PG 2.5. 81

mcmillan
combining Lang Michener LLP and McMillan LLP

CITY CLERK'S OFFICE
SECRETARIAT SECTION

2011 APR -8 A 9:42

Reply to the Attention of Mary Flynn-Guglietti
Direct Line 416.865.7256
Email Address mary.flynn@mcmillan.ca
Our File No. 69664
Date April 7, 2011

Delivered and Via E-mail to clerk@toronto.ca

Mayor Rob Ford and Members of Council
City of Toronto
Toronto City Hall
100 Queen Street West
Toronto, ON
M5H 2N2

Attention: Ulli S. Watkiss, Clerk of the City of Toronto

Your Worship and Members of Council:

Re: Item PG2.5 of the Planning and Growth Management Committee Amendments to Zoning By-law 1156-2010 Submissions concerning the Repeal of Zoning By-law 1156-2010

We represent a number of property owners with respect to appeals filed in connection with our clients' concerns regarding the Harmonized Zoning By-law No. 1156-2010. A list of our clients is attached at Schedule A. On behalf of our clients I attended before the Planning and Growth Management Committee ("**PGMC**") at its meeting on March 24, 2011 and made submissions expressing concerns regarding the merits of the proposed revisions, jurisdictional issues and continued opposition to By-law 1156-2010. The aforementioned concerns are highlighted in my written submissions filed on March 22, 2011.

As you are aware, the PGMC unanimously voted to recommend repeal of By-law 1156-2010 and to request the Chief Planner and Executive Director, City Planning to bring back a revised harmonized zoning by-law to the Committee no later than January 2012. As well, PGMC requested the Chief Planner, in consultation with the City solicitor, to report directly to City Council on April 12, 2011 on a by-law to repeal By-law 1156-2010. During debate of Item PG2.5 at the March 24, 2011 PGMC meeting, staff raised concerns regarding whether a by-law repealing a new by-law can be appealed to the Ontario Municipal Board and whether By-law 1156-2010 is necessary to comply with the *Planning Act* in terms of Official Plan conformity.

We have reviewed the legal opinion prepared by Christopher Tanzola of McCarthy Tétrault LLP dated April 7, 2011 and have conducted our own independent research and wish to inform you that we concur with the McCarthy Tétrault LLP opinion on both issues. We strongly support the view that the law is well settled that no right of appeal exists where Council wishes to repeal, in whole or in part, a by-law passed but not yet in force. As well we strongly agree that the City's Growth Plan conformity exercise required by the *Places to Grow Act* is not complete and therefore the requirement to update the City's zoning by-laws within a three-year time period, as per Section 26 (9) of the *Planning Act*, has not commenced.

We trust that Council will consider this communication together with the letter filed by McCarthy Tétrault LLP, as part of their deliberations, and that it will support the unanimous recommendations of the PGMC to repeal By-law 1156-2010.

We thank you for your kind consideration.

Yours truly,

Mary Flynn-Guglietti

/sb
Encls.
cc: Clients – Schedule A

SCHEDULE "A"

1 Amexon Holdings Inc. and Heritage York Holdings Inc. (OMB Appeal # 391)

2 Church-Isabella Properties Inc. (OMB Appeal # 396)

3 River Oaks Investments Inc. (OMB Appeal # 393)

4 Comweb Toronto Realty Inc. (OMB Appeal # 395)

5 Torgan Management Inc. (OMB Appeal # 394)

6 Morguard Corporation (OMB Appeal # 399)

7 Talisker (Sunlight) G.P. Inc., Jacob's Tent Investments Inc., Victoria Wood Development Corporation Inc., Victoria Wood (Main Squre) G.P. Inc., Victoria Wood (Main Square) Limited Partnership (OMB Appeal # 433)

8 Royal Canadian Legion Branch 286 (OMB Appeal # 389)

9 Royal & Sun Alliance Insurance Company of Canada (OMB Appeal # 390)

10 Ontario Power Generation Inc. (OMB Appeal # 392)

11 YMCA of Greater Toronto (OMB Appeal # 397)

12 Azuria Group (OMB Appeal # 398)

13 1170898 Ontario Ltd. (OMB Appeal # 28)

14 Crown Realty Partners (OMB Appeal # 26)

15 Heritage Yorkshire Holdings (OMB Appeal # 499)

16 Toronto Heritage Seventh Day Adventist Church (OMB Appeal # 618)

17 Laurie and David Weishuhn