

June 1, 2015  
506 Stratas Court  
Kanata, Ontario, K2L 3K7  
613-599-8385

Attention: Jason C. Kwan

**Re: OMB Case No. PL141340  
Appeals to OPA 143 and Zoning By-law 2013-395**

Further to our appeal of the City of Ottawa's decision to rezone and to amend the Official Plan of the City of Ottawa (Amendment No. 143), and documentation already submitted in this regard (September 29, 2014 and November 10, 2014), please now find in this note

- A. June 1, 2015 Note for the Prehearing Conference, scheduled for June 3 – 5, 2015
- B. Rebuttal of Windmill Green Fund PVL's Submission of Motion to Dismiss Appeals
- C. Rebuttal of City of Ottawa's Submission of Motion to Dismiss Appeals
- D. Additional key *Circle of All Nations/Asinabka* archival planning documents are added as attachments with the accompanying email. Further extensive information is available on our websites; in particular the chronological record is available at [www.asinabka.com](http://www.asinabka.com).

Please note that we are not including documents submitted to date on this case.

**Is it correct to assume that you will forward this to all parties as required?**

May we say that

- We trust that we have provided sufficient information and factual evidence to ensure an OMB decision of rejection of the two motions to dismiss the appeals;
- We trust further that we will see our appeals upheld;
- And, should that not be an immediate finding (particularly in view of the constitutional question), that we proceed to a full hearing;
- Should the motions to dismiss our appeals be upheld by the OMB, then we request an adjournment of the motions for a full hearing and cross-examination.

Finally, we thank you for your patience in responding to our many queries over the past months; we are citizens at large, with no particular familiarity with the OMB procedures.

Sincerely,

Romola V. Thumbadoo Trebilcock and Dan Gagne et al  
[www.circleofallnations.ca](http://www.circleofallnations.ca) [www.asinabka.com](http://www.asinabka.com)  
[circleofallnations@sympatico.ca](mailto:circleofallnations@sympatico.ca)

**A. June 1, 2015 Note for the Prehearing Conference, scheduled for June 3 – 5, 2015**

1. We are keen to elaborate to the OMB on the arguments we presented to the City of Ottawa for consideration during their decision making process with respect to the amendment of City Plan to accommodate rezoning of Park and Open Space at the Sacred Chaudiere Site; and on the arguments we filed for this appeal.
2. In addition we identify and present specific critical objections to the submissions of the Windmill Green Fund LPV and the City of Ottawa, at B and C of this note.
3. We include here critical new information to challenge and question the proceedings/practices of Windmill Green Fund LPV and the City of Ottawa.
4. We maintain that the serious nature of our challenges warrants a full OMB hearing.
5. In particular, we note that this site holds unparalleled and critically important prehistorical, Indigenous, national, international significance, and is critical to land planning issues in the capital city – we have already alerted the City to the Paleolithic heritage affirmed indisputably during the summer of 2014, and the have cited UNESCO provisions for the protection of Indigenous, sacred and heritage sites – this one meets multiple criteria, and is of significant world heritage importance. We note that the Stage One Archaeological findings calls for further exploration at the Chaudiere Site – it is gravely irresponsible to rezone to permit massive condo development and 2995 underground parking spaces in such a critical area in this country.
6. We insist that the Indigenous land issues/ownership issues are of paramount importance, and that the City of Ottawa is irresponsible to dismiss these as irrelevant to its authorization of irreversible transformation at an acknowledged Sacred Site. In view of William Commanda’s direct ancestry tied to the site, this is untenable – he is a person of significant historical and international importance, acknowledged at multiple levels of government – note his biography already filed. He was carrier of Sacred Wampum Belts, and the spiritual heritage of his ancestors and peoples is animated at the Sacred Chaudiere Site.
7. The consultations with First Peoples and Algonquins at large is totally inadequate. In fact, we wish to address our concerns that Windmill is taking huge advantage of a vulnerable peoples at critical moment further during the OMB hearing.
8. The sale of sacred “crown lands” by the National Capital Commission for privatization and commerce is totally unacceptable; this area has been under hot contestation for decades, and publicly so since the 1996s. Elder William Commanda’s *Circle of All Nations* work and plans are of particular significance

here. The site represents the “commons” and all Canadians have a place here in the National Capital Region.

9. The transfer of perpetual leases to fee simple land and the implications with Energy Ottawa (discussed at page 17) are of grave concern. The absence of transparency despite numerous oversight mechanisms is reprehensible.
10. We object seriously to the “100 million dollars decontamination” of the brownfield statements; in this regard we take note of Domtar’s insistence to be at or a party to the OMB hearing. A quick google search reveals the millions of dollars worth of lawsuits currently launched against Domtar Corporation for devastating environmental damage in multiple locations; surely, at this time of acknowledged global and local environmental crisis, they must also be held responsible for damages at this site? We note also the recent news releases about \$195 million dollars to be allocated to Ottawa River Cleanup – we wonder why it is acceptable to the City that tax payers cover the costs for the abuses of the corporations, and further why Windmill is projected as the benefactor here. We also point out that we have made several overtures to Domtar for reconciliatory action. In fact this approach was initiated in 2007 by Elder Commanda, when he said, “No boxing gloves” – we talk with respect – in his challenge of the old Domtar plan to expand the hydro electric plant at Chaudiere; in fact, with the barely obscured potential acquisition of Energy Ottawa (revealed in the City of Ottawa submission) and the Energy Ottawa plans to expand power production (separate current debate, with Free the Falls community protests) we see the same issues arise again. In view of environmental issues, the contemporary approach is to decommission dams, and develop and access alternatives renewable energy resources – this is what William Commanda envisioned (note he was also concerned about the plight of the American Eel, a irreplaceable ancient species, now at risk).
11. We refer you to William Commanda’s 2009 correspondence to former Governor General Ms. Jean, and to the Queen – he clearly sets out the larger parameters for his interests in the Sacred Chaudiere Site. As such, he has already set the framework for elevation of the present OMB discussions.
12. Finally, we refer you to our document, *A Circle of All Nations Reflection on George Grant’s Lament for a Nation, as viewed via the lens of William Commanda, carrier of the sacred wampum belts and Articulator of a Vision for the Sacred Chaudiere Site, Ottawa, Canada*, (attached), for a contextual analysis of our times. It was William Commanda’s deep concern for the environmental and conflict issues of our capitalist and consumer culture that stalk the world that drove him to work so hard to develop the vision for a gathering place for all to forge a new and genuine eco vision for the future, as inspired by Indigenous earth-based ideology.

**B. Rebuttal of Windmill Green Fund LPV's Submission of Motion to Dismiss Appeals**

**CIRCLE OF ALL NATIONS WRITTEN RESPONSE TO THE WINDMILL GREEN FUND LPV SUBMISSION TO THE ONTARIO MUNICIPAL BOARD APPEAL (31 May, 2015)**

**Re: PL141340 Appeals to OPA 143 and Zoning By-Law 2014-395**

We address here the May 20, 2015 submission to the Ontario Municipal Board (OMB) from Soloway Wright Lawyers/January L. Cohen, on behalf of the respondent Windmill Green Fund LPV, to the City of Ottawa's motion to dismiss the above captioned appeals, filed by myself and several other parties.

We note also that the submission is for relief.

**General Response:**

1. We are appealing the City of Ottawa's decision in support of the respondent to the oversight body designated to address our objections (OMB), have paid for this review, and object to this "threat" re: relief. We challenge the motion of the City of Ottawa to dismiss the appeals, addressed in this submission by Windmill Green Fund LPV.
2. The grounds for this motion is indicative of the *City's* and *respondent's* assessment of the Planning Act and Provincial Policy Statement and opinion concerning the validity of our appeals. As expressed in the submission itself, the complicity between Windmill Green Fund LPV and the City of Ottawa is affirmed by the statement regarding the Affidavit of John Smit, for the City of Ottawa, "I accept as correct the facts as laid out and I adopt his opinions as my own" by Miguel Tremblay, Planner for Windmill (Tab B. B. 6.)
3. We object to the City's decision to make amendments in accommodation of Windmill's plans on crown lands with publicly contested ownership issues yet unaddressed, and while other plans for the site have been publically advanced over the past decade, and endorsed by the City itself (in November 2010). We contend that land ownership issues are critical in this case, and that the lands at the Sacred Chaudiere Site have been publicly and formally associated with the work of late Algonquin Elder William Commanda since the late nineties, and in particular, since 2006, after his presentation of the Key to the City on Victoria Island.

4. The “anticipated long-term build out” in the “extensive redevelopment” adds fuel to our concerns on behalf of William Commanda’s descendants and his legacy. The Supreme Court decision on Tsilhqo’tin is a clear statement that Indigenous land issues are now under serious legislative examination. In fact, the Supreme Court of Canada Chief Justice Beverley McLachlin notes that the country committed “cultural genocide’ against Indigenous Peoples. In addition there are the Constitutional Provision of Section 35 of the Canadian Charter of Human Rights and Freedoms impacting consultation and responsiveness to Aboriginal Communities. As such, the Capital City has an unequivocal responsibility and obligation to ensure that contentious land ownership issues and land usage issues pertaining to Indigenous matters are addressed in advance of pivotal rezoning and planning decisions.
5. Separately, we also see this site as the heart of the National Capital Region, and we contend that both the capital city and the National Capital Commission have a responsibility to safeguard a singular geological, cultural, spiritual and historical site as the heritage of all Canadians. As such, those of us who are not Algonquin, assert our interests in the maintenance of public space, for development consistent with the large and inclusive vision of the most highly honoured Indigenous leader in this National Capital Region.
6. Finally, we note that the presentation of the Constitutional Question by Douglas J. Cardinal Architect/*Elders Without Borders* raises the jurisdictional parameters, and seriously so; it is our contention that this also further challenges the City’s powers to make such a significant land usage decision. In this regard we note no acknowledgement of this legal challenge launched against the City of Ottawa, Windmill, Domtar and National Capital Commission.

We address key items of concern in the summary of Windmill Green Fund LPV submission here:

**1. Re: Planning Grounds – Rebuttal:**

The City’s decision permits the rezoning of public space (crown lands) within the National Capital Region (of relevance to all Canadians, beyond the City) of prehistorical and historical sacred, cultural, and heritage importance to Indigenous Peoples, with clearly articulated plans for future inclusive, public usage – to permit privatization and massive intensified condominium development. This is a pivotal change and entails the seizing of the “commons”.

**2. Re: Inauthentic appeals – Rebuttal:**

Should the OMB have no jurisdiction on this matter, then this appeal process should not have been permitted from the onset; as it stands, we have formally filed and paid for this appeal. Further, I note the deeper review of the case has also resulted in the raising of a

Constitutional Question by Douglas J. Cardinal Architect/*Elders Without Borders*, which further up-scales the challenges to the rezoning and planning decisions.

### **3. Ownership – Rebuttal:**

The presentation of the Constitutional Question by Douglas J. Cardinal Architect/*Elders Without Borders* does raise the jurisdictional parameters, and seriously so; and we note this.

Nonetheless, in addition, we make the following critical points:

1. First, we note that even before Canada, Ontario or Quebec were created, the establishment of reserves for the Algonquins at Golden Lake, Temiscaming and River Desert (Kitigan Zibi) serve as acknowledgement that the Ottawa River Watershed is the territorial homeland of the Algonquins. Historical colonial practices have proved to be divisively destructive and this is reflected in the land struggles. However, Late Algonquin Elder William Commanda, on whose behalf we pursue this challenge, drew all Algonquins together in consensus about the future development of the Sacred Chaudiere Site (note Circle of All Nations/Asinabka documentation).
2. We note the decades plus public history of contentious land negotiations and contested membership challenges and disengagement by the federal government in the Algonquins of Ontario negotiations. Algonquin communities from Quebec and non-Status communities have also asserted land interests. They all need to be engaged in decisions pertaining to this verified ancient sacred ancestral gathering place.
3. The crown land “ownership” issues in this area are mired in confusion.
4. The documentation from Windmill Green Fund LPV notes in their Submission that, since 2007, the site has not been utilized while the owners have been attempting to sell (Tab B C. 9).
5. Tab C A.1 indicates that Windmill Development Group controls Windmill Green Fund LPV (“Windmill”) the *owners* of the land at 3 and 4 Booth; and Tab C B. 3 and 4 indicates that Windmill contacted the *owner* of the Lands, Domtar, in 2012, to take over the *perpetual lease*. Who is Windmill Green Fund LPV and Domtar? It would be useful to have some clarity on this matter.
6. In its sales advertisements, with launch scheduled for May 30, 2015 (prior to the OMB Prehearing Conference), already posted on Facebook for several weeks, Windmill notes *over 5 years of planning*. At Tab C B. 3 it is stated that “In 2012, upon reading an article in the Ottawa Citizen, Windmill learned that Canada’s Treasury Board had turned down a National Capital Commission (“NCC”) request to purchase the Lands”.

7. Further, at Tab C B. 4, we note “Windmill contacted the owner of the Lands, Domtar, shortly thereafter to begin negotiations to secure the Lands and to take over the perpetual lease that provides private property usage rights with minor exceptions over a portion of the Lands (equivalent to approximately 7 % of the Lands) owned by the Canadian government (the “Lease”). The Lease is assignable. Attached as Exhibit ‘1’ to this my Affidavit is an extract from the Lease demonstrating that it is assignable”. We are of the understanding (via F. Jette, Domtar, 2007), that Domtar holds a lease in perpetuity, renewable every 20 years, for \$100 a year.
8. At Tab C 2 p. 9, Windmill identifies “two perpetual leases with Public Works and Government Services Canada on our property which we are in the process of converting to fee simple lands. While the NCC has taken the lead on this process we think it makes sense for us to review this directly with the Algonquins of Ontario”.
9. In Tab C 4. p. 15, Windmill discusses the “Conversion of **two** perpetual leases with Public Works and Government Services to fee simple lands.
10. Fee Simple, according to Wikipedia, states: a permanent and absolute tenure of an estate in land with freedom to dispose of it at will, especially in full **fee simple absolute** a free tenure, which is the main type of land ownership. Further: the greatest possible estate in land, wherein the owner has the right to use it, exclusively possess it, commit waste upon it, dispose of it by deed or will, and take its fruits. A fee simple represents absolute ownership of land, and therefore the owner may do whatever he or she choose with the land. If an owner of a fee simple dies intestate, the land will descend to the heirs.
11. We contend that the land issues here are not only mired in confusion, but subterfuge.
12. But NOTE, they were not mired in confusion for William Commanda.
13. The one principle governing his life was that he was firmly planted on his Mother Earth, and he stated repeatedly that only a fool would sell his Mother. Many Indigenous and non-Indigenous began to really understand this, and we see today this as the energy resistant to the Windmill plans.
14. Further, with respect to land claims, he stated quite simply that he had nothing to claim – he was “at home” here. With respect to the Sacred Chaudiere Site, this is especially true. His direct family of shaman and leaders, identified as such going back to 1760, before the Royal Proclamation of 1763, occupied Commandant Lake, now Lac Papineau; the river emerging from the lake was Kinoge, and it was the Kinoge people who challenged Philomen Wright in 1802 for cutting down their sugar bushes at the Chaudiere; he told them that their ancestors had made

such an agreement; they considered this such a monstrous statement, a *loup garou*, whose energy could only be transformed to friendship by a sacred ceremony; Philomen Wright's daughter describes this in her True Story based on her father's records in the book, *The White Chief*. The Commandants were the shaman leaders, the *Jessakids*, in the 1760s, and 1800s; and in the 1990s and till 2011, their direct descendent, William Commanda, reaffirmed the overture of friendship and sharing at his family's ancestral spiritual lands at the Sacred Chaudiere Site. The most senior representative of the family, Mary Daisy Commanda Jacko, asserts the same indelible connection with her ancestral lands, as do countless others, and there is no way that William Commanda's fully inclusive vision for the Sacred Chaudiere Site, (consistent also with general land planning priorities in the capital city, consistent also with the Greber Report, and consistent with the voice of many other "Canadian" federal and capital city leaders over the years), can be misconstrued (documentation available).

15. As such, the Indigenous and non-Indigenous friends and supporters of William Commanda's vision have no option but to contest and challenge the decisions of the City of Ottawa, and the aspirations of Windmill Green Fund LPV.
16. Note further that in 2007, Late Algonquin Elder William Commanda contested the Domtar plan for expansion of the Hydro Electric Plant at the Chaudiere, and the twenty-year extensions of the *perpetual lease of Crown Land* (originally authorized by Act of Parliament for the development of the nation).
17. In May 2009, William Commanda wrote to the Queen and the Governor General regarding his vision for the Sacred Chaudiere Site.
18. Note also that "over five years ago", in February 2010, Elder Commanda released his comprehensive vision for the Sacred Chaudiere Site publicly, including to the federal government.
19. And note further that in November 2010, City of Ottawa endorsed this plan officially.
20. Finally, with the post 2012 acceleration of development efforts of Windmill, note also that a citizens' advisory group of the Conservative Party, POGG (Peace Order and Good Government), was examining the work of William Commanda and that they presented a report on the file to then Minister of Foreign Affairs, and also responsible for the National Capital Commission, Hon. Min. John Baird, in November 2013: that is, the federal government. A further acceleration in Windmill activity commences in December 2013. ([www.asinabka.com](http://www.asinabka.com))
21. On 7 July, 2014, a Memorandum of Understanding is signed between the NCC, Windmill and Domtar.
22. We also contend that land ownership and development plans at this site are of



critical importance to its geological integrity, post Wisconsin Ice Age occupation of the land by Paleo Indians, Algonquin history, UNESCO cultural/heritage issues, the Nation's historical development, and contemporary public interest in the fully inclusive Commanda vision for public space and activities at *his* unceded, unsundered and unconquered ancestral lands, and that the City of Ottawa's decision to rezone to permit privatization and intense condominium development is irresponsible and highly contentious from multiple levels.

23. In addition to the documentation of the Ottawa River Heritage Committee on the unique geological features of the Ottawa River, we have available our own discussions of its importance to Indigenous peoples inclusive of direct land-based exploration with William Commanda – the Chaudiere is one of three particularly significant geological features of this Grand River that featured like no other in the history of Canada.

Finally, Section 35 of the Canadian Charter of Rights and Freedoms obliges the City to address Indigenous issues, and we reject the arguments at Tab B, K. 102.

#### **4. Decontamination – Rebuttal**

We fail to see the relevance of \$100 million for decontamination, in the context of privatization, condominium development and capital/commercial planning. However, this issue warrants further examination in the light of this statement already referenced: Windmill Development Group controls Windmill Green Fund LP-V (“Windmill”) the *owners* of the land at 3 and 4 Booth; and Tab C B 3 and 4 indicates that Windmill contacted the *owner* of the Lands, Domtar, in 2012, to take over the *perpetual lease*. Further, we note Domtar's expressed interest in the OMB hearing in the documents it has served us. Is Domtar accepting full responsibility for the site contamination? Is it expending its own funds to undertake the remedial work on the brownfield site it created? What are the implications of recent (April 5, 2015) announcement regarding the federal, provincial and city allocation of \$195 million dollars to Ottawa River Cleanup? Are these funds being accessed in the potential Brownfield reclamation? Is Windmill Green Fund LPV investing its own dollars on decontamination, or are the taxpayers paying for the Domtar Corporation's destructive environmental practices?

#### **5. 20% Open Space with access to the Chaudiere Falls views – Rebuttal**

It is the **privatization of 80% of lands for condo development etc** that constitutes a core element in our appeal; further, the public views of the falls are part of the Energy Ottawa plans, and are not afforded to the public by Windmill Green Fund LPV. In fact, the Windmill Green Fund PVL itself notes at Tab B 10, that “There is no direct access to the Chaudiere Falls from the Windmill lands or from the Proposed Development”.

#### **6. Aboriginal History and Culture - Rebuttal**

We drew attention to Aboriginal Sacred Cultural Heritage in correspondence to Domtar Corp in September 2014 ([2014-09-23 Asinabka Romola's Heritage Note Letter to Domtar](#)); here we highlight UNESCO mandates in this area; the globe has moved beyond historical sites, and seeks to protect indigenous, sacred, cultural heritage sites; artifacts uncovered on Jacques Cartier Park in June 2014 revealed ceremonial use of the land 2,500 and 6,000 years ago, affirming the unique cultural heritage of the area in a global heritage context; just this remarkable uncovering ought to serve to halt all further alteration of the site. It is noted that the report Windmill submission itself notes a Stage 1 Archaeological Assessment indicating that parts of the site reveal the potential for significant archaeological resources associated with both First Nations and Euro-Canadian settlement and land uses, with recommendations for a Stage 2 Assessment.

Furthermore, we recall a study indicating that thousands of artifacts (perhaps 86,000) have been unearthed in the recent Lebreton Flats clean up. We are unable to open the associated links right now on the city website (referenced in the Windmill Green Fund PLV submission in Tab B. E. 35)

[Archaeological Resource Assessment - City of Ottawa](#)

[webcast.ottawa.ca/.../All\\_Image%20Referencing\\_Site%20Plan%20Applic...](#)

Feb 10, 2014 - STAGE 1 ARCHAEOLOGICAL ASSESSMENT ... Past Recovery Archaeological Services Inc. was retained by Windmill Development Group Ltd ...

[\[PDF\]](#)

[Cultural Heritage Impact Statement - City of Ottawa](#)

[webcast.ottawa.ca/.../All\\_Image%20Referencing\\_Site%20Plan%20Applic...](#)

Apr 15, 2014 - Windmill Development Group Ltd. ... BARRY PADOLSKY ASSOCIATES INC. .... Stage 1 Archaeological Assessment of Chaudière and.

Finally, we note that October Email correspondence (included in the City's Submission) to the respondent outlines in his own words, the position of Late Algonquin Elder, William Commanda, on Aboriginal History and Culture - he was responsible singlehandedly for raising the visibility and profile of the Sacred Chaudiere Site during the past two decades; and his authoritative position is, indisputably, not incorporated in the plans; further, his daughter, Evelyn Dewache Commanda, one of our party, reiterated the same during a December 22, 2015 meeting with the Windmill Green Fund LPV; note also that this meeting is not discussed in Tab B 3. 5.

## **7. First Nations Consultation – Rebuttal**

NOTE: We regret the inclusion of people in this section of the submission, but we are obliged to follow Windmill's lead here. We fully respect the rights of individuals and groups to make their own analyses, judgments, choices, and decisions; but we are adamant that no proper consultation has been undertaken, with First Peoples or the public at large, and we do not believe the views of the Windmill partners is at all consistent with William Commanda's, and we are obliged to affirm the position of William Commanda.

Since the time of the Royal Proclamation of 1763, multilevel legislation, mandates, obligations, principles and guidelines govern relationships and negotiations with First Peoples on land matters; in addition to the United Nations Declaration on the Rights of Indigenous Peoples sets a framework that Canada eventually signed onto in 2007. In

addition to the duty to consult, there are also obligations for moral and ethical standards of conduct and engagement with First Peoples.

In Tab B J.ii.92 the City's responsibility to Indigenous Peoples, particularly with respect to waterways and islands, as noted in the Official Plan (Subsection 4.6.3) is formally acknowledged.

We believe that the consultation cited is inadequate and contentious, particularly in such a high profile and critically important site, of relevance to First Peoples and the country and international community at large.

In Tab 3, regarding consultation and engagement, it is noted that "Windmill first reached out to the AOO in late July 2013 to set up a meeting with the Algonquins of Ontario (AOO) Council. There has been significant contact with AOO staff throughout the project to date, however we have only detailed correspondence /contact of significance below for your information" (Tab C 3.1); and re "Kitiganzibi - Windmill has had difficulty engaging in any consistent manner with Kitiganzibi throughout the past two years. We have listed below our correspondence and attempts at engagement with Kitiganzibi." (Tab C 3. 2).

The documentation in the submission, in our opinion, may be viewed as pressure and also possibly harassment. The engagement of a few voices in social media promotion demonstrates conflict of interest issues as well, and we have examples to elaborate upon as required. We also contend that the consultation and engagement may very legitimately be viewed totally inadequate with respect to Algonquins on- and off- the reserves in the Ottawa River Watershed, and inadequate with respect to First Nations, Metis and Inuit (critical partners in the Indigenous Centre at Victoria Island plan), and close to non-existent with the public at large, and with the *Circle of All Nations*, key players engaged in animating the site over the past two decades.

We suggest it would also be legitimate for the OMB to examine other correspondence Windmill has engaged in with Algonquins not "detailed" in the submission.

With respect to the Windmill discussion regarding Algonquins of Ontario, please note that the Negotiation Representatives repeatedly draw attention back to respecting the integrity of Elder William Commanda's Vision. In fact the Windmill development plan flies in the face of Elder Commanda's vision.

In this regard, note that from as early as 1967, Elder Commanda has undertaken animative Indigenous work in Ontario; with respect to Algonquins of Pikwakanagong, note that Elder Commanda hosted a consultation with the Chief Kirby Whiteduck and other representatives at his home in Kitigan Zibi, in advance of the initial 2003 report on the proposal for the Sacred Chaudiere Site; he conducted a Wampum Belt Reading at the Sharbot Lake gathering, inclusive of Non-Status Algonquins in Ontario; he attended an AOO meeting with former Ontario Minister of Aboriginal Affairs (and former) Attorney General Michael Bryant, and asserted the principles of the Three Figure Wampum Belt;

and he affirmed his rejection of any ceding, surrendering or selling of the traditional territory of his peoples in another AOO meeting; the invitation for him in to engage in the AOO land negotiations is indicative of the recognition of the relevance of his voice (Photo files are available). He affirmed his refusal to “sell” his Mother the Earth, and he also asserted that he had nothing to “claim” – his position in his homeland was indisputable. Also, repeatedly, his vision for the Sacred Chaudiere Site was clearly stated.

Please note further that the AOO Algonquin Treaty Negotiations have been fraught with challenges, published academic criticism, unresolved membership and genealogical issues, and, and in view of the multiple contentious issues, including also federal withdrawal from the table, cross-provincial border issues, and the implications of the Supreme Court decision on Tsilhqo’tin land title case, Windmill’s intervention with the AOOs can not be accepted as adequate consultation. As such, the 2 April 2015 Letter of Intent signed with The Algonquins of Pikwakanagan First Nation, (and not AOO, indicative of continued fractious divisions) and Windmill Development Group Ltd is not a conclusive statement of Algonquin engagement, and disturbing in its appropriation of the Sacred Wampum heritage and language of Elder Commanda.

The Windmill Green Fund LPV submission notes consultation with Kitigan Zibi Anishinabeg. In the first instance, this reflects acknowledgement that the Sacred Chaudiere Site (as indeed all of the Ottawa River Watershed) is relevant and important to all Algonquins, including those on the Quebec side of the river; William Commanda made that visible in a significant public moment, when he was presented with the Key to the City of Ottawa in 2006 at Victoria Island and noted that *The City of Ottawa was acknowledging someone from the City of Maniwaki, the Province of Ontario was reaching out to the Province of Quebec, and the National Capital Region, representing the entire country, was opening its heart to someone seen generally as belonging within the confines of the reserve of Kitigan Zibi Anishinabeg.*

The admitted “difficulty engaging in any consistent manner” is the statement/admission that leads me to the identification of pressure and possible harassment. William Commanda’s niece, Mary Daisy Commanda Jacko, one of our party, participated in the Windmill meeting in Kitigan Zibi on December 22, 2014; she describes the Windmill presentation as indicative of a “done deal”: she stated publicly, *It sounds like you have decided everything*; and community participants clapped in agreement with her assertion. William Commanda’s daughter, Evelyn Dewache Commanda, one of our party, reiterated the same during a December 22, 2015 meeting with the Windmill Green Fund LPV in her home; note that this meeting is not discussed in Tab B 3. 5; further she was expecting serious consultation to follow the initial contact. Also, both women recall most clearly the discussion about the brownfield remedial work – as pointed out in Number 4 above on Decontamination, this is not only duplicitous, but disturbing in its unbalanced presentation and dismissal of serious engagement with Indigenous Peoples; neither women realized the intense condominium development, privatization and commercialization of the Sacred Site that was planned; (at this point we might add that the condo plans were not revealed in the Windmill public consultation of December 2013.)

The press releases of May 22, 2015, indicative of signing of agreements with Algonquins, and the announcement the Launch of the Zibi Sales Office on May 30, 2015 (this in advance of the OMB Prehearing Conference of June 3 – 5, 2015) begs the question for clarity and transparency on the matter of consultation (and respect for the OMB proceedings).

In this regard, it is also asserted that none of the Algonquins identified as Windmill partners have engaged substantively in the *Circle of All Nations* work of Elder William Commanda, hence they have no comprehensive understanding of the scope and global implications of his vision and partnerships. In fact, they maybe viewed as deliberately countermanding his lifetime of publicly recognized and honoured work.

Finally, it is entirely disrespectful to appropriate elements of his vision, language, sacred heritage to advance the Windmill Green Fund LPV project, and we challenge this strongly.

Next we note that Windmill Green Fund LPV states on B Page 5 that more than 800 people attended (later reported as over 900 at Tab C 3.1) their December 11, 2013 public consultation, with Claudette Commanda, granddaughter of Grandfather William Commanda in attendance; I contend that merely the use of the Commanda name and the focus on the Sacred Chaudiere Site drew the vast majority of the public there – both William Commanda and his work at the site have drawn the attention of people of all levels, and from the area, as well as nationally and internationally (see [www.asinabka.com](http://www.asinabka.com) and [www.circleofallnations.ca](http://www.circleofallnations.ca) websites). Further, we understand from other records that perhaps a mere 200 people attend the June 24 2014 public meeting on the development and some thirty-seven people offered comments – this is actually indicative of the drop in interest and the mounting discontent. This was apparent at the October 2, 2014 City of Ottawa Planning Committee Meeting, when over 100 people were in attendance, and over 70 presented written submissions in support of William Commanda's plans and against the Windmill development plans. By comparison, there were three delegations in support of the proposed development, and we understand one was called in at the last minute. In view of the City's immediate decision to affirm the rezoning, several parties (who could afford the filing fee) appealed this decision, supporting William Commanda's *Circle of All Nations* at large.

(As a totally ironic aside, we note that the City Council's Notice of Passing dated October 21, 2014, rejecting William Commanda's vision for a sacred healing peace-building site, preceded the fatal October 22, 2014 shootings at Parliament Hill, by a mentally ill Canadian).

Finally, we note at Tab B. E. 20, discussion of the National Capital Commission – apparently, on December 11, 2013, “Although the NCC is not an approval authority for the development, Windmill granted it a role in the process”; we learn further that the NCC also owns a small portion of the land on the Gatineau side of the Islands. On November 7, 2014, via an *Access to Information Act* request, (not ours) a Memorandum

of Understanding between the NCC, Windmill and Domtar dated 7 July, 2014, was secured; many pages are blanked out; what remains of interest are the (placed) page 5, re Article 2 – Aboriginal Consultations – 2.1 The conveyance of real property interests in all or any part of the Subject Lands by the NCC may be considered a Crown conduct that triggers the duty to consult aboriginal groups; 2.2 Any consultations must be conducted with the appropriate Aboriginal Groups, including without limitations, the Algonquins of Ontario, and the Algonquin Anishinabeg Nation Tribal Council; 2.3 Windmill has already met with the aboriginal groups referred to in section 2.2 to discuss the Project and its impact on the Subject Lands. Sections 2.4 and 2.5 are blanked out.

The other item of interest (other than the blanked out sections) addresses Public Announcements (Article 5) wherein in Section 5.2 states, “With respect to any public announcements about this MOU, the Parties agree to cooperate reasonably and in good faith in order to coordinate each Party’s public communications of this MOU, but in no event shall one party make any public announcement of the MOU without giving the other parties at least fifteen (15) business days’ written notice of that party’s intention to make such a public announcement.”

### **9. Public Interest – Rebuttal**

This development plan, in addition to expropriating crown lands and the “commons”, advancing a capitalist, consumer, European (in Malls and Little Amsterdams) culture on an unparalleled sacred culturally, geologically and historically important site, is in direct contradiction to the fully inclusive, environmentally respectful, nationally and globally important plans of its most direct heirs, William Commanda and his family.

### **10. Some preliminary remarks regarding planning/zoning**

In Tab B. E. 34, it is noted that the “Official Plan Amendment was not required to implement the Zoning Application. Attached to the affidavit of Mr. John Smit as Exhibit “13” is a copy of the staff-initiated draft Official Plan Amendment.” There are several references to this “staff-initiated” work, re: the Central Area Secondary Plan (OPA). What is the implication of these repeated statements? Did the City err in judgment with respect to planning; should it have not bothered to go that route? Was it intending to safe guard something? As per discussion about LeBreton Flats, are the additional reasons for the Planning amendment. Are there other items that should be disclosed during this OMB hearing? It is noted that Tab B H. 51, Summary of Professional Planning Opinion deems OPA 143 appropriate and in the public interest.

It is noted that the LeBreton Flats have been “cleared” but there is no cohesive development plan evident there yet. Given the City’s recent tremendous acceleration in the intensification high-rise development, it may be inferred that the amendment to the Planning Act would accommodate increased mixed use, commercial, office space, and condominium development. That too would create all the more reason to maintain the Open Space zoning of the Islands.

## **11. Final Comment**

Finally, please be advised that we are addressing the appeal in general and the Provincial Policy Statement provisions in a separate section (A).

### **C. Rebuttal of City of Ottawa's Submission of Motion to Dismiss Appeals**

**CIRCLE OF ALL NATIONS WRITTEN RESPONSE TO THE CITY OF OTTAWA SUBMISSION TO THE ONTARIO MUNICIPAL BOARD APPEAL (May 31, 2015)**

**Re: PL141340 Appeals to OPA 143 and Zoning By-Law 2014-395**

**Case Number PL141340**

**Municipality – Ottawa; Property Location 3 and 4 Booth Street**

We address here the May 14, 2015 submission to the Ontario Municipal Board (OMB) from City of Ottawa Senior Legal Council, Timothy C. Marc and City of Ottawa's motion to dismiss the above captioned appeals, filed by myself and several other parties.

We note also that the submission is for relief.

#### **General Response:**

1. We challenge the motion of the City of Ottawa to dismiss the appeals.
2. We are appealing the City of Ottawa's decision in support of the Windmill Green Fund LPV development plans, to approve City rezoning and Planning changes at the above captioned site to the oversight body designated to address our objections (OMB), have paid for this review, and object to this "threat" re: relief.
3. The grounds for the City's motion is indicative of the City's and Windmill's assessment of the Planning Act and Provincial Policy Statement and opinion concerning the validity of our appeals. As expressed in the submissions themselves, the complicity between Windmill Green Fund LPV and the City of Ottawa is affirmed by the statement by Miguel Tremblay, planner for Windmill Green Fund LPV, regarding the Affidavit of John Smit for the City of Ottawa (in City of Ottawa Submission at Tab B) "I accept as correct the facts as laid out and I adopt his opinions as my own" (Tab B. B. 6. – Windmill Submission)
4. We object to the City's decision to make amendments in accommodation of Windmill's plans on crown lands with publicly contested ownership issues yet unaddressed, and while other plans for the site have been publically advanced over the past decade, and endorsed by the City itself (in November 2010). We contend that land ownership issues are critical in this case, and that the lands at the Sacred Chaudiere Site have been publicly and formally associated with the

work of late Algonquin Elder William Commanda since the late nineties, and in particular, since 2006, after his presentation of the Key to the City of Ottawa on Victoria Island.

5. The “anticipated long-term build out” in the “extensive redevelopment” adds fuel to our concerns on behalf of William Commanda’s descendants and his legacy. The Supreme Court decision on Tsilhq’atin is a clear statement that Indigenous land issues are now under serious legislative examination. In fact, the Supreme Court of Canada Chief Justice Beverley McLachlin notes that the country committed “cultural genocide” against Indigenous Peoples. In addition there are the Constitutional Provision of Section 35 of the Canadian Charter of Human Rights and Freedoms impacting consultation and responsiveness to Aboriginal Communities. As such, the Capital City has an unequivocal responsibility and obligation to ensure that contentious land ownership issues and land usage issues pertaining to Indigenous matters are addressed in advance of rezoning and planning decisions.
6. Separately, we also see this site as the heart of the National Capital Region, and we contend that both the capital city and the National Capital Commission have a responsibility to safeguard a singular geological, cultural, spiritual and historical site as the heritage of all Canadians. As such, those of us who are not Algonquin, assert our interests in the maintenance of public space, for development consistent with the large and inclusive vision of the most highly honoured Indigenous leader in this National Capital Region.
7. Finally, we note that the presentation of the Constitutional Question by Douglas J. Cardinal Architect/*Elders Without Borders* does raise the jurisdictional parameters, and seriously so; it is our contention that this also further challenges the City’s powers to make such a significant land usage decision. In this regard we note no acknowledgement of this legal challenges launched against the City of Ottawa, Windmill, Domtar and National Capital Commission.

We address **key items** raised in the Affidavit of John Smit in the City of Ottawa’s submission at Tab B here; However, we draw attention to our rebuttal of the Windmill Green Fund PLV submission, and in particular to our comments on Ownership, Decontamination and First Nations Consultation.

We note that Mr. Smit has been employed with the City of Ottawa since 2009; as such, he should be well acquainted with Elder Commanda’s vision for the Sacred Chaudiere Site, as formally endorsed by City of Ottawa in November 2010.

We commence by pointing out that the Ottawa River Watershed remains the unceded, unsurrendered and unconquered traditional territory of the Algonquins of the Watershed, inclusive of the reserve communities on both the Ontario and Quebec sides of the river, and, (as partially acknowledged by the Ontario land claim discussions, initiated in 1992 and later formalized with repeated, publicly contested membership concerns, in the



Algonquins of Ontario group formalized in 2004-2006), on- and off; reserve communities in Ontario, and in land based communities in Quebec.

While land issues remain chaotic, all Algonquins have come together to affirm the William Commanda vision for the heart of the territory, at the Sacred Chaudiere Falls – from both on- and off-reserve, status and non-status, Metis, and countless others not formally identified as Algonquin, but with definite family links – these threads are now formally acknowledged and documented in the work of Lynn Gehl, Claude Hebert, Jean Guy Paquin, the documentary *The Invisible Nation*, Ottawa Heritage River Documentation, William Commanda’s archives and oral history; Further, there is the larger linkage with the broad Algonquin family of 84 nations spread across North America that Elder Commanda drew attention to regularly. These folk, as well as countless other First Nations, Inuit and Metis, and non-Indigenous peoples, have co-created and affirmed William Commanda’s fully inclusive vision at the Sacred Chaudiere Site, and this is included in the City of Ottawa’s own records, and also shared with other levels of government by the City itself.

In our opinion, the Sacred Chaudiere Site is incontestably the most significant resource in the country, for a multiplicity of reasons, and the City’s rezoning and planning decisions, and further its lack of capacity to engage in advancing Elder Commanda’s vision, is challenged.

As such, the City Planners statements at Tab B 5, like “ *(Windmill Developments) acquired the land from Domtar Corporation; Windmill further entered into negotiations with the Federal Department of Public Works and Government Services Canada (PWGSC) to transfer to Windmill small portions of land on Chaudiere Island owned by PWGSC that Lunderstand were subject to a perpetual lease for PWGSC to Domtar*” at Tab B 6, reveal a shocking absence of due diligence.

We are especially concerned with the implications of the following statement at Tab B 8: *The proposal for the Chaudiere and Albert Islands is part of a larger mixed use development proposed by Windmill for all of the former Domtar lands that would straddle the Ontario and Quebec border along the Ottawa River with the Chaudiere and Albert Islands being located within the City of Ottawa and the mainland portion of the project being located within the City of Gatineau. A Master Plan report was developed by Windmill for the overall development and shows how the PWGSC lands, if transferred from Windmill, and the Ottawa Energy Corporation land would be integrated into the overall development. The proposed development however is not dependent on the PWGSC Canada lands being transferred to Windmill. Windmill’s master plan report is found at Exhibit 4.*

Is the ultimate end the control of the water/energy resources at the Chaudieres by Windmill Green Fund PLV? This plus the determination to secure Fee Simple rights at the site, and noted in the Windmill Green Fund PLV submission, has grave implications for the privatization and control of water resources, not just from a First Peoples perspective, but also with respect to the public interests of the City of Ottawa; we note

that at Tab C 9 and 4, Windmill writes about converting two perpetual leases with Public Works and Government Services to fee simple lands. Further, with the international partnerships that Windmill Green Fund PLV announces, the global corporate exploitation of Canadian waters becomes more apparent.

Environmental scientists and political scientists point to global WATER WARS being the challenge of the upcoming century; and the average citizen already knows this is a critical issue. It was not without prescience that William Commanda demarcated the Sacred Chaudiere Site as a place to regenerate the global prayer and respect for PEACE.

Finally, we contend that the dismissal of First Nations and Algonquin land interests as irrelevant to land use planning, in such a critical area in the capital city, at Tab B 79 (Opinion Regarding Appeals) is specious and sophistic. In our opinion, each of the appellants raises critical matters of direct relevance to planning in the capital city, and the decision to privatize land designated for parks and open space in a central area already intensely and prospectively (Lebreton Flats) built, is challenged from a range of perspectives and positions. Even though not all the appellants are First Nations, still, their endorsement of the inclusive Indigenous vision of the highly respected Algonquin Elder (and holder of a Key to the City) is respectful and consistent with the United Nations Declaration on the Rights of Indigenous Peoples, and with the City's own endorsement of the Commanda project in 2010.

## Appendix 1

May 27, 2015 Email query to Jason C. Kwan re: Windmill Sales Launch at Zibi

Greetings,

**Re: Ontario Municipal Board Case Number PL141340 - 3 and 4 Booth Street City of Ottawa.**

**Query A. In view of the two attachments (below) of potential national influence, can you please advise if the decision of the Ontario Municipal Board (OMB) regarding the above captioned case is indeed a foregone conclusion, in favour of the respondents?**

**Background Regarding the Sacred Chaudiere Site and 3 and 4 Booth Street City of Ottawa:**

- a. The development of the site plans and the rezoning and planning changes of the City of Ottawa are being contested by several people on a range of grounds, and there are many others who have also registered serious objections to the development proposal.
- b. I note that Domtar lawyers were aware of the date of the OMB Prehearing Conference, before I and other appellants were notified. Yesterday, I was served a notice by Dentons, lawyers for Domtar Inc., regarding positions on a "watching brief" and party status at OMB proceedings.
- c. We contend that land ownership issues are critical in this case, and lands at the Sacred Chaudiere Site have been publicly and formally associated with the work of William Commanda since the late nineties, and in particular, since 2006, after his presentation with the Key to the City on Victoria Island.

The documentation from Windmill notes that, since 2007, the site has not been utilized while the owners have been attempting to sell (B.9); Tab C, indicates that Windmill Development Group controls Windmill Green Fund LP-V ("Windmill") the *owners* of the land at 3 and 4 Booth (at Tab A1); and Tab C B 3 and 4 indicates that Windmill contacted the *owner* of the Lands, Domtar, in 2012, to take over the *perpetual lease*. On the Attachment #1, below, however, Windmill notes *over 5 years of planning*. I note that in 2007, Late Algonquin Elder William Commanda contested the Domtar plan for expansion of the Hydro Electric Plant at the Chaudiere, and the twenty year extensions of the *perpetual lease of Crown Lands* (originally for the development of the nation); note also that "over five years ago", in February 2010, Elder Commanda released his comprehensive vision for the Sacred Chaudiere Site publicly, including to the federal government, and that in November 2010, City of Ottawa endorsed this plan officially. Finally, with the post 2012 acceleration of development efforts of Windmill, I note also that the a Citizens Advisory Group of the Conservative Party, POGG, was examining the work of William Commanda and that they presented a report on the file to then Minister of Foreign Affairs, and also responsible for the National Capital Commission, Hon. Min. John Baird, in November 2013.

We contend that land ownership and development plans at this site is of critical importance to geological integrity, post Ice Age occupation of the land by Palaeo Indians, Algonquin history, UNESCO cultural/heritage issues, historical importance, and contemporary public interest in the fully inclusive Commanda vision for public space and activities at his unceded, unsurrendered and unconquered ancestral lands, and that the City of Ottawa's decision to rezoning to permit privatization and intense condominium development is irresponsible and highly contentious from multiple levels.

**Present Issue:**

I attach two notices that come to my attention today, May 27, 2015:

Item #1 Advertises a grand opening of the Zibi sales centre, on May 30, in advance of the OMB Prehearing Conference of June 3 - 5, 2015.

Item #2 Notes that Today, CBC Power and Politics Host Evan Solomon hosts a Riverkeeper Gala Event on

(the contested) Albert Island, identified as Zibi.

**In view of the public announcements of the following events, can you please clarify the OMB's position?**

Please not that

- a. I and others have paid a fee for a legitimate hearing at the identified oversight body level.
- b. I point to a few specific matters here: In my party is the oldest senior representative of the William Commanda family, Mary Daisy Commanda Jacko, now in her eighties; I mention her in particular, because the earliest record of Indigenous interventions at the time of Philomen Wright's appropriation of the Sacred Chaudiere Site were the Shamanic representatives of her ancestral family of Commanda Lake (now Lac Papineau), as noted in Wright's own family documents; we contend that the land, considered Crown Land, is the unsundered, unceded and unconquered territory of her direct ancestors. She will be required to invest time, money and energy to make three day trips from Maniwaki, Quebec to participate in these hearings.
- c. In addition to my preparations to present a case to challenge the rezoning and planning changes, I have now also just been served with three voluminous binders of material calling for a dismissal of the OMB appeals and threatening demands for costs from both the City of Ottawa and Windmill Green Fund LPV; and I now have to examine and address these files.

**Can you please provide me with some clarity here to guide me with my preparations for next week? May I assume that the OMB proceedings are unimpeded by these Windmill activities?**

**Query B. May I also ask for clarification regarding the City of Ottawa's note to the OMB and the statement in the Notice of Motion that "The date for responding is Monday, June 1, 2015".**

**If this is to query response to the Notice of Motion, please be advised that I have noted the arguments of both the City of Ottawa and Windmill, and intend to proceed with the appeal to the OMB.**

Thank you for your assistance and guidance.

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**From:** Romola [<mailto:circleofallnations@sympatico.ca>] **Sent:** April-23-15 10:54 AM **To:** JUS-G-MAG-OMB-WEBSITE; Nobili, Anna; [mark.piel@dentons.com](mailto:mark.piel@dentons.com) **Cc:** Kwan, Jason C (MAG); [timothy.marc@ottawa.ca](mailto:timothy.marc@ottawa.ca); [cohenas@solowaywright.com](mailto:cohenas@solowaywright.com); [ncsolutions111@gmail.com](mailto:ncsolutions111@gmail.com); [d.cardinal@djcarchitect.com](mailto:d.cardinal@djcarchitect.com); [spiritualelders@hotmail.com](mailto:spiritualelders@hotmail.com); Larry McDermott **Subject:** Re: Ontario Municipal Board Case Number PL141340 - 3 and 4 Booth Street, City of Ottawa

ATTENTION:

Ms Joanne Hayes, Registrar/Secretary  
Ontario Municipal Board  
655 Bay Street  
Suite 1500  
Toronto, Ontario  
M5G 1E5

and  
Mr. Mark Piel  
via Nobili, Anna  
Dentons Canada LLP  
77 King Street West, Suite 400

Toronto Dominion Centre.  
Toronto, On, Canada, M5K 0A1

GREETINGS,

I refer to the above captioned file.

I collected a registered letter on this same matter, sent by Dentos Canada LLP on April 21, 2015.

I am writing to advise that I object to the request for party status by Dentons Canada LLP during my hearing with the Ontario Municipal Board, concerning the City of Ottawa decision on the above mentioned file. I am appealing a City Government Decision to the Provincial Government Body with authority to address my concerns further. I note that Dentons was aware about the OMB hearing date in June before I was - I only received clarification when I inquired specifically. I do not recall Denton/Domtar's presence in the City of Ottawa's October 2014 deliberations.

I point out also that I wrote to Domtar Inc. on the matter of the Sacred Chaudiere Site, the associated islands, and the previous outreach to Domtar by late Algonquin Elder William Commanda on the same matter, on several occasions in 2014, and received no formal acknowledgement of my correspondence.

Please consider this my official response to the registered mail from Dentons, and kindly acknowledge receipt.

Thank you.

Sincerely,

Romola V. (Thumbadoo) Trebilcock  
506 Stratas Court  
Kanata, On  
K2L 3K7

On Apr 9, 2015, at 10:21 AM, Nobili, Anna <[anna.nobili@dentons.com](mailto:anna.nobili@dentons.com)> wrote:

Sent on behalf of Mark Piel.

Anna M. Nobili Assistant to Paul Shantz, Mark Piel and Robert Blunt D +1 416 863 4769 ann

FMC is proud to join Salans and SNR Denton as a founding member of Dentons.