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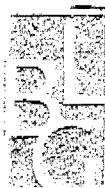
Attachment 1

FEB 17 2010

CITY OF TORONTO  
CITY CLERK

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BORDEN  
LADNER  
GERVAIS

February 16, 2010

**Delivered by Facsimile**

City of Toronto and  
City Council  
c/o Mr. Ulli S. Watkiss  
City Clerk  
Toronto City Hall  
13th Floor W., 100 Queen St. W.  
Toronto, ON  
M5H 2N2

Dear Mr. Watkiss,

**Re: Montevallo Developments Limited**  
**351 Wallace Avenue, Toronto**  
**Our File No. 019316/000001**

We are the lawyers for Montevallo Developments Limited. Our client is the owner of lands municipally described as 351 Wallace Avenue, in the City of Toronto (the "Subject Property"). This letter will serve as our client's complaint pursuant to section 20 of the *Development Charges Act*, R.S.O. 1997, c. 27 (the "Act").

As you may be aware, the Owner proposes to develop a 134 stacked townhouse condominium on the Subject Property. This project will involve construction of approximately 14,216 square metres of residential building, with a parking facility at grade.

On December 30, 2004, the Owner applied for a building permit to commence its construction of the apartment building project. By letter, dated November 12, 2009, Tony D'Arpino of the City of Toronto advised the Owner that development charges in the amount of \$1,318,694.00 had been assessed for Montevallo's redevelopment of the Subject Property and that these charges would have to be paid prior to issuance of a building permit. Payment of these charges was made under protest on or about November 23, 2009.

Without intending to be comprehensive in identifying all of our client's concerns, we note two primary issues with the development charges levied by the City. Firstly, the rate applied appears to be that identified in City of Toronto By-law 275-2009. As noted above, the Owner applied for the building permit at issue herein on December 30, 2004,

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well before By-law 275-2009 came into force on May 1, 2009. As a result, the rate applied on a per unit basis must be adjusted to the charge identified in City of Toronto By-law 547-2004.

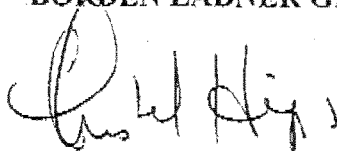
Secondly, the City has incorrectly identified the unit type as "Multiple 55 m<sup>2</sup> or greater". Putting aside the fact that there is no such category identified or defined in either the current 275-2009 or previous 547-2004 by-laws, the construction proposed by the Owner is quite clearly for an apartment building. Indeed, this is the category that has been applied in the past by the City of Toronto for similar construction projects. Accordingly, the apartment unit category, defined as "any residential dwelling unit within a residential building...where such unit is accessed through a common entrance or entrances from the street level and an interior corridor, and the building contains there or more units with such access", should be applied in the circumstances.

In light of the foregoing, our client seeks refund of its over payment, in the amount of \$941,350.00, plus interest, as determined by City Council or the Ontario Municipal Board, in accordance with Section 25 of the Act.

This notice is given by Borden Ladner Gervais LLP, lawyers for Montevallo Developments Limited, and the address to which documents may be served on Montevallo Developments Limited is: Borden Ladner Gervais LLP, Barristers and Solicitors, Scotia Plaza, 40 King Street West, Toronto, Ontario, M5H 3Y4 to the attention of Stephen Waqué, (416) 367-6275, or Christel Higgs, (416) 367-6321.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**



Christel Higgs  
CH/srm

cc: Stephen F. Waqué

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