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NY28.31.1

November 18, 2013

BY EMAIL

Our File #111617

North York Community Council
North York Civic Centre
Main Floor, 5100 Yonge Street
Toronto, ON M2N 5V6

Attn: Francine Adamo, Secretariat

Dear Sirs/Mesdames:

**Re: Item No. NY28.31
Final Report – Yonge, Duplex, Helendale and Orchard View
Urban Design Guidelines**

As you are aware, we act on behalf of Comare Holdings Inc., the owners of 31, 33, 35 and 37 Helendale Avenue, in the City of Toronto (the "Site"). On March 30, 2012 our client submitted an application to amend the former City of Toronto Zoning By-law 438-86, as amended, to develop a 24-storey apartment building on the Site.

On August 12, 2013, we appealed our client's zoning by-law amendment application to the Ontario Municipal Board, pursuant to subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, on the basis that Council has failed to render a decision within 120 days of receipt of the application. A pre-hearing conference with respect to this appeal has been scheduled for March 17, 2014.

We have had an opportunity to review the Yonge, Duplex, Helendale and Orchard View Urban Design Guidelines contained in Attachment 6 to the staff report dated October 31, 2013. Based on our review, it would appear that the report seeks to retroactively apply the urban design guidelines to previously submitted applications. If indeed that is the intent, that would be inappropriate in our submission, and contrary to well established case law which provides that owners are entitled to have their applications considered in the context of policies and guidelines in force at the time of submission.

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While we recognize that these are non-statutory guidelines, and therefore not subject to any rights of appeal, this will confirm that at the hearing of our clients' zoning appeal if the City is seeking to rely on these guidelines, we will be asking the Board to base its decision on in force policies and not on Urban Design Guidelines which may be approved after the submission of the application.

Yours truly,

AIRD & BERLIS LLP

Kim M. Kovar
KMK/SJL/mn

cc: Client
Paul Stagl
Roland Rom Colthoff

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