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September 18, 2012

**DELIVERED BY E-MAIL pgmc@toronto.ca
AND COURIER**

Planning and Growth Management Committee
10th Floor, West Tower, City Hall
Toronto, Ontario
M5H 2N2

Dear Committee:

**RE: Visitor Parking Prohibitions
New Draft City-wide Zoning By-law**

Further to our submissions to the Committee dated June 15, 2012 and our oral submissions to the Committee on June 18, 2012, I am writing on behalf of our clients Park Smart Inc. and Epic Parking Control Services Inc.

We are of the strong view that the issue of prohibiting a landowner from charging for visitor parking in a residential zone, needs to be re-visited.

Following our meeting with staff as part of the review process directed by Council and the above noted written and oral submissions, there is now additional information before the Committee and staff that warrants a reconsideration of these proposed prohibitions. We respectfully request that the Committee direct staff to prepare a report on this issue to be presented to the Committee prior to any decision on the new draft City-wide Zoning By-law.

Our submissions of June 15, 2012 set out that additional information in a more comprehensive manner and an additional copy is attached for your ease of reference. However, in a nutshell, we would summarize those reasons as follows:

1. Visitor parking presents some real challenges for property owners in certain locations within the City. Non-visitors to the sites, and sometimes residents, improperly use the visitor parking spots.
2. Neither landowners nor the City have the resources to properly police these visitor parking stalls and the result is that visitor parking spaces are not available for

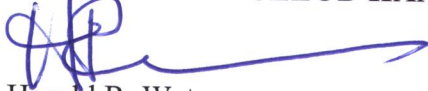
genuine visitors and building service providers. In some locations, for example, commuters will park in the visitor parking location near a subway station and then go to work for the day. In other areas, criminal elements will use these visitor parking spots for illegal purposes. Sometimes the problem is caused by residents persistently parking their secondary vehicles and/or even their primary vehicles in the visitor parking spaces.

3. The intent of site plan control and zoning requirements for visitor parking ends up being defeated in these difficult locations.
4. The pay and display machines mean that there is an effective control over visitor parking. This is achieved by charging for the use of visitor parking and then having the resources to pay for regularized routine enforcement if the visitor parking is improperly used.
5. The experience of our clients and the property owners over many years has been that the paid parking process dramatically improves the availability of visitor parking for genuine visitors and also the safety and security of these properties and their residents.
6. Charging for visitor parking is not a revenue generator for the landowners. It essentially covers the cost of the machines and the enforcement.
7. The pay and display machines only make financial sense in certain areas, such as near a subway station or areas that are struggling with criminal elements. Not every landowner will want or need the cost of the pay and display machines.
8. The enforcement officers hired as a result of the pay and display machines are City licensed Municipal Law Enforcement Officers, to ensure compliance with City processes and control towing incidents. The parking infraction revenue from all fines generated from these private locations is received by the City, not the landowners.
9. For many years, my clients estimate that the City has received approximately 1 million dollars in fines on an annual basis for tickets issued by these City licensed Municipal Law Enforcement Officers employed by Epic Parking Control Services Inc. The City has no cost in this enforcement, including no cost for Epic MLEO's to appear in court to testify on contested parking tickets.
10. The landowners regain control over their visitor parking spaces so that the spaces can be used as intended through the planning process. Residents actually have visitor parking spaces available to their genuine guests in these difficult areas. They get back safer and more secure parking facilities.
11. The planning vision for visitor parking is realized.

We would respectfully request the Committee to direct planning staff to report back to the Committee on this issue, in light of the additional information that has been provided to the Committee and City staff.

Yours very truly

O'CONNOR MACLEOD HANNA LLP



Harold R. Watson

HRW:lw

Encl.

cc: Ron Reid, Park Smart Inc.

cc: Derrick Snowdy, Epic Parking Control Services Inc.

Barristers & Solicitors

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June 15, 2012

DELIVERED BY E-MAIL
pgmc@toronto.ca

Ulli S. Watkiss
City Clerk
Planning and Growth Management Committee
10th Floor, West Tower
City Hall
Toronto, Ontario
M5H 2N2

Dear Sir:

**RE: Request to be Delegation before Planning and Growth Management Committee
– June 18, 2012**
**Item: PG16.1 Report from the Acting Chief Planner and Executive Director,
City Planning, on the New Draft City-Wide Zoning By-law
Park Smart Inc. and Epic Parking Control Services Inc.**

We are the solicitors for Park Smart Inc. and Epic Parking Controls Services Inc.

Would you please register the following delegations for the June 18, 2012 meeting of the Planning and Growth Management Committee.

1. Harold Watson on behalf of Park Smart Inc.
2. Derrick Snowdy on behalf of Epic Parking Control Services Inc.

In support of the foregoing delegations, please find our written submissions attached hereto. These submissions were originally submitted to City staff back on August 11, 2011.

Thank you for your assistance in this matter.

Yours very truly

O'CONNOR MACLEOD HANNA LLP

A handwritten signature in black ink, appearing to be 'H. Watson', with a long horizontal flourish extending to the right.

Harold R. Watson

HRW:lw

Encl.

cc: Ron Reid, Park Smart Inc.

cc: Derrick Snowdy, Epic Parking Control Services Inc.

**O'CONNOR
MACLEOD
HANNA ^{LLP}**

August 11, 2011

DELIVERED BY E-MAIL AND BY HAND

Mr. Gary Wright
Chief Planner and Executive Director
City Planning Division
100 Queen Street West
12th Floor, East Tower
Toronto, Ontario M5H 2N2

Mr. Joe D'Abramo
Acting Director of the Zoning By-law Project
55 John Street
22nd Floor
Metro Hall
Toronto, Ontario

Dear Sirs:

**Re: Park Smart Inc. and Epic Parking Control Services Inc.
Sections 10.5.80.1 and 15.10.80.1 of repealed City of Toronto Zoning By-law
Our File No. 89884**

We are the solicitors for Park Smart Inc. and Epic Parking Control Services Inc. (the "Companies").

The Companies had appealed sections 10.5.80.1 and 15.10.80.1 of Schedule "A" to the City of Toronto Zoning By-law 1156-2010 (the "Repealed By-law") and any related provisions. These provisions would have prohibited a landowner from charging for visitor parking in a Residential Zone or Residential Apartment Zone.

My clients have many years of experience with this issue in the City of Toronto and have developed a high degree of understanding of the problems facing residential property owners and their tenants with respect to visitor parking.

Park Smart provides fully automated Pay & Display parking machines to many residential and commercial residential property owners in the City. These machines function 24 hours a day, 7 days a week, to assist landowners to control parking on their properties.

Barristers & Solicitors

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As part of the arrangement, Epic is retained through Park Smart on behalf of property owners, to manage the use of those parking spots. Epic staff include designated Municipal Law Enforcement Officers.

There are a number of reasons why the prohibitions that were included in the Repealed By-law should not be included within any new By-law introduced by the City. We have summarized those reasons below:

1. “Visitor” parking presents some real challenges for property owners. Non-visitors to the buildings often utilize these visitor parking spots. Residents and long-term guests of building residents also often occupy these visitor parking spots. It is very difficult for landowners to know if the occupier of the visitor parking spot is a proper visitor to the building. Landowners often do not have the resources to properly police these visitor parking stalls. The result is that the visitor parking spaces are not available for genuine visitors to the building.
2. A related problem is that in some locations, visitor parking can be used by criminal elements. A vehicle will be parked in the visitor space and used to store illicit goods and from which to conduct criminal activity. The vehicle may not even be owned by a resident. Landowners and residents can be intimidated by such persons and have great difficulty in securing compliance with proper use of the visitor parking. There have been incidents where those complaining have suffered retribution.
3. The City, including the Police, do not have the resources to engage in the type of time-consuming work that is required to try to clean up these issues. This has been the experience of property owners at their locations prior to my clients’ involvement.
4. As visitor parking becomes effectively unavailable to genuine visitors, the intent of site plan control and zoning requirements for visitor parking is defeated. Planning for these properties with respect to visitor parking is not realized.
5. **The ability to charge for visitor parking changes everything in a very positive way.**
6. The Pay & Display machines mean that there is an effective control over visitor parking. This is achieved by charging for the use of visitor parking and through the associated enforcement which can be afforded as a result of the revenue generated.
7. Residents and long-term guests of residents are no longer interested in parking in the visitor parking because there is a cost to this improper use of the spaces and enforcement if they don’t comply.

8. Criminal persons are similarly not as interested in the visitor parking if they must pay for it. Again, the fact that there are paid enforcement persons who regularly enforce the requirement to pay for visitor parking, is a substantial deterrent to criminals who try to use these spaces. My clients can attest to the fact that this criminal activity is greatly reduced by the prospect of the towing of these vehicles, which often contain illegal goods.
9. The experience of our clients over many years is that this paid parking process has dramatically improved the availability of visitor parking and also the safety and security of these properties and their residents.
10. Without the revenue from paid visitor parking, property owners (and indirectly their tenants), often cannot afford proper enforcement.
11. An example of the benefits of charging for visitor parking, occurred at a number of Metro Toronto Housing Authority properties. In 1999 and 2000, the Authority had contracts with Park Smart with respect to seven properties, where the Pay & Display machines were installed. Representatives of the Authority later advised my client that their systems and the revenue generated thereby, had resulted in significant security improvements on those Authority properties.
12. Allowing landowners to charge for visitor parking, achieves the planning objectives of ensuring safe, available visitor parking on residential and commercial residential properties.
13. This paid visitor parking system has also had some other very positive spin-off benefits.
14. Firstly, while enforcement staff are on the property they can ensure that other parking by-law requirements are satisfied. For example, compliance with fire route and handicapped parking controls can be ensured. In the past, the City has typically had insufficient resources to properly police such issues.
15. Another substantial economic benefit for the City has been that it receives the fines for any tickets issued on these properties. Even better from a municipal perspective, is that the City doesn't have to pay the cost of this enforcement, but still receives those fines. For many years, my clients estimate that the City has received approximately \$1,000,000.00 in fines on an annual basis for tickets issued by Officers employed by Epic. The City has incurred no cost in this enforcement, including no cost for Epic MLEOs to appear in Court to testify.
16. The property owners regain control over these visitor parking spaces, so that the spaces can be used as intended. Enforcement can be afforded.
17. Residents actually have visitor parking spaces available to their genuine guests. They get back safer and more secure parking facilities.

18. The planning vision for visitor parking is realized.
19. The City addresses a crime issue at no cost and in fact, receives a substantial financial benefit without investing in additional staffing and other resources.
- 20. Everyone wins.**
21. There are some additional issues that need to be brought to the City's attention.
22. Visitor parking is a necessary component to residentially zoned property. It is reasonable for City planners to require it and landowners know that they need to make provision for it. The City should not then try to regulate the cost the owner wishes to charge for the use of these spaces or how the owner otherwise tries to recover its costs. This is an unreasonable and unwarranted interference in a landowner's property rights and *ultra vires* the municipality's authority. The City does not have the authority to dictate the amount of rent paid or not paid for residential apartments and parking stalls, and respectfully, should not attempt to do so for visitor parking spots.
23. Secondly, my clients have observed that there has been a willingness by the City to utilize parking spaces on residential properties for municipal purposes. For example, the police pay residential property owners to park police vehicles on certain residential properties. Similarly, the City has paid to use residential properties to park municipal vehicles for the vehicle sharing program (Zip cars). It would be inconsistent for the City to continue with such practices if the prohibitions were re-introduced into the new By-law.

City staff did not support the inclusion of the prohibitions in the Repealed By-law. It is our submission that this staff position should be maintained for all of the planning, social, economic and legal reasons outlined above. The prohibitions should not be re-introduced into the new By-law.

My clients are very interested in this issue and ask to be kept informed at all stages of the process. We remain more than willing to offer further input into any decision on these prohibitions and ask to be advised as to when the issue will be before Council or any Committee of the City. We also ask to receive any reports or documentation generated with respect to this issue by the City or other parties participating in the process.

If the City would like to have further input from my clients, please contact me

We look forward to future updates on this subject and thank you for the opportunity to meet with you on August 12, 2011 and for your consideration of these submissions.

Yours truly,

O'CONNOR MACLEOD HANNA LLP

A handwritten signature in black ink, appearing to be 'H. Watson', written over the company name.

Harold R. Watson

cc: Park Smart Inc.

cc: Epic Parking Control Services Inc.