

November 1, 2012

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VIA E-MAIL (scc@toronto.ca)

File 99999.99904

Yvonne Davies  
Secretary, Scarborough Community Council  
City of Toronto  
Scarborough Civic Centre  
3rd Floor  
150 Borough Drive  
Toronto, Ontario M1P 4N7

Dear Ms. Davies:

**Re: Item SC20.32 – 55 Mac Frost Way – Zoning Amendment & Draft Plan of  
Subdivision Applications  
Scarborough Community Council Meeting – November 6, 2012**

We act as counsel for the Morningside Heights Landowners Group Inc. ("MHLG") on the above matter. The purpose of this letter is to provide our client's written submissions for consideration by Scarborough Community Council when this item comes back before it on November 6, 2012.

MHLG strongly supports the motion by Councillor Cho to amend Recommendation 3 of the Report from the Director of Community Planning dated September 14, 2012 (the "**Report**"). That motion seeks to amend the Conditions of Draft Plan of Subdivision generally listed in Attachment 7 by deleting Condition 5 as originally proposed, and replacing it with the following new Condition 5:

"Prior to registration of the plan of subdivision, the Owner shall become a party to the existing Cost Sharing Agreement with the other participating Owners within the Morningside Heights Secondary Plan who have funded and who will continue to fund the establishment of the Core Services as defined by the applicable Ontario Municipal Board orders. Final registration of the plan of subdivision shall not be permitted until the Owner has executed the said Cost Sharing Agreement and has further submitted to the City a letter from the Trustee under the Cost Sharing Agreement that states that the Owner is in good standing under the provisions of the Cost Sharing Agreement at the time of registration."

The original Condition 5 in the conditions of draft approval would only require the applicant to advise the City in writing that it has made satisfactory arrangements with MHLG for its proportionate share of the “construction cost of the capacity of the storm and sanitary sewers that the proposed subdivision will use within the CORE services constructed for the Morningside Heights Community”. In our respectful submission, this proposed wording would fall short of satisfying the requirements of the Morningside Heights Core Services Agreement and the existing Cost Sharing Agreement with the City, for two reasons.

First, under the latter agreement, the applicant is responsible for more than simply its proportionate share of the cost of storm and sanitary sewers.

Second, the City has expressly agreed to hold final registration of any subdivision plans until the Trustee under the Cost Sharing Agreement provides the City with evidence that the applicant is in good standing under that agreement. Specifically, paragraph 21 of the Core Services Agreement dated February 8, 2002 between the City and the MHLG owners (554056 Ontario Limited, Mattamy (Neilson) Limited, Mattamy (Staines) Limited, Neilson-Finch Residential Developments Inc. and Trans-Gate Inc.) states as follows:

“...the City agrees to hold final Registration of any one plan of subdivision within the Morningside Heights Community until that Owner has executed the Cost Sharing Agreement and the Trustee has supplied the City evidence that the Owner of the property in question, is in good standing with the terms and conditions of said agreement...”

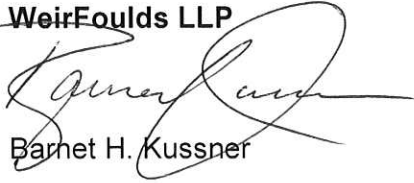
Accordingly, we respectfully submit it is incumbent on the City to not approve the application absent a condition whose wording tracks the foregoing language in the Core Services Agreement. In our view, Condition 5 as proposed in Councillor Cho's motion appropriately addresses this concern, and his proposed amendment reflects the intent of the Secondary Plan that all landowners seeking to develop lands within the Morningside Heights Community contribute their fair share towards the costs of community infrastructure.

For these reasons, MHLG strongly supports Councillor Cho's motion and respectfully requests Scarborough Community Council not to adopt the other recommendations respecting this item in the absence of the amendment proposed for Condition 5 of the draft approval conditions.

Thank you for your ongoing attention to this matter. Please be advised that my colleague, Tiffany Tsun, will be in attendance at the Community Council meeting on November 6th to speak to this matter further.

Yours truly,

**WeirFoulds LLP**

A handwritten signature in black ink, appearing to read "Barnett H. Kussner", written over the printed name.

Barnet H. Kussner

BHK/tt

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