

# NOVÆ RES URBIS

## GREATER TORONTO & HAMILTON AREA

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- 2 AMBITIOUS HEIGHTS  
Centrepiece  
Proposed for  
Markham Centre
- 7 UPDATES ON  
MUNICIPAL  
OPERATIONS IN EIGHT  
MUNICIPALITIES

■ JUSTICE DENIED AS HALTON CONSOLIDATED COURTHOUSE PROJECT CANCELLED

# COURTHOUSE CANCELLATION

Andrew Reeves

The Ontario government has quietly cancelled the \$500 million **Halton Region Consolidated Courthouse Project** weeks before the winning bidder was to be announced. The provincially-initiated project sought proposals to design, build, finance, and maintain a new facility in the **Town of Oakville** that would include a Superior Court of Justice and an Ontario Court of Justice, replacing ageing court facilities in the **Town of Milton** and the **City of Burlington**.

The last-minute decision was announced by Attorney General **Doug Downey** on the afternoon of Friday, May 8, blindsiding stakeholders who believed that, after years of bipartisan support for the project, a winning bidder among three competing development consortia was to be announced any day.

“Three proponents were bidding on this, three very large consortia, and they

were down to the brass tacks,” **Ken Kelertas**, president of the **Halton County Law Association**, told *NRU*. As recently as February, he said, stakeholders were told the government was “ready to announce the successful bidder. And then the plug got pulled at the eleventh hour.”

Kelertas has been involved in discussions for the new Milton courthouse since 2011, and was deeply engaged in the process when Liberal party Attorney General **Yasir Naqvi** announced the new consolidated courthouse project in June 2017. The Request-for-Proposal issued by **Infrastructure Ontario** in February 2019 selected three pre-qualified construction consortia in November 2019 to bid on the project, including **EllisDon Infrastructure Justice**, **Escarpment Justice Alliance**, and **Plenary PCL Justice**.

While Kelertas and other stakeholders in Halton’s legal

community were holding their breath to see if COVID-19 would impact the government’s decision to move forward with the project, its cancellation was nonetheless “shocking because the need for a new justice hub in Halton was proven,” he said.

When the Milton courthouse was built in 1962, Halton Region had a population of just 191,000. That figure has

since tripled; by 2041, Halton is projected to have a population approaching one million residents. Today, the courthouse on Steeles Avenue West has become a “Frankenstein’s monster,” Kelertas said, as new additions have been grafted onto the original building, the latest one in 1979. The result, he added, is an unworkable

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Map showing the location of OnePiece Development’s proposed 47-storey mixed-use development, Markham Square (on Phase 1 Lands, outlined in red), along with surrounding existing and proposed uses (including on OnePiece’s Markham Square Phase 2 Lands, outlined in red). See story, page 2.

SOURCE: CITY OF MARKHAM



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hodgepodge that has failed to keep up with the new demands being placed on the justice system.

“The Milton courthouse should have been condemned years ago,” Kelertas said. Mould and asbestos in the walls and ceilings have already cost millions to manage safely and [have] prevented the renovations necessary to install the technology needed for remote hearings. Accessibility is hampered by numerous levels divided by stairs. There is no dedicated jury room. Courtrooms on the third floor are accessible only through the basement, and potentially dangerous offenders have to be transported through hallways and stairwells frequented by members of the public. “Band-Aid solutions were canvassed years ago,” Kelertas said, “and were deemed to be either not feasible or [to be] a waste of money.”

The courthouse cancellation could not have come at a worse time for construction and trades workers in the region. With so many companies paying workers with earnings from projects secured months or years ago, plenty of construction crews were looking to large projects like the consolidated courthouse to pay the bills in the months ahead,

said **Clive Thurston**, president of the **Ontario General Contractors Association**.

“I was absolutely shocked. We had no warning, no inkling this was going to happen,” Thurston told *NRU*. “This project was shovel ready by every stretch of the imagination. And it was extremely disappointing” to hear that it had been cancelled. “This is going to hurt [the local economy] badly,” he said – not just in the hundreds of direct and indirect jobs it would have created in the months and years ahead, but for the small companies down the supply chain who rely on supplying everything from soap dispensers and portable bathrooms to mechanical equipment for big infrastructure projects, not to mention restaurants selling food to workers.

Meanwhile, the cancellation comes at a time when 50,000 construction workers are out of a job as a result of slowdowns brought on by COVID-19. “Both the Prime Minister and Premier **Doug Ford** have been saying construction will probably be the leading industry to get us out of this economic downturn,” Thurston said. “The last time there was a recession [in 2008], it was construction that led the way

and got us out of it. And they’re looking for us to do it again.” What better way to bring tradespeople back to work, he added, than a \$500 million infrastructure project?

Thurston is worried the cancellation could be the “tip of the iceberg” when it comes to the scrapping of infrastructure projects. And given the difficulty and massive expense in bidding on public-private partnerships, this latest setback “calls into question the credibility of the whole system” of companies partnering with the government on large builds. “I think contractors will look for other projects that are more secure, and only the very largest and most secure will continue to perhaps participate in three-Ps,” he said. “And then there will be no competition for them.”

**Mark Ellerker**, business manager of the **Hamilton-Brantford Building and Construction Trades Council**, agrees. The consortia bidding on this project have spent millions over the past three years putting the architectural, planning, financing, and legal aspects of their proposals together in good faith because they believed the project would be awarded, he told *NRU*. “But

when the government starts closing projects down at the eleventh hour, it starts to really shift confidence in the industry and among contractors.”

As the economic impacts of COVID-19 are felt by municipal governments, Thurston and Ellerker are worried that municipalities will be forced to postpone or cancel construction projects of all sizes.

The fact that local governments are scrutinizing their current and future budgetary commitments isn’t surprising in light of the financial difficulties wrought by COVID-19, said **Michael Fenn**, a former deputy solicitor general and current senior advisor with **StrategyCorp**. “That’s just human nature. My concern is that infrastructure investment can either be a casualty of the pandemic or it can be a way to help us escape its consequences,” he told *NRU*. “Investment in infrastructure is going to be one of the ways that we refloat our economy, improve its productivity, and build the kind of democratic society and economy that we’re going to need to prosper in the future. Infrastructure is a key ingredient in that.”

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Yet in cancelling the Halton consolidated courthouse, he cautioned, the government may wish to reflect on what signal it is sending. Because while the justice system is in need of modernization, he said, “the pipeline of infrastructure projects needs to be robust, and it needs to be reliable. There needs to be a degree of confidence for the construction industry” when bidding on projects that the work will actually be fulfilled. “If we aren’t careful, we can send the wrong message and lose capacity or a lot of the economic impact that infrastructure and construction investments can produce.”

**Brian Gray**, spokesperson for the **Ministry of the Attorney General**, told *NRU* the province’s experience with virtual meetings during COVID-19 has underscored the importance of strengthening the technology available to make the province’s ageing justice system work. “There is broad consensus that we cannot go back to the old ways of administering and delivering justice before the public health emergency,” he said.

Since the Halton project was still in the procurement phase when it was cancelled,

Gray said, there was no contract in place for any of the three consortia that bid on the project. The government intends to complete some modifications of the existing courthouses in Milton and Burlington “to address evolving infrastructure needs,” he noted, adding that Downey will announce details in the coming weeks. In the long term, however, “the shift of traditional investments toward innovation and new technology will move more services online and ensure sustained access to the justice system.”

No one disputes that Ontario’s justice system needs to be dragged into the 21st Century and have its reliance on paper filing lessened, Kelertas said. Successive governments have failed to address this issue, but the consolidated courthouse was set to help remedy this in Halton Region by allowing for remote hearings and teleconferences that could have resolved more cases pre-trial, lessening the workload on judges and freeing them to hear more serious cases. “I support the initiative of the Attorney General and his government to transform the justice system,” Kelertas noted. “That being said, you still need

to have bricks and mortar places where people can access justice services” in a safe and timely manner.

Halton’s justice hub was designed to provide legal services for more than just offenders awaiting trial – family law services were set to have offices in the new facility, as was the **Children’s Aid Society**, the **John Howard Society**, which helps reintegrate individuals coming out of the justice system into society, and the **Canadian Mental Health Association**. Working with **United Way Greater Toronto**, a host of smaller community groups were also set to receive community benefits charge

funds through the winning bidder to create or improve much-needed local services.

“The cancellation of this project is going to have more than just an impact on the legal community, but the community at large,” Kelertas said. “But at this point we’re just waiting for some culminating event – either a death in the cells, or some sort of violent occurrence in the courthouse” to force the provincial government to act.



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- Michael Fenn

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IDEA RELATED TO YOUR  
MUNICIPALITY?

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