

RE: Request for Removal from Record, OLT-21-001728 – 5411 River Road

Zwarycz, Tamara (MAG) <Tamara.Zwarycz@ontario.ca>

Thu 9/1/2022 1:23 PM

To: Kenneth Westhues <kwesthue@uwaterloo.ca>; Richard Xue <richardx32@gmail.com>; thalinski@airdberlis.com <thalinski@airdberlis.com>; rvacca@sullivanmahoney.com <rvacca@sullivanmahoney.com>

Cc: Andrew Bryce <abryce@niagarafalls.ca>; Brooke Carnevale <bcarnevale@niagarafalls.ca>; Noah Ciglen <nciglen@torkinmanes.com>

Good Afternoon Parties,

I've amended the title of proceedings as follows. If there are any additional concerns please let the Tribunal Member know at the conference tomorrow.

PROCEEDING COMMENCED UNDER section 17(24) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*.

Appellant	Kenneth Westhues
Applicant	John Printer
Subject:	Proposed Official Plan Amendment
Description:	To permit a vacation rental unit
Reference Number:	OPA 139
Property Address:	5411 River Road
Municipality/UT:	Niagara Falls/Niagara
OLT Case No:	OLT-21-001728
OLT Lead Case No:	OLT-21-001728
OLT Case Name:	Westhues v. Niagara Falls (City)

PROCEEDING COMMENCED UNDER section 34(19) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*.

Appellant	Kenneth Westhues
Applicant	John Printer
Subject:	Zoning By-law To permit a
Description:	vacation rental unit
Reference Number:	By-law 2021-96
Property Address:	5411 River Road
Municipality/UT:	Niagara Falls/Niagara
OLT Case No:	OLT-22-002871
OLT Lead Case No:	OLT-21-001728

Tamara Zwarycz
Case Coordinator, Planner
[Ontario Land Tribunal](#)
655 Bay St, Suite 1500, Toronto, ON M5G 1E5
(437) 219-5427 | tamara.zwarycz@ontario.ca

From: kwesthue@uwaterloo.ca <kwesthue@uwaterloo.ca>

Sent: August 31, 2022 12:54 PM

To: Zwarycz, Tamara (MAG) <Tamara.Zwarycz@ontario.ca>; Richard Xue <richardx32@gmail.com>

Cc: thalinski@airdberlis.com; rvacca@sullivanmahoney.com; Andrew Bryce <abryce@niagarafalls.ca>; Brooke Carnevale <bcarnevale@niagarafalls.ca>; Noah Ciglen <nciglen@torkinmanes.com>

Subject: Re: Request for Removal from Record, OLT-21-001728 – 5411 River Road

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Dear Ms. Zwarycz:

Thank you for copying all parties on your response to Mr. Xue. You say the OLT describes a case using "the information listed on the application form."

I want to point out that in the present case, the Municipal Record includes four successive completed application forms, the first one dated 1 October 2019, then revised applications dated 27 October 2020, 22 April 2021, and 20 May 2021.

Mr. Xue's company, 11409433 Canada Inc., does not appear anywhere in the first two applications. In the third one, 22 April 2021, John Pinter is falsely identified as the owner of 11409433 Canada Inc. In the fourth one, 20 May 2021, Mr. Xue is correctly identified as the owner of 11409433 Canada Inc., but the sole applicant identified is John Pinter.

The Municipal Record also includes an email to City Council dated 10 August 2021 from Mr. Pinter's counsel, Mr. Vacca, asking that the property owned by 11409433 Canada Inc. be removed from the application.

In his participant statement submitted on 18 August 2022, John Garrett correctly points out that the initial application in this case bears little resemblance to the OPA and ZBA that are the subjects of this appeal.

Kind regards to all,

Kenneth Westhues

From: Zwarycz, Tamara (MAG) <Tamara.Zwarycz@ontario.ca>

Sent: Wednesday, August 31, 2022 10:31 AM

To: Richard Xue <richardx32@gmail.com>

Cc: thalinski@airdberlis.com <thalinski@airdberlis.com>; Kenneth Westhues <kwesthue@uwaterloo.ca>; rvacca@sullivanmahoney.com <rvacca@sullivanmahoney.com>; Andrew Bryce <abryce@niagarafalls.ca>; Brooke Carnevale <bcarnevale@niagarafalls.ca>; Noah Ciglen <nciglen@torkinmanes.com>

Subject: RE: Request for Removal from Record, OLT-21-001728 – 5411 River Road

Good Morning Mr. Xue,

The response given to you by the City is correct – we use the information listed on the application form. Your letter has been added to our file and has been given to the Tribunal Member in advance of the Case Management Conference.

Tamara Zwarycz

Case Coordinator, Planner

[Ontario Land Tribunal](https://www.ontario.ca/land-tribunal)

655 Bay St, Suite 1500, Toronto, ON M5G 1E5

(437) 219-5427 | tamara.zwarycz@ontario.ca

From: Richard Xue <richardx32@gmail.com>

Sent: August 23, 2022 3:45 PM

To: Zwarycz, Tamara (MAG) <Tamara.Zwarycz@ontario.ca>

Cc: thalinski@airdberlis.com; kwesthue@uwaterloo.ca; rvacca@sullivanmahoney.com; Andrew Bryce <abryce@niagarafalls.ca>; Brooke Carnevale <bcarnevale@niagarafalls.ca>; Noah Ciglen <nciglen@torkinmanes.com>

Subject: Request for Removal from Record, OLT-21-001728 – 5411 River Road

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Dear Sirs/Mesdames:

RE: Request for Removal from Record in Ontario Land Tribunal (the “**OLT**”) Proceeding OLT-21-001728 & OLT 22-002871 (collectively, the “**Appeals**”).

My name is Richard Xue and I am the principal of 11409433 Canada Inc. (the “**Corporation**”). On August 4, 2022, the City of Niagara Falls (the “**City**”) forwarded me a copy of the case-conference notice dated July 5, 2022, with respect to the above-noted Appeals (the “**Notice**”). The Corporation is listed as one of the Applicants in the Notice.

After reviewing the Appeal materials with my advisors, my understanding is that the Appeals relate to two City of Niagara Falls By-laws, an Official Plan Amendment (By-law No. 2021-95) and a Zoning By-law Amendment (By-law No. 2021-96), with respect to the property known municipally as 5411 River Road, Niagara Falls (collectively, the “**By-laws**”). Given that neither myself, nor the Corporation, have a legal or beneficial interest in 5411 River Road, I was surprised to see the Corporation listed as an Applicant.

When I approached City staff as to the reason for this inclusion, I was advised that this was because the Corporation was listed as an applicant in the initial planning application. The initial application involved multiple properties, including 5359 River Road, which is owned by the Corporation. That said, the application changed over time and when City Council approval was granted, the By-laws no longer concerned 5359 River Road.

As the By-laws under appeal do not concern 5359 River Road, or any other property owned by the Corporation, I am writing to advise the OLT that I have no interest in the outcome of the Appeals and kindly request that the Corporation be removed from the record.

Kind Regards,

11409433 Canada Inc.

Per: Richard Qiyang Xue