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**AIRD & BERLIS LLP**

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January 19, 2016

BY EMAIL ([pgmc@toronto.ca](mailto:pgmc@toronto.ca))Planning and Growth Management Committee  
City of Toronto  
10th Floor, West Tower, City Hall  
100 Queen Street West  
Toronto ON M5H 2N2Attn: Nancy Martins, Committee Administrator  
Planning and Growth Management Committee

Dear Mr. Chairman and Member of Committee:

**Re:       Minor Variance Appeal – 170 and 194 Evans Avenue, City of Toronto**  
**File No. A228/15EYK**  
**Planning and Growth Management Committee Item PG9.3**  
**Meeting Date: January 20, 2015**

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We are the solicitors for Transmetro Limited, the owners of 191 Evans Avenue, in the City of Toronto. Our client's property is located across from and just west of 170 and 194 Evans Avenue, the property which is the subject of the above-referenced minor variance appeal. Located on our client's property is a 130,000 sqft industrial facility. Our client's site is the currently occupied by Reynolds Consumer Products Canada Inc. ("Reynolds" formerly Novelis Inc.) which manufactures and packages aluminum foil products. This facility manufactures and packages various products on site and distributes those products from this location across Canada and the United States. It has operated at 191 Evans Avenue for over 41 years. The facility employs over 140 people.

On June 4, 2015, the Committee of Adjustment approved minor variances to permit the conversion of an existing office building at 170 and 194 Evans Avenue (the "Subject Site") into a private school and day nursery and to construct an outdoor play area.

We are writing to inform this Committee that our client does not support the approval of minor variances to permit a private school, a day nursery and an outdoor play area use on the Subject Site. Our client did not make submissions at the Committee of Adjustment hearing concerning this application, as our client's property is located on the periphery of the statutory minor variance notification catchment area. However, both our client and its tenant have participated in discussions with staff as well as the City-led stakeholder consultation process after having been advised by staff of the Committee of Adjustment's decision to approve the minor variance application.

***Contrary to the General Intent and Purpose of the Official Plan and Zoning By-laws***

Our client's property and the Subject Site are designated *Employment Areas* and are zoned Class 1 Industrial (I.C1) under the former City of Etobicoke Zoning Code and Employment Industrial (E) under By-law 569-2013.

*Employment Areas* are places of business and economic activity. As per Policy 4.6.1 of the Official Plan "uses that support this function consist of: offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the proceeding uses, and restaurants and small scale stores and services that serve area businesses and workers". The *Employment Areas* designation does not permit school uses.

In the context of the City of Toronto's Five Year Official Plan Review / Municipal Comprehensive Review, the City reviewed its Official Plan policies and designations concerning areas of employment. On December 18, 2013, City Council adopted Official Plan Amendment 231 (OPA 231). On July 9, 2014, the Minister of Municipal Affairs and Housing issued a Notice of Decision approving OPA 231 with modifications. OPA 231 designates the Subject Site and our client's site as *Core Employment Areas* which does not include permissions for the proposed private school, daycare and outdoor play area use. As this Committee is aware, OPA 231 was appealed to the Ontario Municipal Board by various landowners. However, to our knowledge the owner of the Subject Site did not appeal OPA 231.

The former City of Etobicoke Zoning Code permits the proposed private school and the day nursery though it does not permit the proposed outdoor play area. None of these uses are permitted under By-law 569-2013.

***Not Desirable for the Appropriate Development or Use of the Subject Site***

It is our client's position (and that of its tenant) that the proposed sensitive land uses are incompatible with the existing uses of the surrounding lands. These uses, if approved, would have adverse impact on the surrounding industrial uses.

Our client is concerned with the potential traffic impacts generated by increased traffic from vehicles and buses, in particular during drop-off and pick-up hours, and how this increase in vehicular trips may conflict with vehicular and truck trips generated by the existing industrial operations.

Reynolds' current delivery and distribution operations, from its facility alone, result in between 25 to 35 truck trips daily to and from the facility. All trips occur during the daytime shift operation. The subject minor variance application does not address issues of traffic safety as between the existing uses and the proposed school and daycare use.

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The application does also not account for the likely potential for complaints of vehicular and pedestrian safety from the users of the school and daycare as a result of the existing large shipping and delivery trucks.

Furthermore, the application does not account for the impact on the ability of future tenants of our client's property (and/or others in the vicinity) to obtain Certificates of Approval for their operations. The introduction of the proposed sensitive uses could result in the requirement for additional mitigation measures to be erected on industrial sites, could result in more stringent regulations and could limit the ability for new industrial uses to be located within this employment area.

### *Conclusions*

For the reasons referenced above, we respectfully recommend that the Committee not direct the City to withdraw its appeal to the Ontario Municipal Board respecting this minor variance application. The minor variances do not meet the general intent and purpose of the City's Official Plan or its by-laws, they are not desirable for the appropriate development and use of the land and they are not minor.

If the school, daycare and outdoor play area uses were approved, they could impact the stability of this employment area and have detrimental impact on existing and future industrial operations in this employment area.

Our client is prepared to support the City in its appeal before the Ontario Municipal Board.

We look forward to addressing the Committee on January 20, 2016 respecting this matter. Please be advised that Laura Dean, an associate with our office, will be in attendance at the meeting on behalf of our client.

Thank you for considering our client's request. We request that the undersigned be notified of any decision made by City Council or any of its Committees respecting this matter.

Yours truly,

AIRD & BERLIS LLP



Sidonia J. Loiacono

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