

June 11, 2014

SENT VIA E-MAIL

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Ward 20 Council seat is vacant

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Dear Mayor and Councillor:

Re: PG33.8, Thursday May 29, 2014 Tuggs Incorporated and 1675 Lakeshore Blvd. East

We are the lawyers for Tuggs Inc.

As you are well aware, Tuggs Inc. is the lessee of lands at the captioned location in accordance with a lease signed with the City on June 2, 2010

The lease contains the following provisions with respect to signage, the 2010 Lease:

- 1.1 (m) The right to retain the Tenant's ground sign in its existing location now situate adjacent to Lake Shore Boulevard East, or, subject to compliance with all applicable City by-laws, policies, rules and regulations, a new ground sign in the same location, for the purpose of promoting the Tenant's Business. The ground sign may also be used for the purpose of promotion the Sponsorship programs and daily and seasonal activities and special events in the Parklands as approved by the City, the Tenant shall make the sign available for use by the City for the purposes of the City at all reasonable times. The Tenant shall insure and maintain the ground sign in good condition throughout the Term, at its sole cost and expenses, and may upgrade and replace such ground sign, in accordance with all City bylaws, policies and regulations.
- (p) Subject to compliance with all applicable City by-laws, policies and permit requirements, the right to erect and maintain three (3) signs for the purpose of the Tenant's sponsorship programs in locations within the Parklands to be determined

McCague Borlack LLP

by the Tenant and the City. Such signs shall be designed by the Tenant for approval by the City and, at the City's discretion, may be a changeable copy, painted, electronic message or other sign type. The Tenant shall maintain and insure such signs in good condition throughout the Term, at its sole cost and expense, and may, subject to compliance with all applicable City by-laws and policies, upgrade and replace such signs as may be necessary as determined from time to time by the Tenant. Despite the foregoing, the Tenant may, from time to time, submit a request for additional signs to be installed in the Parklands and such request may be granted in the sole and absolute discretion of the City.

- (q) Subject to compliance with all applicable City by-laws, policies and permit requirements, the right to erect and maintain a changeable copy, electronic message or other sign type on the south-east corner of the intersection of Lakeshore Boulevard East and Coxwell Avenue (the "Sponsorship Sign"), the exact location of the sign to be determined and approved by the City. In addition, the Tenant shall obtain approval for the Sponsorship Sign from any other governmental authorities having jurisdiction, including the TRCA prior to installation of the Sponsorship Sign. The Tenant shall have the right to utilize the Sponsorship Sign for the purpose of promoting approved sponsorship programs, daily and seasonal activities and special events and for the purpose of the Tenant's business. Subject to availability, upon receipt of a written request by the City, the Tenant shall make the Sponsorship Sign available for use by the City for the purposes of the City, at all reasonable times. The Tenant shall maintain and insure the Sponsorship Sign in good condition throughout the Term, at its sole cost and expenses, and may subject to compliance with all applicable City by-laws and policies, upgrade and replace the Sponsorship Sign as may be necessary as determined from time to time by the Tenant.

For over 20 years, Tuggs has maintained a sign on the Lakeshore Boulevard. That sign was destroyed as a result of a motor vehicle accident and Tuggs replaced the sign at the same location.

City officials objected to both, the location and nature of the sign which caused legal proceedings to be commenced. Those proceedings were compromised by an agreement that Tuggs would pursue the procedural route prescribed by the applicable sign by law. Tuggs entered into such an agreement in good faith on the understanding that the City would likewise treat Tuggs and any application it made in good faith.

On Thursday May 29, 2014, the PG33.8 Committee met. Tuggs requested an adjournment to allow further negotiations with the City to arrive at a compromise. That request was rejected and instead, the Committee proceeded to consider the merits of an application that Tuggs was not prepared to deal with.

Notwithstanding, Tuggs proceeded to argue its case before the Committee. Rather than deal with the application on the merits, the Committee proceeded to hear the application with clear bias and bad faith. For example, Councillor Nunziata said that Tuggs should never have been granted the lease to begin with. Councillor McMahon repeatedly objected to Tuggs' right to seek legal recourse to protect its contractual entitlement.

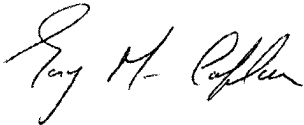
It is clear that there remains at the City an ongoing strategy designed to frustrate the lease.

In these circumstances, we intend to seek instructions to commence proceedings to vacate the entire process on the grounds of bias and bad faith. Tuggs no longer believes that the City has any intention to allow the business to survive and intends to politicize an issue that has been long determined.

We ask that the City hold the item for discussion and consider to direct Staff to work with Tuggs in order to approve the sign application as filed or as may require revision to satisfy both parties.

Yours truly,

MCCAGUE BORLACK LLP

A handwritten signature in black ink, appearing to read "Gary M. Caplan". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

Gary M. Caplan
GMC/eo