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File No.

MEMORANDUM

Date: September 23, 2008

To: Mayor David Miller
Members of Council

From: City Solicitor

Reference: Reverse sloped driveways - EX23.16 and NY18.53

Items EX23.16 and NY18.53, which address reverse sloped driveways and flooding, are before City Council on September 24 and 25, 2008.

North York Community Council, in this regard, recommends that a report on reverse sloped driveways in North York District be brought forward for consideration at a public meeting of the community council and that

3. City Council direct that Members of the Committee of Adjustment – North York District Panels, be invited to attend the Community Council meeting when this report is considered by North York Community Council.

As I have advised previously and as appeared in the report and recommendations of the Auditor General, the Committee of Adjustment **must** operate as an independent administrative tribunal. City Council appoints the members but must thereafter have an arm's length relationship with the Committee. That is why, for example, that training and education in respect of the Code of Conduct, Municipal Conflict of Interest Act and procedural fairness and the hearing process are provided by the Chief Planner and City Solicitor, and not by members of City Council.

Recommendation 3 of NYCC should not be adopted, as it would not be in keeping with the need for maintaining both the appearance and strict reality of independence. If City Council takes a position on reverse sloped driveways and wishes to have the Committee of Adjustment informed respecting concerns over such driveways, then that can properly be achieved by adopting Recommendation 14 of Item EX23.16.

Anna Kinastowski
City Solicitor