



McCarthy Tetraault LLP
PO Box 48, Suite 5300
Toronto-Dominion Bank Tower
Toronto ON M5K 1E6
Canada
Tel: 416-362-1812
Fax: 416-868-0673

Eric S. Block

Partner
Direct Line: (416) 601-7792
Direct Fax: (416) 868-0673
Email: eblock@mccarthy.ca

Assistant: Katie Leavitt
Direct Line: 416-601-8200 (542746)
Email: kleavitt@mccarthy.ca

October 18, 2012

Via Courier, Facsimile, and Email

With Prejudice

Scott Pasternack
Solicitor
Legal Services
City of Toronto
City Hall, 21st Floor East Tower
100 Queen Street West,
Environment Office
Toronto ON M5H 2N2

Dear Mr. Pasternack:

Re: Plastic Bag Ban – Purported Industry Consultations

We write further to our letter dated September 5, 2012 ("**OCSA's Demand Letter**") (enclosed), and in response to your email of October 11, 2012.

OCSA will not participate in what the City calls the "deputation process and consultations" ("**Purported Industry Consultations**").

The Purported Industry Consultations are not meaningful, and the City knows it. OCSA will not participate in a process where the end-result -- a municipal law banning plastic bags -- is a *fait accompli*. Indeed, far from remedying the concerns raised in OCSA's Demand Letter, the invitation to provide a deputation only amplifies those concerns.

We urge the City to create a process that enhances civic democracy and the rule of law. Until that process is in place, and the City rescinds the resolution, OCSA relies on OCSA's Demand Letter.

OCSA expressly reserves all of its legal and equitable rights and remedies, and will act to protect its interests at the appropriate time.

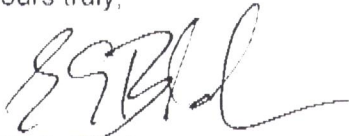
Please confirm that you are authorized to accept service of process. Please further confirm that you have distributed a litigation hold memorandum to all relevant persons.

mccarthy
tetrault

page 2

We look forward to hearing from you.

Yours truly,



Eric S. Block

EB

/encl.

cc:

Paul Ainslie
Maria Augimeri
Ana Bailão
Michelle Berardinetti
Shelley Carroll
Raymond Cho
Josh Colle
Gary Crawford
Vincent Crisanti
Janet Davis
Glenn De Baeremaeker
Mike Del Grande
Frank Di Giorgio
Sarah Doucette
John Filion
Paula Fletcher
Doug Ford
Rob Ford (Chair)
Mary Fragedakis
Mark Grimes
Doug Holyday
Norman Kelly
Mike Layton
Chin Lee
Gloria Lindsay Luby
Giorgio Mammoliti
Josh Matlow
Pam McConnell
Mary-Margaret McMahon
Joe Mihevc
Peter Milczyn
Denzil Minnan-Wong
Ron Moeser
Frances Nunziata
Cesar Palacio
John Parker
James Pasternak
Gord Perks
Anthony Perruzza
Jaye Robinson
David Shiner
Karen Stintz
Michael Thompson
Adam Vaughan
Kristyn Wong-Tam
Ulli S. Watkiss
Christopher Williams (Aird & Berlis LLP)
Ronald Podolny (McCarthy Tétrault)

DOCS 11877394v1



McCarthy Tetraault LLP
PO Box 48, Suite 5300
Toronto-Dominion Bank Tower
Toronto, ON M5K 1E6
Canada
Tel: 416-362-1812
Fax: 416-868-0673

Eric S. Block
Partner
Direct Line: (416) 601-7792
Direct Fax: (416) 868-0673
Email: eblock@mccarthy.ca

Via Facsimile and Courier

September 5, 2012

Ms. Anna Kinastowski
City Solicitor
City of Toronto Legal Services
55 John Street
Stn. 1260, 26th Floor, Metro Hall
Toronto ON M5V 3C6

Dear Ms. Kinastowski:

Re: City Council Decision EX20.2, Voluntary Contributions of Plastic Bag Fee Proceeds

We act for the Ontario Convenience Stores Association ("OCSA"). On June 6, 7 and 8, 2012, the Executive Committee of the City Council of the City of Toronto (the "Council") adopted a decision (the "Resolution") which, *inter alia*, provides:

City Council prohibit all City of Toronto retail stores from providing customers with single-use plastic carryout (shopping) bags, including those advertised as compostable, biodegradable, photodegradable or similar, effective January 1, 2013.

The Resolution is *ultra vires* of the Council and breaches OCSA's procedural and substantive rights. In particular, the Resolution:

1. falls outside the City's jurisdiction pursuant to the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A;
2. was approved without a proper consultation process, and thus violates the common law duties of natural justice and procedural fairness;
3. is vague and thus violates section 7 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, and the common law doctrine of vagueness;
4. was made for an improper purpose and constitutes an improper exercise of administrative discretion;
5. violates the *Canadian Bill of Rights*, S.C. 1960, c. 44; and
6. is contrary to Ontario's *Environmental Assessment Act*, R.S.O. 1990, c. E. 18.

We urge the Council to rescind the Resolution forthwith.

**mccarthy
tetrault**

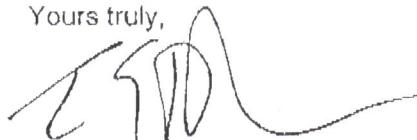
page 2

Should the Council fail to rescind the Resolution, OCSA will consider seeking a judicial declaration of the invalidity of the Resolution and such other and further relief as may be appropriate.

In sending this letter, OCSA does not waive but expressly reserves all legal and equitable rights and remedies.

Please do not hesitate to contact me if you would like to discuss this issue further.

Yours truly,



Eric S. Block

EB/

cc: Paul Ainslie
Maria Augimeri
Ana Bailão
Michelle Berardinetti
Shelley Carroll
Raymond Cho
Josh Colle
Gary Crawford
Vincent Crisanti
Janet Davis
Glenn De Baeremaeker
Mike Del Grande
Frank Di Giorgio
Sarah Doucette
John Fillion
Paula Fletcher
Doug Ford
Rob Ford (Chair)
Mary Fragedakis
Mark Grimes
Doug Holyday
Norman Kelly
Mike Layton
Chin Lee
Gloria Lindsay Luby
Giorgio Mammoliti
Josh Matlow
Pam McConnell
Mary-Margaret McMahon
Joe Mihevc
Peter Milczyn
Denzil Minnan-Wong
Ron Moeser
Frances Nunziata
Cesar Palacio
John Parker
James Pasternak
Gord Perks
Anthony Perruzza
Jaye Robinson
David Shiner

mccarthy
tetrault

page 3

Karen Stintz
Michael Thompson
Adam Vaughan
Kristyn Wong-Tam
Ronald Podolny (McCarthy Tétrault)

DOCS 11602318

SCHEDULE "A"

Ms. Scott Pasternack	City of Toronto Legal Services	(416) 392-0080	(416) 397-5624
Mr. Paul Ainslie	City of Toronto	(416) 392-4008	(416) 392-4006
Ms. Maria Augimeri	City of Toronto	(416) 392-4021	(416) 392-7109
Ms. Ana Bailão	City of Toronto	(416) 392-7012	(416) 392-7957
Ms. Michelle Berardinetti	City of Toronto	(416) 392-0213	(416) 392-7394
Ms. Shelley Carroll	City of Toronto	(416) 392-4038	(416) 392-4101
Mr. Raymond Cho	City of Toronto	(416) 392-4076	(416) 696-4159
Mr. Josh Colle	City of Toronto	(416) 392-4027	(416) 392-4191
Mr. Gary Crawford	City of Toronto	(416) 392-4052	(416) 696-3658
Mr. Vincent Crisanti	City of Toronto	(416) 392-0205	(416) 696-4207
Ms. Janet Davis	City of Toronto	(416) 392-4035	(416) 397-9289
Mr. Glenn De Baeremaeker	City of Toronto	(416) 392-0204	(416) 392-7428
Mr. Michael Del Grande	City of Toronto	(416) 392-1374	(416) 392-7431
Mr. Frank Di Giorgio	City of Toronto	(416) 392-4066	(416) 392-1675
Ms. Sarah Doucette	City of Toronto	(416) 392-4072	(416) 696-3667
Mr. John Filion	City of Toronto	(416) 392-0210	(416) 392-7388
Ms. Paula Fletcher	City of Toronto	(416) 392-4060	(416) 397-5200
Mr. Doug Ford	City of Toronto	(416) 397-9255	(416) 397-9238
Mr. Rob Ford (Chair)	City of Toronto	(416) 397-3673	(416) 338-7125
Ms. Mary Fragedakis	City of Toronto	(416) 392-4032	(416) 392-4123
Mr. Mark Grimes	City of Toronto	(416) 397-9273	(416) 397-9279
Mr. Doug Holyday	City of Toronto	(416) 392-4002	(416) 392-4004
Mr. Norman Kelly	City of Toronto	(416) 392-4047	(416) 696-4172
Mr. Mike Layton	City of Toronto	(416) 392-4009	(416) 392-4100
Mr. Chin Lee	City of Toronto	(416) 392-1375	(416) 392-7433
Ms. Gloria Lindsay Luby	City of Toronto	(416) 392-1369	(416) 696-4138
Mr. Giorgio Mammoliti	City of Toronto	(416) 395-6401	(416) 397-9282
Mr. Josh Matlow	City of Toronto	(416) 392-7906	(416) 392-0124
Ms. Pam McConnell	City of Toronto	(416) 392-7916	(416) 392-7296
Ms. Mary-Margaret McMahon	City of Toronto	(416) 392-1376	(416) 392-7444
Mr. Joe Mihevic	City of Toronto	(416) 392-0208	(416) 392-7466
Mr. Peter Milczyn	City of Toronto	(416) 392-4040	(416) 392-4127
Mr. Denzil Minnan-Wong	City of Toronto	(416) 397-9256	(416) 397-4100

Mr. Ron Moeser	City of Toronto	(416) 392-1373	(416) 392-7429
Ms. Frances Nunziata	City of Toronto	(416) 392-4091	(416) 392-4118
Mr. Cesar Palacio	City of Toronto	(416) 392-7011	(416) 392-0212
Mr. John Parker	City of Toronto	(416) 392-0215	(416) 392-7427
Mr. James Pasternak	City of Toronto	(416) 392-1371	(416) 392-7299
Mr. Gord Perks	City of Toronto	(416) 392-7919	(416) 392-0398
Mr. Anthony Perruzza	City of Toronto	(416) 338-5335	(416) 696-4144
Ms. Jaye Robinson	City of Toronto	(416) 395-6408	(416) 395-6439
Mr. David Shiner	City of Toronto	(416) 395-6413	(416) 397-9290
Ms. Karen Stintz	City of Toronto	(416) 392-4090	(416) 392-4129
Mr. Michael Thompson	City of Toronto	(416) 397-9274	(416) 397-9280
Mr. Adam Vaughan	City of Toronto	(416) 392-4044	(416) 392-4130
Ms. Kristyn Wong-Tam	City of Toronto	(416) 392-7903	(416) 696-4300
Mr. Christopher Williams	Aird and Berlis		(416) 863-1515
Ulli S. Watkiss	City Clerk of the City of Toronto		(416) 392-2980