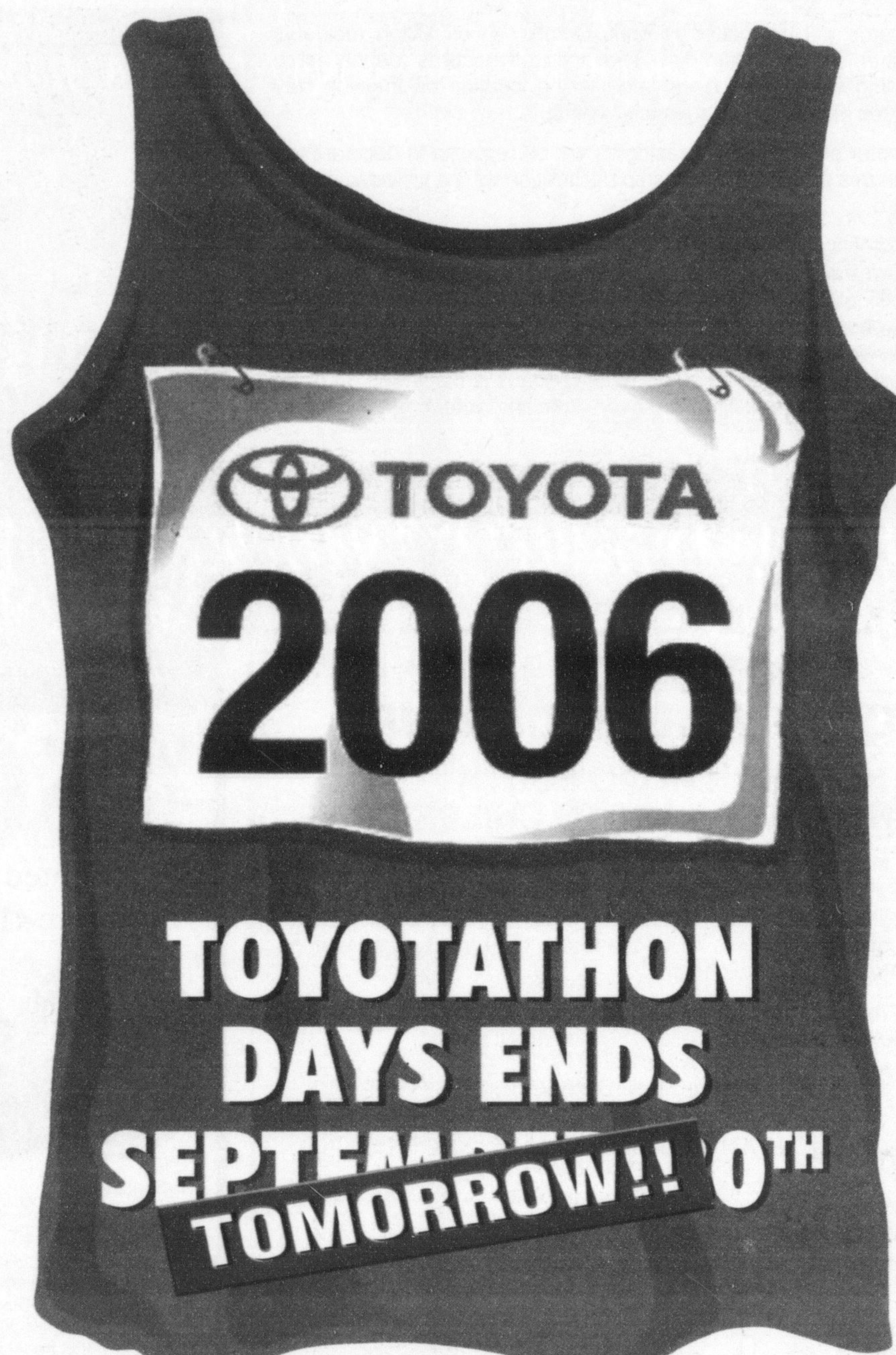


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FROM HAMILTON
Take the O.E.W. to the Bronte Road exit turn right (North) and continue for 16 kms to Steeles Ave. Turn left (West) and Milton Toyota is on your left.




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