

EY29.2.5

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November 18, 2013
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Attention: Rosemary MacKenzie, Committee Administrator

Dear Members of Council:

Re:	Item No. EY29.2
Consideration:	November 19, 2013 Etobicoke York Community Council Meeting
Property:	3560, 3580 and 3600 Lake Shore Boulevard West, Toronto ("Site")
Property Owners:	Lakeshore EMPC TWO Limited/2226704 Ontario Inc. ("Owners")
Applicant:	Diamond Corp.
City File Nos.:	10 193543 WET 06 OZ and 12 290917 WET 06 SB ("Development Applications")

We are solicitors for Wakefield Canada Inc. ("Wakefield"), owner of the manufacturing facility located at 3660 Lake Shore Boulevard West and lessees of the warehousing facility located at 3620 Lake Shore Boulevard West, Toronto. These facilities are adjacent to the Site and are the facilities most impacted by the development proposed for the Site.

Wakefield reached a settlement with the Owners respecting the Development Applications for the Site, subject to the terms of the agreement entered into on June 11, 2013 ("Settlement Agreement"). Unfortunately, the Final Staff Report for the Site is inconsistent with the Settlement Agreement, because the Settlement Agreement is predicated on City of Toronto Staff:

- i) Recommending to the Etobicoke York Community Council/City Council that the Section 37 Agreement under the *Planning Act* for the Site/Proposed Development Applications include a provision to confirm that the Site has been designated as a "Class 4 Area" in accordance with Ministry of the Environment Guideline NPC 300 ("NPC 300"); and
- ii) Requiring the "Class 4 Area" designation of the Site under NPC 300 (May 2012) be included in the list of matters to be secured in a Section 37 Agreement as part of the

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proposed zoning by-law amendment for the Site and to include a provision in the Section 37 Agreement designating the Site a "Class 4 Area" in accordance with NPC 300.

We ask the Committee to recommend that the above-noted provisions be incorporated into the Section 37 Agreement and the ZBA, respectively, for the Site.

The "Attachment 9: Draft Zoning By-law Amendment" to the Final Staff Report is also inconsistent with: (i) Final Staff Report recommendation #4; (ii) the mitigation measures required to meet the NPC-300 Class 4 Area noise criteria; (iii) the recommended matters to be secured in a Section 37 Agreement contained on page 19 of the Final Staff Report; (v) the at-receptor mitigation required by the Settlement Agreement and (vi) the terms of the Settlement Agreement.

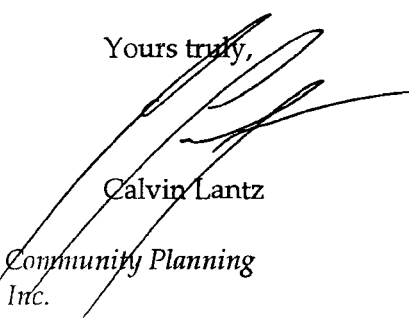
We ask that the Committee direct Staff to consider ZBA changes that will result in regulations that are consistent with the Settlement Agreement and NPC-300 Class 4 Area noise criteria.

The satisfaction of the terms and the conditions set-out above ought to resolve Wakefield's concerns with the Development Applications. However, we reserve the right to raise additional objections to and concerns with the Development Applications, if required.

Please keep us apprised of the status of the Development Applications by providing us with copies of all staff reports, notice of any public meetings, committees of Council meetings and Council meetings and copies of all decisions made by Council, that are concerned with the Site and the Development Applications.

Thank you for your assistance in this regard.

Yours truly,



Calvin Lantz

CWL/nla

cc. Christian Venstresca, *City of Toronto Community Planning*
Dave Fifield, COO, *Wakefield Canada Inc.*
Doug Thomson, *McCarthy Tétrault*