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November 7, 2012

Via Email (edc@toronto.ca)

Ms. Merle MacDonald
City of Toronto
Planning and Growth Management Committee
Toronto City Hall
100 Queen Street West
10th Floor West Tower
Toronto ON M5H 2N2

Dear Ms. MacDonald:

**Re: Item ED 18.6 Holiday Shopping
Economic Development Committee Meeting, November 8, 2012**

I represent Oxford Properties Group Inc. with respect to the Yorkdale Shopping Centre and the Scarborough Town Centre and have been monitoring Holiday Shopping matters in the City of Toronto for a number of years.

The following statement appears in the October 4, 2012 Holiday Shopping report to the Economic Development Committee, and similar text appears in related City reports that follow:

"Under the City of Toronto, Municipal Code Chapter 510, Holiday Shopping, retail stores are required to be closed on the following nine public holidays: New Year's Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, and Christmas Day.

The (Ontario) Retail Business Holidays Act (RBHA), which governs jurisdictions outside the City of Toronto, has similar requirements. Both the City's Municipal Code and Provincial Statute provide numerous exemptions by type and size of store, as well as exemptions for designated areas within a municipality. Some Councils have exempted their entire municipality from the requirements of the RBHA. It should be noted that subject to proclamation, the RBHA is slated to be amended. These amendments will bring the retail shopping provisions applicable to other areas of the province more in line with the provisions currently applicable to the City of Toronto."

We ask that the Economic Development Committee have in mind the following when considering Item 18.6 on its November 8, 2012 agenda.

1. With respect to the statement that the RBHA is slated to be amended one assumes that the change noted is imminent. I had the opportunity to speak with a representative at the Ministry of Consumer Services, the Ministry that administers the RBHA, on

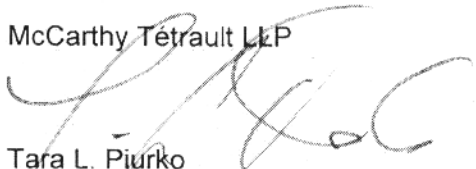
November 7, 2012. I can advise that there has been no announcement that the Province intends to bring into force Section 1.2 of the RBHA which would permit a municipality to pass a by-law exempting itself from the RBHA. Further, the representative was not aware that such an announcement was on its way. This not in force provision in the RBHA has been in limbo since 2006 and it remains as such.

2. The statement that Councils of some municipalities have exempted their entire municipality from the RBHA is correct, however, it should be kept in mind that such municipalities would have had a population of less than 50,000 at the time of such exemption. A municipality with a population of 50,001 cannot take advantage of the provision set out in Section 4. of O.Reg. 711 that would permit such an exemption.
3. The provisions currently applicable to the City of Toronto are set out in Chapter 510 of the City of Toronto Municipal Code. Those provisions do not allow a retail business establishment to apply for an exemption to open on a statutory holiday unlike the application mechanism which currently available to the rest of the Province. While the RBHA requires retail business establishments to remain closed on statutory holidays, and while there are exemptions similar to those applicable to the City of Toronto related to type and size of store, there is also a mechanism for a retail business establishment to apply for an exemption and such an exemption may be granted if the tourism criteria set out in Section 2 of O. Reg. 711 are satisfied. Further, the separate application set out in Section 5. of O.Reg 711 is not available in the City of Toronto. This application permits a retail business establishment to apply for an exemption for up to five (5) holidays a year during which a fair, festival or other special event, not including a parade, is being held in the subject municipality.
4. Amendments to Chapter 510 of the Municipal Code were passed in December 2006 to close a regulatory gap that would be created as of New Year's Day 2007 wherein all stores in the City of Toronto would be permitted to open after the passing of *The Stronger City of Toronto for a Stronger Ontario Act, 2006*. The amendments were passed to maintain the status quo pending a consultative process to be undertaken by the General Manager of Economic Development, Culture and Tourism regarding the regulation of holiday shopping. As can be seen from the attached excerpt of the Minutes of the December 5 and 6, 2006 meeting of City of Toronto Council, Council passed a motion that the City Solicitor be authorized to introduce a bill to close the regulatory gap in substantially the same manner as was applicable to the rest of the Province. That did not happen. While the status quo with respect to which establishments that already had an exemption was maintained, the status quo with respect to an application mechanism was not.
5. With respect to the interim measure passed in December 2006 to close an imminent regulatory gap that would exist as of January 1, 2007, I submit that the intention was not to close Toronto for business on all statutory holidays. As can be seen from the attached December 2006 Minutes, the intention was for the City to come up with a process to govern the regulation of holiday shopping in the City of Toronto not to simply close up shop. The name of the Act behind the change, *The Stronger City of Toronto for a Stronger Ontario Act, 2006*, is at odds with the current effect of Chapter 510 of the City of Toronto Municipal Code for those retail establishments that were not already exempt in December 2006.

Thank you for your consideration of the submissions contained herein.

Yours truly,

McCarthy Tétrault LLP



Tara L. Pjurko

TLP/csb

- c. Anthony Casalanguida, Oxford Properties Group Inc.
Kathy Meyers, Oxford Properties Group Inc.
John Giddings, Oxford Properties Group Inc.
Peter Thoma, urbanMetrics Inc.

Agenda

These Minutes are to be confirmed by City Council on February 5, 2007.

**MINUTES OF THE COUNCIL
OF THE
CITY OF TORONTO
FIRST MEETING**

**TUESDAY, DECEMBER 5, 2006, AND
WEDNESDAY, DECEMBER 6, 2006**

December 5, 2006

The Members of Council of the City of Toronto, for the four-year term commencing December 1, 2006, met on Tuesday, December 5, 2006, at 2:00 p.m. in the Council Chamber, City Hall, Toronto.

The City Clerk, Ulli S. Watkiss, presided in accordance with the provisions of the *Municipal Act, 2001*.

The meeting opened with the singing of the National Anthem by Ms. Simone Soman.

Council rose and observed a moment of silence and personal reflection.

1.1 CONFIRMATION OF ELECTION RESULTS

The City Clerk welcomed the Members of Council to the First Meeting of the Council of the City of Toronto, and reported that she had declared the 2006 Municipal Election results, as to the persons elected and entitled to be Members of the Council of the City of Toronto, for a four-year term of office starting on December 1, 2006.

On behalf of the City Manager and the Toronto Public Service, the City Clerk extended her congratulations to Mayor David Miller and the Members of Council.

2. The Deputy City Manager and Chief Financial Officer be authorized to make cash disbursements up to \$2.800 billion net to fund expenditures during the period January 1, to April 30, 2007, including cash transfers up to \$482.910 million to Agencies, Boards and Commissions as detailed in the attached Appendix 1.
3. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Link to Background Information

Council considered the following:

- Report (December 4, 2006) from the Deputy City Manager and Chief Financial Officer. (CC1.2 Revised)
(<http://www.toronto.ca/legdocs/2007/cc/bgrd/20061205-cc1.2r.pdf>)

1.14 Regulation of Holiday Shopping upon Proclamation of the *City of Toronto Act, 2006*

CC1.3	NO AMENDMENT			
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Motion:

Councillor Carroll moved that City Council adopt the staff recommendations contained in the Recommendations Section of the report (November 24, 2006) from the City Solicitor, entitled "Regulation of Holiday Shopping Upon Proclamation of the *City of Toronto Act, 2006*".

Vote:

The motion by Councillor Carroll carried.

City Council Decision

City Council adopted the following motions:

1. The City Solicitor be authorized to introduce a bill regulating holiday shopping on the eight days a year currently regulated by the *Retail Business Holidays Act* in substantially the same manner as is currently provided for in the *Retail Business Holidays Act* and maintaining the "tourist area" exemptions that have been previously approved by Council.
2. The General Manager of Economic Development, Culture and Tourism

undertake a consultative process seeking input from the general public, retail industry, retail sector employees, small business interests, BIAs and the tourism industry with respect to policy options on the regulation of holiday shopping and report back to the Economic Development Committee by December 31, 2007 recommending a new regulatory framework governing holiday shopping.

Link to Background Information

Council considered the following:

- Report (November 24, 2006) from the City Solicitor. (CC1.3)
(<http://www.toronto.ca/legdocs/2007/cc/bgrd/20061205-cc1.3.pdf>)

1.15 Appointment of an Investigator under Bill 130

CC1.4	NO AMENDMENT			
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Motion:

Deputy Mayor Pantalone moved that City Council adopt the staff recommendation contained in the Recommendation Section of the report (November 27, 2006) from the City Manager, entitled "Appointment of an Investigator under Bill 130".

Vote:

The motion by Deputy Mayor Pantalone carried.

City Council Decision

City Council on December 5 and 6, 2006, adopted the following motion:

1. The City Manager be authorized to select and enter into an agreement with a qualified person from a faculty of law at a Toronto university to serve as interim investigator to handle any public complaints about improperly closed meetings of City Council, committees or local boards in accordance with the *City of Toronto Act, 2006*.

Link to Background Information

Council considered the following: