

## **CC18.8 Confidential Recommendations in Confidential Attachment 1 and Appendix A – made public on June 17, 2016**

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### **CONFIDENTIAL RECOMMENDATIONS**

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1. City Council direct the City Solicitor to advise the applicant that the City accepts the without prejudice settlement offer dated March 24, 2016, as attached in Appendix "A".
2. City Council direct the City Solicitor to attend at the Ontario Municipal Board to implement the settlement, asking for the approval of the variances to permit the school, day nursery and outdoor play area uses at 170 and 194 Evans Avenue, subject to the following conditions:
  1. The school and daycare shall have a maximum combined enrollment of 90 students.
  2. There shall be a maximum of 30 children between the ages of 18 months and 3 years old less a day enrolled in the daycare.
  3. There shall be no children under the age of 18 months enrolled in the day care.
  4. The school, day nursery and outdoor play area uses shall expire on June 30, 2018.
3. City Council direct the City Solicitor to advise the Ontario Municipal Board that the settlement is the result of a unique set of circumstances and is considered an exit strategy to allow the school to find an alternative location.

## Appendix "A" Settlement Offer



Please refer to: Barry Horosko (Ext. 339)  
Email: [bhorosko@horoskoplanninglaw.com](mailto:bhorosko@horoskoplanninglaw.com)  
Or to: Ashley Moraes (Ext. 339)  
Email: [ashley@horoskoplanninglaw.com](mailto:ashley@horoskoplanninglaw.com)

March 24, 2016

City of Toronto  
Metro Hall  
55 John Street, Floor 26, Stn. 1260  
Toronto, ON M5V 3C6

**Attention: Mark Crawford, City of Toronto Legal Department**

Dear Mr. Crawford,

**Re: 170 Evans Avenue, Phoenix Montessori School**  
**CONFIDENTIAL AND WITHOUT PREJUDICE REVISED OFFER TO SETTLE**

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As you know we are legal counsel to Phoenix Montessori School.

During the Planning and Growth Management Committee meeting of Wednesday, January 20, 2016 the Members of the Committee passed a Motion directing staff to mediate with Phoenix Montessori School in order to settle the outstanding appeal at the Ontario Municipal Board. We did previously make a settlement proposal to the City along the lines of what was presented to our client by the City. We understand that this was not accepted by Council but that you were directed to continue in efforts to settle this matter. We understand that staff and our clients have reached an understanding of a suitable means to proceed.

We attach hereto a *Revised Proposal Settlement of Ontario Municipal Board Appeal*.

Kindly review this with your client and advise if this matter can be settled on the basis of the terms set forth herein for the reasons attached.

All respectfully submitted,

**HOROSKO PLANNING LAW**

A handwritten signature in black ink, appearing to read 'Barry Horosko', is written over the printed name.

Barry A. Horosko

cc: Lori Priolo, Phoenix Montessori School

## **Proposal Settlement of Ontario Municipal Board Appeal**

Phoenix Montessori (170 and 194 Evans Avenue)

1. The parties agree that they will settle the appeal by the City of Toronto against the decision of the Committee of Adjustment whereby a Private School, Day Nursery, and Outdoor Play Area, as defined by Zoning By-law 569-2013 and the former Etobicoke Zoning code were permitted (“The decision”), on the terms set forth herein.
2. The Decision will be subject to a condition that the approval shall expire on June 30, 2018.
3. Phoenix acknowledges that a Private School, Day Nursery, and Outdoor Play Area are not permitted uses at 170 and 194 Evans Avenue and that the temporary approval is intended to accommodate Phoenix to seek other accommodations within the Approval Term. Phoenix will undertake prudent steps to find alternative accommodation prior to the expiry of the term.
4. The parties shall appear at the Ontario Municipal Board to request a condition be imposed limiting the use to the time period and enrolment size referenced herein. The parties shall make a joint submission and Phoenix will be prepared to submit evidence in support of the joint submission as may be required.
5. Phoenix enrolment shall not exceed 90 children enrolled at the facility (daycare and school combined). There is to be a maximum of 30 children enrolled between the ages of 18 months and 3 years old less a day. There shall be no children enrolled below the age of 18 months.
6. Phoenix shall notify every parent of every student that within 500 meters of the school are existing heavy industries that may create negative impacts, including but not limited to odour, noise, vibration, air quality, truck traffic, electronic signage, and others. In this notification, Phoenix shall also explain to every parent of every student that an alternative and more appropriate location is being sought.

7. The settlement acceptance shall be referenced as the result of a unique set of circumstances so that the three-year term from the date of the Committee of Adjustment decision is not viewed as a precedent for any future negotiations on the relocation of sensitive uses.
8. The settlement is in support of an “exit strategy” for the school/daycare.