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BY E-MAIL
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File No.: 137883.1001

Planning Growth and Management Committee
City Clerk's Office
City Hall, 100 Queen Street West
Toronto, ON M5H 2N2

Attention: Nancy Martins, Committee Administrator

Dear Sirs/Mesdames:

**Re: Steeles-Redlea Regeneration Area Study - Final Report
("Staff Report")
Draft Official Plan Amendment ("Draft OPA") and
Draft Urban Design Guidelines
Item: PG6.10,
September 16, 2015 Planning and Growth Management
Committee ("PGMC") Meeting**

We are the solicitors for D. Crupi & Sons Limited and D. C. M. Holdings Limited ("Crupi") with respect to land use compatibility matters in the vicinity of the Crupi properties located at 70 Passmore Avenue, 83-85 Passmore Avenue, 0 Passmore Avenue (RP64R16536 Part 1-3) [sometimes referred to as 86 Passmore Avenue], 3820 Midland Avenue, and 3800 Midland Avenue (the "Crupi Properties"). Crupi has reviewed the Staff Report and the Draft OPA and has numerous concerns with both the document and the draft instrument.

It is premature for City Staff to be recommending approval of the Draft OPA based on the assumption that any negative impacts from industry can be dealt with through rezoning processes at a later date. No study has been undertaken that demonstrates that the impacts from current and future industrial operations can be mitigated, and even if the impacts can be mitigated, no study has been undertaken to determine if the mitigation is reasonably feasible to implement, including that such mitigation is affordable and/or practical.

City Staff have not demonstrated that existing and future employment uses will not be impacted by the introduction of residential land uses within the Regeneration Area as proposed in the Draft OPA. The City has the onus to

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demonstrate compatibility. The Ministry of the Environment and Climate Change ("MOE") Guideline D-6 Guideline requires,

When a change in land use is proposed within an actual or potential influence area of one of the three classes of industry ... a proposed sensitive land use should not be permitted unless evidence can prove that there are no compatibility issues due to the possibility of adverse effects.
[emphasis added]

Also, City Staff have only focused on compliance with Provincial environmental regulations and guidelines in the Draft OPA to achieve land use compatibility and have neglected to address the following potential impacts on industry due to the introduction of residential uses in their vicinity:

- (i) **Public Intervention in the Process of Issuing an Environmental Compliance Approval ("ECA")** - the Environmental Bill of Rights (EBR) requires applications or changes to ECAs to be publicly posted, and the public can oppose any proposed changes at an industry through the filing of comments opposing the project or by appealing an approved decision. Public action under the EBR can restrict or prevent future changes at an industry regardless of compliance.
- (ii) **Potential for Complaints** - even for facilities that are fully compliant with all criteria in their ECAs, the MOE can still take action against an industry under Section 14 of the EPA in the face of complaints.

Given the broad powers of the MOE, complaints are a very serious issue for industry. The MOE will investigate complaints and where an adverse effect is found to have occurred, the MOE may issue a Control Order or revise an ECA to impose significant restrictions on industrial operations, require the implementation of expensive mitigation, or in the worst case, cessation of operations.
- (iv) **Civil (Nuisance) Actions** - the public may file a nuisance action against an industry independent of regulatory activities.
- (v) **Prosecutions under the Municipal Code** - given the subjective nature of the Municipal Code, restrictions relating to noise may result in significant restrictions on operations, implementation of expensive mitigation, or in the worst case, cessation of operations may result from Municipal Code violations.

Such impacts are fundamental threshold land use compatibility issues that have not been considered by City Staff and that will not be addressed through a land use compatibility assessment as part of a rezoning process.

Crupi continues to be seriously concerned that the residential development proposed in the Draft OPA will attract thousands of new residents into what has historically been a heavy industrial area. Regardless of the results of the technical studies completed to date (which have already been noted to be inadequate) or in the

future, the nature of the industries, the character of the Milliken Employment District, the type of traffic on the roads and the unsightliness of many industrial operations, represents a real risk of complaints from future residents in the *Mixed Use Areas* designation of the Draft OPA.

City Staff's assessment of land use compatibility in the Staff Report is fundamentally flawed and incomplete. If PGMC accepts the recommendations of City Staff and endorses the Draft OPA so that the matter is considered at a November public meeting and subsequently forwarded to Council for final approval, PGMC will be doing so in violation of s. 2 and s.3(5) of the Planning Act, because the Draft OPA is not consistent with the Provincial Policy Statement and does not conform with the Provincial Growth Plan. If Council should approve this Draft OPA, this matter will be addressed at the Ontario Municipal Board.

If you have any questions about any of the above-noted information, please contact me to discuss further. Please ensure we receive notice of all upcoming public meetings, meetings of Committees of Council and meetings of Council where any applications, studies or approvals are being considered for the *Regeneration Area* lands that are the subject of SASP 395, and for 4665 Steeles Avenue East and 3447 Kennedy Road (rear), as well as notice of any Council decisions with respect to these matters.

Yours truly,

A handwritten signature in black ink, appearing to read 'Calvin Lantz', written over a white background.

Calvin Lantz
Partner

CL/nla

cc. Maria Crupi-Nisperos, D. Crupi & Sons Limited
Bridget Mills, BCX Environmental
Corey Kinart, HGC Engineering