
AIRD & BERLIS LLP

Barristers and Solicitors

Christopher J. Williams

Partner

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August 22, 2014

120819

BY EMAIL

Mayor and All Members of Council
City of Toronto
Toronto City Hall
100 Queen Street West
Toronto ON M5H 2N2

Attention: Ulli S. Watkiss
clerk@toronto.ca;

Dear Mayor and Members of Council:

Re: City Council Meeting August 25, 2014
Motion: MM55:75
McNicoll Bus Garage Transit Project Assessment Study
Matter from Planning and Growth Management Committee
Councillor Josh Colle, seconded by Councillor John Parker

Introduction

Aird & Berlis LLP acts for the Mon Sheong Foundation with respect to the above noted matter. Our client owns property located at 2020 and 2030 McNicoll Avenue immediately adjacent to the proposed TTC Bus Garage, Repair and Maintenance Facility.

We insist that the above noted Motion not proceed and be defeated for the following reasons:

1. The Motion is Out of Order and it is not in accordance with Council's Procedural By-law ;
2. The Motion is requesting Council to make a Decision on a matter which is currently under active consideration by the Planning and Growth Management Committee, thereby usurping the Committee's right and obligation to make its recommendation to Council;
3. The Motion is an egregious miscarriage of natural justice to my client and to others and an abuse of process; and

4. The Decision of the PGMC to Defer should be upheld as an appropriate response to the serious concerns raised by my client and other stakeholders:
 - (a) that further consideration should be given to our request to the Committee and to the TTC that the accelerated Transit Project Assessment Process be terminated and replaced with a Full Municipal Class Environmental Assessment,
 - (b) to our request that an accountability be made on the part of the TTC to report on alternative site locations not impacting sensitive residential uses; and
 - (c) to provide the technical background information requested by our client and various stakeholders.

Context

Our client's property at 2020 McNicoll is developed with 246 unit specialized residential care facility with limited commercial and office uses. Their property at 2030 McNicoll is developed with a 160 bed long term care facility for seniors. These are approved uses under the City of Toronto Official Plan and Zoning By-law. The proposed Bus Garage Maintenance and Repair Facility is to be located beside our client's facilities.

Procedural By-law

Under Council's Procedural By-law, General Rules on Making Motions, a member may make a motion that (1) affects the meeting's procedures, as set out in the procedures by-law; or (2) takes action on a matter that is currently before Council for debate.¹

The Motion is not procedural. It is substantive and decisive.

The matter of the McNicoll Bus Garage is not before council. The Motion should be ruled out of Order and in conflict with the Procedural By-law.

Report 35 of the Planning and Growth Management Committee does not speak to the matter which remains under active consideration by that Committee and was decided by the Committee on a vote to be deferred for further consideration to the next meeting of PGMC in 2015. It is not on the Council PGMC Agenda for this meeting of Council.

Planning and Growth Management Committee Consideration

The Planning and Growth Management Committee acted fully within its procedural jurisdiction in accordance with the Procedural By-law. After hearing eight public

¹ Toronto Municipal Code, Chapter 27 Article IX : 27-68A

presentations on the matter and asking related questions to the deponents, the Committee had the right to immediately consider the matter or defer considering it to a future committee meeting.²

PGMC decided to defer consideration of the this item to the next Planning and Growth Management Committee meeting in the new term of Council in 2015.

Among other matters the deferral enables the TTC Staff to consider alternative site locations and to weigh and respond to a variety of stakeholder submissions made to the Committee at its meeting on August 7, 2014.

Natural Justice/ Substantive Issues

This Motion seeks to remove this matter from the delegated jurisdiction of the Planning and Growth Management Committee and bring the matter directly before Council on August 25th for its consideration. This is an abuse of process. The reasons presented in support of this Motion area all financial arising out of the TTC prior planning decisions and they are reasons of which the Planning and Growth Management Committee was aware of and/or could have been advised by the Mover and staff prior to making its decision to defer. None of the reasons in support of the Motion speak to or resolve the grounds for the Committee deferral.

The matter at Planning and Growth Management Committee was presented to enable the Committee to make recommendations to Council in response to a report from the Board of the Toronto Transit Commission. This is not a statutory public meeting and the Planning and Growth Management Committee acted in accordance with its procedural rights and obligations as set out by Council.

Our client's representations to the TTC Board and subsequently to the Planning and Growth Management Committee were reasoned and iterative requesting the cooperation of the TTC and the Committee to provide our client with sufficient access to information to enable its consultants to carry out and report on a peer review of the work carried out by the TTC. A peer review with professional consultants in the disciplines of Noise and Vibration, Air Quality and Transportation Planning can only assist the TTC, the City and our clients in their decision making. Copies of our written submissions to the TTC Board and to the Committee over the past two months are attached here once again for the public record.

The accelerated Transit Project Assessment Process has been abused in these proceedings, to attempt to shoehorn in a 320,000 square foot industrial plant beside residential and health care uses. The TTC and the City's jurisdiction to proceed under the TPAP is in jeopardy and our request for a full Municipal Class EA procedure is justified.

² Toronto Municipal Code, Chapter 27, Article IX:27-17G

August 22, 2014

Page 4

The TPAP as set out under Ontario Regulation 231/08 in our opinion was not intended to facilitate what is in essence the construction of a 320,000 square foot industrial plant across the street from a seniors residence campus which is an existing sensitive use receptor.

Statements by the Toronto Transit Commission that it is proceeding within the context of a transparent and consultative process is clearly false in light of this outrageous motion.

Conclusions

The motion should be ruled Out of Order and/or defeated for the reasons set out herein.

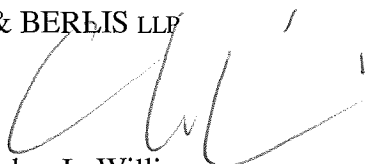
We reserve the right to advance such further and other grounds as appropriate in the future before any other related approval authority or court of competent jurisdiction.

If this Motion is held down and considered by Council we are hereby requesting an opportunity to speak to the matter before Council.

All of which is respectfully submitted.

Yours truly,

AIRD & BERLIS LLP



Christopher J. Williams

With Attachments :

- c. Mon Sheong Foundation
- c. Anna Kinastowski, City Solicitor

CJW/RD/rd

19314356.3

AIRD & BERLIS LLP

Barristers and Solicitors

Christopher J. Williams

Partner

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E-mail: cwilliams@airdberlis.com

August 5, 2014

120819

BY EMAIL

Nancy Martins, Committee Administrator
Planning and Growth Management Committee
Toronto City Hall
100 Queen Street West
Toronto ON M5H 2N 2
pgmc@toronto.ca;

Dear Ms. Martins:

**Re: Planning and Growth Management Committee Meeting August 7, 2014
McNicoll Bus Garage Transit Project Assessment Study
PG35.23**

Aird & Berlis LLP acts for the Mon Sheong Foundation. We made written and oral submissions to the July 23, 2014 meeting of the Toronto Transit Commission Board with respect to the above noted item. Copies of our written submission to the Board and our follow up letter to Michael Atlas, TTC Board counsel are attached.

Please note that at that TTC Meeting the Board also adopted a Recommendation to:

“Request staff to discuss with the Toronto Board of Health to ensure that there are no community health issues and to bring back the result of the discussion to the TTC.”

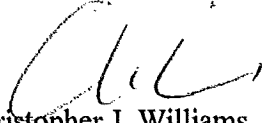
It is our respectful submission that Planning and Growth Management Committee defer this matter until staff have so reported back and the TTC has put its mind to this matter and our client's consultants have had sufficient time to properly review and report on the requested information as more particularly set out in our correspondence to Mr. Atlas attached.

Please list me as a deputant to speak to this matter at the Planning and Growth Management Committee meeting August 7, 2014 .

August 5, 2014
Page 2

Yours truly,

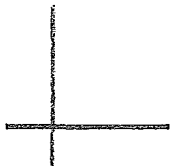
AIRD & BERLIS LLP



Christopher J. Williams

- c. Victor Wong
- c. Michael Atlas

CJW/RD/rd
19084412.3



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Christopher J. Williams
Direct: 416.865.7745
E-mail: cwilliams@airdberlis.com

July 31, 2014

Our File No. 120819

BY EMAIL: michael.atlas@ttc.ca

Mr. Michael Atlas
Senior Solicitor
Toronto Transit Commission
1900 Yonge Street
Toronto, ON M4S 1Z2

Dear Mr. Atlas:

Re: TTC Proposed McNicoll Bus Garage & Maintenance Facility

As you are aware, we provided written correspondence prior to and made a deputation at the TTC Board Meeting held on Wednesday, July 23, 2014 regarding the above-referenced matter. As you may note from our written submissions to the Board dated July 22, 2014, we and our consultants did not receive the draft Environmental Project Report until the evening of Friday, July 18, 2014, only two business days prior to the TTC Board's consideration of this matter.

Starting on June 9, 2014, we had been writing to the TTC and to yourself requesting copies of the report, any sub-reports, drafts, etc. for review at least three weeks prior to the July 23rd meeting in order for our consultants to have at least minimally sufficient time to review the report, the sub-consultant's reports, and to prepare their submissions. In this way, we could have meaningful input into the process as contemplated by the TPAP. We were therefore disappointed (to say the least) to have received the reports at such a late date. It was shocking to then learn that the Traffic Impact Study had been completed on March 20, 2014, Noise Assessment on April 9, 2014, and Air Quality Assessment on May 12, 2014, all well before our June 9th request for same. This is inexcusable and is a demonstration of the TTC's abuse of the TPAP. In particular, the often repeated statement that the TTC has engaged in meaningful dialogue with our client (as well as other interested stakeholders) is entirely false given that there have been public meetings since the completion of the above-referenced reports and those reports were not provided.

We had and continue to request that your consultants, URS and Novus Environmental, meet and share the technical information that they are relying upon in the background reports to enable a proper independent professional peer review by our client's consultants. We would be pleased to meet or discuss with you arrangements necessary to effect a meaningful sharing of information so that our client will have the opportunity to provide meaningful input into the process. In this regard, we request that the TTC withdraw its Project from the consideration of PGMC and City Council scheduled for

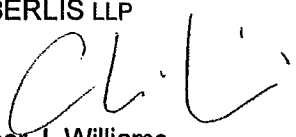
July 31, 2014
Page 2

August, provide us with the requested information and resubmit for consideration by TTC Board with our client's technical reviews at a subsequent meeting of the TTC Board.

Please contact me at your earliest convenience regarding the same.

Yours truly,

AIRD & BERLIS LLP



Christopher J. Williams
CJW/jad

c. Victor Wong, Mon Sheong

19017313.1

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Partner

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July 22, 2014

120819

BY EMAIL

Councillor Maria Augimeri, Chair
Toronto Transit Commission
1900 Yonge Street
Toronto Ontario
M4S 1Z2

Attention: Dawn McDonald, Corporate Services Secretariat, TTC

Dear Ms. McDonald:

Re: WITHOUT PREJUDICE

Toronto Transit Commission Meeting

July 23, 2014

Item 8(a) McNicoll Bus Garage, Repair and Maintenance Facility

Aird & Berlis LLP acts for the Mon Sheong Foundation ("our client") which is the owner of property located at 2020 & 2030 McNicoll Avenue immediately adjacent to the proposed TTC McNicoll Bus Garage, Repair and Maintenance Facility.

Executive Summary Conclusion

The TTC proposal is for a Class 3 Industrial Use and it is being put forward without sufficient regard to its land use planning context or its impact on adjacent sensitive land uses. Based upon the information we have been provided to date, it is our position that the Transit Project Assessment Process ("TPAP") should be terminated or that the undertaking for the proposed McNicoll Bus Garage Repair and Maintenance Facility should be subject to a full Municipal Environmental Assessment process. We make this recommendation based on the massive scale of the project, the plethora of sensitive uses immediately proximate, the uncertainty of the proposed Milliken Secondary Plan review put forward as a result of the City's Municipal Comprehensive Review and the ongoing Environmental Assessment for GO Transit in this area. We are also of the opinion that the repeated delays and withholding of critical technical information from the public to enable them to make an informed submission with respect to environmental impacts on their properties is not in compliance with the Provincial Policy Statement 2014, and it is not consistent with the requirements of the TPAP, bordering on bad faith.

July 22, 2014

Page 2

In this respect, we have noted that in the DRAFT EPR there are several references to the stakeholder role played by our client in the public consultation process. However, there should be no misunderstanding on the part of the Board that on reading this narrative that our clients have accepted the position of the authors as set out in their draft report as adequately or properly responding to our client's concerns, questions and objections raised during this process.

Background

Our client's property at 2020 McNicoll is developed with a 246 unit specialized residential care facility with limited commercial and office uses. Their property located at 2030 McNicoll is developed with a 160 bed long term care facility for seniors. These are approved uses under the City of Toronto Official Plan and under current and proposed zoning by-laws.¹

We made written submissions to the Commission on June 9, 2014 and, June 27, 2014 and an exchange of correspondence with TTC counsel on July 4, 2014 and July 11, 2014 specifically requesting the cooperation of the TTC to enable our client's consultants to carry out a peer review of the technical reports prepared in connection with this undertaking which will proceed under Ontario Regulation 231/08. We believe it truly to be in the interest of the Commission and our client to enable this process of review to take place and in the absence of such cooperation we submit that this omission reduces the ability of the Commission to claim the accelerated process under a TPAP. It is our position that there is a need for the process to be terminated or replaced with the scrutiny of a full Municipal Environmental Assessment.

In particular we requested that:

1. Our consultants obtain access to and/or copies of studies or reports subject to a Confidentiality Agreement as may be required to enable them to carry out a peer review prior to tabling the Draft EPR with the Commission which has now occurred;
2. Our consultants be provided with a period of at least three weeks to review the information; and
3. Our consultants be provided prior work which weighed various options and alternatives circa 2008.

¹ Official Plan Chapter Seven, Site Specific Policy 104; former General Zoning By-law 24982 of the City Scarborough as amended by By-law 981-2004; excluded from proposed City of Toronto Zoning By-law 569-2013.

July 22, 2014

Page 3

Instead our client's consultants obtained access to the posted Draft EPR at the end of the business day on the Friday July 18th two business days prior to today's meeting. This is not a sufficient or fair review period for any peer review to be carried out, the result of which in effect blocks any meaningful input to the Commission's recommendations by our client and its team of consultants prior to this consideration by the TTC Board.

This is disturbing and inexplicable considering that the Traffic Impact Study was completed March 20, 2014, the Noise Assessment was completed April 9, 2014 and the Air Quality Assessment completed May 12, 2014 well before our June 9th request which was refused. It appears to us that the TTC is abusing the expedited TPAP and for this reason alone it should be terminated.

Land Use

Our client's property is designated Employment Area within an Employment District in the City of Toronto Official Plan. Chapter Seven, Site and Area Specific Policy 104 of the Official Plan indicates that business and trade schools, libraries, fraternal organization, long term care facilities, recreational uses and places of worship are permitted.

Zoning By-law 24982 of the former City Scarborough continues to apply to the property which is zoned M1-414-913-991-1054-202-454 which zoning specifically permits the current range of sensitive uses on the property.

At the time of the approval of the current zoning of the property in 2004, City Planning staff quite knowingly and enthusiastically supported the Mon Sheong Facility application.

“ Policy 3.4.5 of the Scarborough Official Plan allows for community facilities in the General Employment designation. The Community Facilities designation applies to a wide range of facilities which provide a service to the community and which make up an integral part of a neighbourhood or community. Policy 3.2.2 of the Scarborough Official Plan permits uses such as parks schools, educational facilities, arenas and community centres, libraries, places of worship and associated facilities servicing large geographic areas, day nurseries and nursery schools, hospitals, specialized residential care facilities, clinics, nursing homes, fraternal organizations and public services. . .

The proposed development will provide a continuum of residential accommodation for seniors supplemented with a level of care offered through in-house medical services and on-site medical staff dedicated to serve the residents of the buildings. Staff are of the opinion that the uses propose by the applicant constitute a specialized care facility and conform with the policies of the Scarborough Official Plan. The proposed use meets the intent of the new Toronto Official Plan . . .

The resulting shared facilities between the long term care building and retirement lodge represents a unique and comprehensive way of providing a continuum of care for seniors.²

Proposed Official Plan Amendment 231 of the City of Toronto maintains the current Site and Area Specific Policy 104 in Chapter Seven of the Official Plan.

In addition as a result of the City's recent MCR, proposed OPA 231 also introduces a new Site Specific Policy 395 for lands north of our client's property to carry out a framework plan. The Framework Plan will satisfy the requirements of a Secondary Plan for a portion of the Milliken Planning Area. Among other matters, it is to specifically address a land use buffer to appropriately separate residential and sensitive non-residential uses from nearby Employment Areas. It will be our submission to Council and if necessary to the Ontario Municipal Board, that the boundaries of the site specific study area are insufficient and should include our client's lands to address its sensitive land use.

The Provincial Policy Statement 2014 defines "Sensitive Land Uses" to mean buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive Land uses may be part of a natural or a built environment. Examples may include but are not limited to residences, day care centres, and educational health facilities. Major Facilities under the PPS 2014 are those which may require separation from sensitive land uses including but not limited to . . . transportation infrastructure (such as this project) and corridors. . .

Land Use Compatibility Policy 1.2.6.1 of the PPS states that Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or to mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety and to ensure the long-term viability of major facilities.

TPAP

Our client has been involved with the public consultation process of the TTC and the City as part of this current undertaking intended to proceed as a Transit Project Assessment.

Our client's consultants have advised that the Draft EPR is not sufficient in its current form and the information provided is not sufficient for an informed peer review to be completed without further cooperation from the Commission and its staff to provide further information and to answer further questions.

² Staff Report dated August 31, 2004 – Application Number TF 03 195543 ESC 39 OZ

July 22, 2014

Page 5

Noise

Our client's consultant is Valcoustics Canada Ltd who have carried out a preliminary review of the Draft EPR dated July 2014 , prepared by URS and, in particular the Novus Environmental Noise Report dated April 9, 2014 Appendix C thereto. Our consultants have advised that as presented, it is not possible to prepare a meaningful peer review without further information. It is not practicable for the consultants to verify the details of the noise analysis or numerical results without access to the computerized acoustical model.

The noise study does not define the extent of the noise issue, quantify the extent or the mitigation needed and/or clearly investigate/discuss the means of mitigation. In particular, with respect to Option 1 for noise mitigation of the buses travelling on the exit route we are advised it should be rejected outright.

Our client's consultants have also noted that for many specifics, the noise study is not based on an actual design but is based on data from comparable TTC facilities with various assumptions as to worse case scenarios. At some point in time, the MOE will require a detailed Acoustic Assessment Report (AAR) based on the actual design and equipment as part of the Ministry's Environmental Compliance Approval (ECA).

Our consultants have a number of unanswered technical questions and concerns about the noise/study report. TTC staff and their consultants should be instructed by the Commission to cooperate and provide our consultants with any updated acoustical models so that they can be properly checked and peer reviewed. On an ongoing basis, as detailed designs are made available, updates to the noise and relevant reports should also be made available to our consultants in a timely manner allowing sufficient time for their proper review and comment.

Unless the actual impacts on the Mon Sheong property are properly addressed, the undertaking will not comply with Section 1.1.1.(a) and 1.1.1(c) and 1.2.6.1 of the Provincial Policy Statement 2014.

We are advised there is no coordination between the Noise Report and the Traffic Impact Study.

The greatest overall deficiency is that the noise impact on easterly and northerly facades of the Mon Sheong facades is not defined or addressed with respect to the buses travelling on future Redlea Avenue. The bus traffic will be fully exposed to Mon Sheong and as close as possible to the Mon Sheong facilities.

Air Quality

Our client's consultant is ORTECH Consulting Inc. who have reviewed the Draft EPR and the Air Quality Report prepared by NOVUS Environmental dated May 12, 2014 Appendix

B thereto. The most important issue they advise is that the report does not comment on the applicability of the regulatory Air Quality standards and guidelines for sensitive receptors such as the seniors residence and long term health care facilities. This should be fully done since it is known that the health of seniors is more sensitive than that of other persons to air pollutants.

We are advised that the air quality assessment does not account for the bus emissions outside of the garage. The emissions from buses leaving the garage will have a pronounced effect on the Mon Sheong facilities and will affect the conclusions of the Air Quality Report.

Further the design team assumptions as to the vehicle bus operation schedules were not described and these assumptions could significantly affect the report's conclusions.

Section 5.0 states that maximum impacts were predicted at the Mon Sheong seniors residence, however, it appears that all off-property sensitive receptors and property line locations as required by the MOE are not addressed.

The MOVES vehicle emissions data base may not be appropriate or conservative considering the age of the TTC Fleet. The older buses will have increased emissions which could affect the conclusions.

Finally it may be more appropriate to use the Air Quality data for the last five years with the meteorological data of the same period rather than the data of 2006 to 2010.

Our Air Quality consultant has many unanswered questions of the TTC consultant.

Traffic Impact Study

Our client's consultant is Trans-Plan Inc. who have reviewed the Draft EPR and the Traffic Impact Study dated March 20, 2014 prepared by URS Canada Appendix A thereto.

We are advised the study does not properly acknowledge the Mon Sheong Long Term Care Facility and at one point appears to refer to our client's property as a retail plaza in connection with a Right In Right Out driveway .³

We are advised that the assignment of a large portion of the site traffic to the intersection of Kennedy Road and McNicoll should more carefully consider the location of the Mon Sheong facilities when determining the routing of the buses to and from the Bus Garage Facility.

³ Page 5 and Figure 4.1

July 22, 2014

Page 7

We are advised that given the spacing between Kennedy Road and the proposed Redlea extension there are concerns with traffic congestion and vehicle queuing at the intersections.

We are advised there is a history of traffic infiltration through the Mon Sheong site in an effort to avoid westbound right turns and southbound left turns at the Kennedy Road and McNicoll intersection. Given the existing and future traffic concerns at the intersection, the Traffic Impact Study should acknowledge and address the problem of traffic infiltration through the Mon Sheong grounds.

The study fails to review existing and future pedestrian connections for the sites and make recommendations for the provision of continuous sidewalks in the vicinity of the Mon Sheong site.

A comparison of the road network volumes for the peak and off-peaks hours before and after the addition of the TTC site traffic has not been provided to support the claim that the impact will be minimal. The assessment should also consider the presence of the existing school(s) afternoon peak hours for this area. Traffic volumes on the boundary roadways and/or intersections for the Bus Garage hours of operation throughout the day should be provided to demonstrate the differences in peak hour and off-peak hour volumes.

The TIS should include the Mon Sheong Facility driveway on Kennedy Road in the analysis.

The TIS should show the capacity analysis results with exclusive right turn lanes at Kennedy road and McNicoll Ave intersection and include this for future conditions.

The Traffic Impact report should address the concerns at Kennedy Road and McNicoll intersection and discuss potential improvements.

The trip generation rates do not appear consistent with a parking supply of 350 spaces, 100 bus maintenance staff and 400 operators . The trip generation rates should differentiate between passenger vehicles, standard buses and articulated buses.

Our Transportation consultant has many unanswered questions of the TTC consultant.

Conclusions

Our client continues to seek the cooperation of the TTC Commission to carry out its technical peer review(s). Such alignment of resources is consistent with the intent and requirements of the Ontario Regulation 231/08 and good land use planning.

The Transit Project Assessment Process has established benchmarks to assure the Minister and the public that the undertaking has weighed all of the implications of the project.



July 22, 2014

Page 8


Our client remains seriously concerned based on the advice they have received that these benchmarks have not been achieved and it seeks the proper technical assurances in accordance with the expectations of the legislation. At this time, if not terminated we believe the appropriate process to be used for this undertaking is a full Municipal Environmental Assessment.

We repeat our request that the TTC Commission direct and authorize URS and NOVUS Environmental to meet and share the technical information they are relying upon in the background reports to enable a proper independent professional peer review by our client's consultants. All of which we add are being provided at our client's expense.

We are quite prepared to and look forward to an opportunity to speak to TTC counsel with respect to the arrangements necessary to effect such a sharing of information and peer review process.

Yours truly,

AIRD & BERLIS LLP



Christopher J. Williams

- c. Victor Wong, Mon Sheong
- c. Michael Atlas, TTC Counsel

CJW/RD/rd
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TORONTO TRANSIT COMMISSION



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July 11, 2014

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Mr. Christopher J. Williams
Aird & Berlis LLP
Barristers & Solicitors
Brookfield Place,
181 Bay Street, Suite 1800, Box 754
Toronto, ON M5J 2T9

Dear Mr. Williams:

RE: TTC Proposed McNicoll Bus Garage & Maintenance Facility

Thank you for your follow up letter of July 4th, 2014.

As previously noted it is expected that we will be bringing a report forward to the July 23, 2014 Board meeting, which report will include a draft Environmental Project Report (EPR). Board reports are generally available on the TTC website between 5-7 days prior to the meeting. In this case, we expect that the report will be posted on the TTC website on or before July 18th, 2014. I should note that that TTC Board Procedures also permit the item to be added to a supplementary agenda up until 48 hours prior to the meeting.

I have also received an email that you have registered as a public presenter on this agenda item. Public presentations (deputations) begin at 2:00 p.m. on the day of the meeting (meeting start time is approximately 1:00 p.m.).

The TTC has engaged with your client in extensive dialogue up to this point in the process. The TTC is committed to continuing to work with various stakeholders and community groups, including your client, throughout the process.

As previously advised, the TTC does not anticipate issuing the Notice of Commencement for the TPAP until September 2014, with the Notice of Completion following 120 days later in accordance with the procedures of the Regulation. This allows for approximately 2 months for your client to review and comment on the draft EPR prior to the Notice Commencement, and approximately 6 months before the start of the 30-day review period when, if required, you may make a submission to the Ontario Minister of the Environment outlining any concerns your client may have

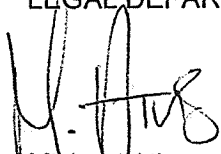


at that time.

The TTC previously undertook a feasibility study that examined the feasibility of the Kennedy and McNicoll location. The study did not review other possible sites.

Sincerely,

LEGAL DEPARTMENT



Michael Atlas
Senior Solicitor

45-5-5

Copy: Lito Romano
Jason MacDonald



AIRD & BERLIS LLP

Barristers and Solicitors

Christopher J. Williams

Partner

Direct: 416.865.7745

E-mail: cwilliams@airdberlis.com

July 4, 2014

120819

BY EMAIL

Michael Atlas
Senior Solicitor
Toronto Transit Commission
1900 Yonge Street
Toronto Ontario M4S 1Z2

Dear Mr. Atlas:

**Re: TTC Proposed McNicoll Bus Garage and Repair and Maintenance Facility
Municipal Class EA and Transit Project Assessment Process**

Thank you for your letter dated July 2, 2014. In particular, thank you for the copy of the "Request for Work Plan" tendering documents.

Please advise at which point in the work plan document the project is today?

Our sense is that you are at the stage of carrying out a detailed inventory of the environment of a recommended alternative prior to the commencement of a functional design and a finalized preferred design of the project. It is at precisely this time when you are considering the identification of mitigation measures and weighing their effectiveness. We can assist in this process.

The scope of work under the Municipal Class Environmental Assessment as amended in accordance with the Transit Project Assessment Process includes a broad study of the natural and social environments, land use, cultural and archaeological environments, transportation planning, property requirements, traffic impacts, utilities, noise and vibration, air quality, functional design, public consultation and evaluation strategies and methodologies.

The Toronto Transit Commission in July and City Council in August will canvass all of these considerations in their review of the Draft Environmental Project Report (EPR) .

However, the mandate of the Minister of the Environment and Climate Change, at his discretion or upon receipt of a written objection, has the more narrow mandate under section 12 of Ontario Regulation 231/08.

July 4, 2014

Page 2

We request an opportunity to meaningfully participate in the local area considerations before the fall when the 120 day period prescribed under section 6(2) commences to completion unless otherwise altered only if there is a termination or a "Time-Out" suspension period required by the proponent under Section 10(1) of the Ontario Regulation.

Effective consultation with the facts at our disposal at this time has the potential to be a meaningful and constructive process for our client and for the city and it is consistent with the thrust and intent of the TPAP.

We are disappointed that this collaboration is not occurring. We ask that you re-consider this point.

While informative in many ways, your letter did not respond to our particular requests that:

1. our consultants obtain immediate access to and/or copies of studies or reports subject to a Confidentiality Agreement as may be required to enable our consultants to carry out a peer review;
2. our consultants be provided a period of at least three weeks to review the information; and
3. our consultants be provided prior work which weighed various options and alternatives carried out by the Commission, circa 2008.

As of today's date, the Commission Meeting Documents for the July 23, 2014 meeting of the Commission are not been posted on the TTC web-site. We will monitor the site daily but please advise what is your normal practice as to the lead time for the publication of such meeting documents.

We are very concerned that there will not be sufficient time for our consultants to weigh their sections of the Draft EPR to provide a clear comment to the local authorities.

It is our request that our client be permitted to depute with oral and written submissions at the July 23, 2104 Meeting of the TTC Board Meeting when the Draft EPR is considered. Please advise if there are any special arrangements which need to be made to accommodate this request or if the matter is a deputation matter on the agenda.



July 4, 2014
Page 3

Yours truly,

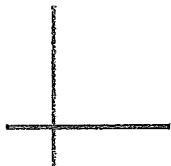
AIRD & BERLIS LLP



Christopher J. Williams

c. Victor Wong, Mon Sheong

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TORONTO TRANSIT COMMISSION



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July 2, 2014

BY EMAIL

Telephone: (416) 393-3854
Facsimile: (416) 338-0117
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E-mail: michael.atlas@ttc.ca

Mr. Christopher J. Williams
Aird & Berlis LLP
Barristers & Solicitors
Brookfield Place,
181 Bay Street, Suite 1800, Box 754
Toronto, ON M5J 2T9

Dear Mr. Williams:

RE: TTC Proposed McNicoll Bus Garage & Maintenance Facility

Thank you for your letters of June 9, 2014 and June 27, 2014. The TTC looks forward to working with your client, Mon Sheong Foundation, with respect to a review of the proposed TTC McNicoll Bus Garage and Maintenance Facility. The TTC has reviewed your request for information and our responses are noted below (for ease of reference we have used the same numbering as set out in your letter of June 9, 2014).

1. Copies of Reports and Studies

The TTC is currently completing its draft Environmental Project Report ("EPR") which will be submitted to the July 23, 2014 TTC Board meeting. A copy of the draft EPR and Board Report will be made public prior to the meeting and will be available from the TTC website – www.ttc.ca.

2. (a) Terms of Reference

Attached please find a copy of the TTC's Request for Work Plan McNicoll Garage that was issued to two TTC consultants (previously retained) to provide the EPR and support through the Transit Project Assessment Process ("TPAP"). The successful consultant was URS.



(b) List of consultants retained by TTC or the City

The following is a list of consultants retained to provide assistance with the TPAP:

Consultant	Service Area
URS	EPR and support through the TPAP
URS	Traffic Study
Novus Environmental	Air Quality & Noise Assessment
Walker, Nott, Dragicevic Associates Limited	Zoning
Stantec	Design Lead for McNicoll Bus Garage
HDR	Architectural Lead for McNicoll Bus Garage

(c) MOE Certificate of Approval

TTC will comply with all legislative requirements. At this time, it is anticipated that a Certificate of Approval will be required.

(d) NPC – 300

The issues outlined in section 2(d) of your June 9th, 2014 letter will be expressly addressed in the TTC's EPR. As noted above, we currently expect to have completed a draft EPR prior to the July 23, 2014 TTC Board meeting.

3. Notice of Completion

A Notice of Commencement for the TPAP will be issued in September 2014 and the Notice of Completion is scheduled for January 2015.

4. Notices of further meetings

TTC will add you to our Project mailing list so that you can receive future notices of meetings.

5. TTC targeted timelines

The following are the current TTC targeted timelines:

- TTC Board Report with draft EPR – July 2014
- City Council Report with draft EPR – August 2014
- Notice of Commencement for TPAP – September 2014
- Notice of Completion – January 2015



If you have any questions, please feel free to contact me.

Sincerely,

LEGAL DEPARTMENT



Michael Atlas
Senior Solicitor

45-5-5

Attachments - Request for Work Plan McNicoll Garage
- April 30, 2014 Board Report – Status of Planning Activities for the McNicoll Bus Garage

Copy: Lito Romano (TTC)
Jason MacDonald (TTC)



AIRD & BERLIS LLP

Barristers and Solicitors

Christopher J. Williams
Partner
Direct: 416.865.7745
E-mail: cwilliams@airdberlis.com

June 27, 2014

120819

BY EMAIL

Councillor Maria Augimeri, Chair
Toronto Transit Commission
1900 Yonge Street
Toronto, ON M4S 1Z2

Dear Councillor Augimeri:

**Re: Transit Project Assessment
Proposed McNicoll TTC Bus Garage and Maintenance Facility
2080 McNicoll Avenue**

Aird & Berlis LLP acts for the Mon Sheong Foundation ("our client").

In our letter to you dated June 9, 2014, we brought to your attention our client's concerns with the proposed McNicoll Bus Garage and Maintenance Facility. We made a request for cooperation from the TTC to enable us to coordinate a peer review by our client's consultants of the technical reports prepared for the Commission in connection with this undertaking which is to proceed under the Transit Project Review process under O.R. 231/08.

We are writing at this time to request a reply. We have received no response. This is a very real problem.

Our client's consultants advise that they require at least three (3) weeks to carry out any meaningful review of the TTC reports and analysis.

Our understanding of the proposed timing is that the undertaking will be considered by the TTC at its meeting this July, by Council at its meeting in August, and then there will be a third Public Open House sometime in September 2014 concurrent with a formal commencement of the TPAP and a targeted Notice of Completion in January 2015 with the final 30 day review period in February.

Our client seeks to participate in this process before the summer meetings of the Commission and Council. If our client's consultants are only afforded an opportunity to review these reports subsequent to the TTC and Council Decisions in the next two months this becomes very much an "after the fact consultation" with our client and its consultant

June 27, 2014

Page 2

team. This is contrary to the Transit Project Assessment process and will result in a loss of jurisdiction.

Our client is prepared to have its consultants work with the TTC immediately and to participate in the decision-making of the Commission and Council over the next two months. This level of cooperation, however, requires access which we do not have.

It also requires a minimum three weeks lead time.

Further, it is also our understanding that this undertaking by the TTC has been considered previously and various options/alternatives weighed in 2008 to which our client also seeks access as part of this peer review.

Our client is a non-profit corporation and it will be expending significant funds for its consultants to carry out a professional peer review which should be a constructive and helpful exercise to all concerned parties.

I must again request your response and cooperation to our letter dated June 9, 2014 as soon as possible. Please feel free to call the undersigned if you have any further questions of us.

Yours truly,

AIRD & BERLIS LLP



Christopher J. Williams

- c. Lito Romano, TTC
- c. Honourable Glen R. Murray, Minister of the Environment and Climate Change
- c. Paul Evans, Deputy Minister of the Environment
- c. Doris Dumais, Director, Environmental Approvals Branch, MOE
- c. Honourable Yasir Naqvi, Minister of Community Safety and Correctional Services
- c. Ted Wieclawek, Ontario Fire Marshall
- c. J. W. Sales, Fire Chief/General Manager, City of Toronto
- c. Dr. David McKeown, Medical Officer of Health (attn.: Barbara Lachapelle
- c. Jennifer Keesmaatt, Chief Planner and Executive Director, City Planning Division
- c. Raymond David, Director, Community Planning, Scarborough District
- c. Councillor Mike Del Grande , Ward 39
- c. William Blair, Chief of Police, City of Toronto
- c. Victor Wong, Board of Directors, Mon Sheong Foundation

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AIRD & BERLIS LLP

Barristers and Solicitors

Christopher J. Williams

Partner

Direct: 416.865.7745

E-mail: cwilliams@airdberlis.com

June 9, 2014

120819

BY EMAIL

Councillor Maria Augimeri, Chair
Toronto Transit Commission
1900 Yonge Street
Toronto, ON M4S 1Z2

Dear Madam:

**Re: Transit Project Assessment
McNicoll Bus Garage
2080 McNicoll Avenue**

Aird & Berlis LLP acts for the Mon Sheong Foundation, ("our client"), which is the owner of property located at 2020 & 2030 McNicoll Ave immediately adjacent to the proposed TTC McNicoll Bus Garage, Maintenance and Repair Facility which currently is subject to a Transit Project Assessment by the TTC as proponent, pursuant the requirements of sections 6 through 17 of Ontario Regulation 231/08.

Our client's property at 2020 McNicoll is currently developed with a 246 unit specialized residential care facility with limited commercial and office uses. Their property located at 2030 McNicoll is developed with a 160 bed long term care facility for seniors. These are approved uses under the City of Toronto Official Plan and under the Zoning By-law.

As you may be aware, our client has actively participated in the public consultation process of the TTC. Our client's property is noted in the public consultation materials prepared by the TTC as part of its Open House gatherings and our client's concerns have been summarized by TTC staff in a report to the April 30, 2014 Transit Commission Meeting dealing with the status of planning activities for the McNicoll Bus Garage which noted the petitions of several residents of the Mon Sheong facilities.

Based on the public consultation information provided to date, our client remains seriously concerned that the proposed McNicoll Bus Garage, Maintenance and Repair Facility will have a significant adverse environmental and life safety impact on their ongoing operations and the care of their residents many of whom are frail and vulnerable. The Mon Sheong Facility is recognized by the City as a valued and permitted use through a combination of site specific policies in the approved Official Plan as well as site specific zoning by-laws permitting their sensitive land use at this location. Clearly the City has turned its mind to

June 9, 2014

Page 2

allowing this sensitive use in this location and our client and the residents of the facility have relied on that. The TTC site is vacant land.

The purpose of our letter at this time is to request the following cooperation from the TTC Board of Directors:

1. Please provide us with immediate access to and/or copies of all Reports and Studies carried out under the Transit Project Assessment and those prepared or under review for any related *Planning Act* approvals or applications in connection with the McNicoll Bus Garage, Maintenance and Repair Facility so that these documents can be peer reviewed by our client's consultant team in a timely and meaningful manner. In addition, we request that your consultants be instructed to respond to and provide any further information requested by our consultants to enable this peer review. In the event that there is a need for a concurrent Confidentiality Agreement between our client, its consultants and the TTC with respect to any proprietary and confidential information, we would be pleased to ensure these arrangements are put in place.
2. In this respect we are particularly interested in the following :
 - (a) Any public tendering documents describing the terms of reference for the commissioned supporting consultant documents prepared in compliance with the Transit Project Assessment undertaking to ensure that our client's consultant team are selected with comparable skill sets;
 - (b) A list of the consultants retained to provide the TTC or City Staff assigned or seconded to provide the TTC with supporting documentation in the areas of Land Use Planning, Air Quality, Noise/Vibration and Health/Safety so that our client may advise its own consultants with respect to any potential conflicts of interest and contact information;
 - (c) A determination as to whether this TTC Transit Project Assessment undertaking will be governed by a Comprehensive Certificate Approval issued by the Ministry of Environment and ongoing certifications of compliance with respect to noise/vibration, air quality, and land use compatibility;
 - (d) A determination of the manner in which the Transit Project Assessment undertaking implements the Ministry of Environment Guideline NPC-300 which replaced LU-131 and NPC-205 with respect to the mitigation of environmental impacts at source and the mitigation of impacts at the Mon Sheong facility as a receptor site;
 - (i) for the record, any requirements for ongoing operational and/or capital improvements for mitigation at our client's receptor site



June 9, 2014

Page 3

should be at the sole expense of the TTC and not presented as a burden on our client's complying land use.

3. Please provide us with any Notice of Completion of an Environmental Project Report issued by the proponent of this Transit Project Assessment undertaking and related City Council approvals particularly with respect to the commencement of any 30 day Public Review period as prescribed under the Ontario Regulation.
4. Please provide us with Notice of any further Meetings held under the Transit Project Assessment accelerated EA process and any Notice of Statutory Public Meeting(s) of any related *Planning Act* approvals related to the implementation of this transit undertaking, including but not limited to any proposed amendments to the Official Plan, to the operative Zoning By-law(s) and/or to obtain site plan approval for the TTC bus garage facility.
5. We would also appreciate any assistance you can provide which will give us a clearer understanding of the time lines targeted for completion of this ongoing project. Given the provincial and the municipal election periods it is important that the public process remain transparent and effective. For now we are assuming that this matter will be considered at the July Meeting of the TTC Board and at City Council at its meeting in August.

It is necessary that our client's technical consultants be afforded sufficient time and opportunity to review the background studies and reports prepared in connection with this undertaking in a timely manner to enable our client to comment clearly and effectively to the Minister of the Environment as to matters of provincial importance and impact that relate to the natural environment or have cultural value or interest at this location which our client seeks the Minister to consider as part of his review.

If our clients and its consultants are not provided such information and Notice and if they are not afforded a reasonable opportunity to provide an independent third party review in their submissions to the Minister during the 30 day review period, our position will be that the proponent and the Minister have lost jurisdiction under the accelerated process of the Transit Project Assessment as contemplated under the Ontario Regulation and we will take the necessary steps to protect our client's interests.

Our client and their team would be pleased to meet with representatives of the TTC and the City at any time to ensure the communication lines remain open.

Please acknowledge receipt of this letter and your thoughts on how we may best assist in coordinating our review(s).



June 9, 2014

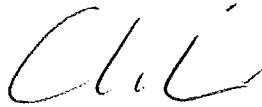
Page 4

If you require any further information from us, please contact the undersigned or Rob Dolan of this office.

I look forward to your response and the opportunity to review this matter with the Commission and City representatives.

Yours truly,

AIRD & BERLIS LLP



Christopher J. Williams

- c. Lito Romano lito.romano@ttc.ca;
- c. Honourable James Bradley, Minister of the Environment
- c. Paul Evans, Deputy Minister of the Environment
- c. Director, Environmental Approvals Branch, Ministry of the Environment
- c. Honourable Yasir Nagvi, Minister of Community Safety and Correctional Services
- c. Ted Wieclawek, Ontario Fire Marshall
- c. J. W. Sales, Fire Chief/General Manager, City of Toronto
- c. Dr. David McKeown, Medical Officer of Health, City of Toronto
- c. Jennifer Keesmaatt, Chief Planner and Executive Director, City Planning Division
- c. R. David, Director, Community Planning, Scarborough District
- c. Councillor Mike Del Grande, Ward 39
- c. William Blair, Chief of Police, City of Toronto
- c. Victor Wong, Board of Directors, Mon Sheong Foundation

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