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**Peter Wallace, City Manager**

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October 3, 2016

Ulli S. Watkiss  
City Clerk  
City Hall, 13<sup>th</sup> Floor, West Tower  
100 Queen Street West  
Toronto, ON M2H 2N2

Dear Madam Clerk:

**Re: Administrative Inquiry regarding Section 2 (iv) of the Shelter By-law**

I am writing in response to the administrative inquiry submitted by Councillor Mary-Margaret McMahon regarding the continued reference by staff to section 2(iv) of the Municipal Shelter By-law 138-2003 after it was struck out by a 2004 Ontario Municipal Board (OMB) decision.

**Background: Municipal Shelter By-Law**

After four years of debate, discussion and public meetings, the Municipal Shelter By-law was approved by City Council in 2003 as a zoning by-law passed under Section 34 of the Planning Act. It was subsequently appealed to the OMB and section 2(iv), which required City Council approval of each site, was struck out by the OMB. The OMB found that City Council approval of each shelter site to be an inappropriate requirement in a zoning regulation.

The OMB determined, in part, that section 2(iv) was redundant because there was already an administrative process in place for obtaining Council approval for the "funding and siting" of emergency shelters. In other words, the OMB's decision does not preclude Council from approving shelters through an administrative process as part of the City's responsibility as a funder and operator of services for people who are homeless.

**1. Why was this judgment not followed by the City of Toronto for 12 years?**

The required administrative processes for approving new shelter locations has been consistently followed. At times, section 2(iv) was referenced in recommendations to City Council incorrectly.

City staff, in collaboration with external community partners and stakeholders, are currently reviewing the City's process for assessing and selecting new and replacement shelter

locations, including the City's community information process. This review will include, in consultation with Legal Services and City Planning, a report back to Community Development and Recreation Committee in the fourth quarter of 2016 on the process for approvals required for the development of new shelters.

**2. Will the City of Toronto stop the discriminatory and illegal process of requiring Council approval for shelter locations immediately?**

As noted above, the OMB decision found Section 2(iv) of the By-law to be redundant as City Council has the authority to approve new shelters through existing administrative processes. These processes are not illegal or discriminatory.

City staff will continue to seek the necessary authorities required through City Council to open new shelters, however, a separate recommendation seeking approval of specific locations with reference to the Municipal Shelter By-law will not be included.

**3. What are the impacts of the City not following the OMB's judgment in this case?**

There does not appear to have been any impact. City Council has approved the opening of all shelters brought to it for approval. Staff will continue to follow the administrative process and seek City Council approval for shelters in accordance with that process.

Sincerely,

Giuliana Carbone  
Deputy City Manager

cc: Peter Wallace, City Manager  
Rob Cressman, Acting General Manager, Shelter, Support and Housing  
Administration