

February 14, 2022

By E-Mail to *phc@toronto.ca*

City of Toronto, Planning and Housing Committee
10th Floor, West Tower, Toronto City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Nancy Martins, Committee Secretariat

Dear Ms. Martins:

**Re: Development in Proximity to Rail: Amendment to the Official Plan
Agenda Item: PH31.1**

We are counsel to Laurier Paradise CC 347-357 Kennedy Inc. and Laurier Paradise CC 375 Kennedy Inc., the owners of lands municipally known as 347-357 and 375 Kennedy Road in the City of Toronto (the “Lands”).

The Lands are adjacent to a rail corridor and in close proximity to the Scarborough GO Station. The Lands are also subject to Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications, which were submitted to the City in November 2021, to permit a high-density mixed-use development on the Lands.

We have reviewed the draft City-initiated Official Plan Amendment No. 536 (the “draft OPA”) appended to the Final Report of the Chief Planner and Executive Director, City Planning, dated January 27, 2022, and are writing to express our clients’ concerns with the draft OPA.

First, policy 1 of the draft OPA refers to the requirement to submit a Rail Safety and Risk Mitigation Report for a “complete application to introduce, develop or intensify land uses within the area of influence of rail”, but fails to differentiate between different types of land uses, including those that may be more or less sensitive to the operations of a railway in close proximity, and fails to define the term “area of influence of rail”. As a result, the proposed policy is vague and uncertain, with the potential to apply to applications where such a report may not otherwise be necessary or reasonable. The proposed policy is made more uncertain in the absence of Terms of Reference for such a report.

Second, policy 2 of the draft OPA seems to imply, in clause (a), that an “alternative mitigation measure” will be required, which may not necessarily be the case.

Further, clause (c) of policy 2 proposes to require the landowner to enter into an agreement with the City, whereby both the landowner and the qualified professional engineer who has stamped the drawings for alternative mitigation measures would “assume responsibility for, and indemnify the City from, damages to persons and property resulting from a derailment on the rail corridor”. In our view, this proposed requirement is overly broad and onerous as a general obligation, particularly when the policy does not draw any connection between the actions of the landowner and/or the professional engineer, on the one hand, and the potential derailment on the other.

Accordingly, our clients object to the draft OPA in its current form. However, we would be pleased to meet with City Planning staff to discuss these concerns and determine whether there is an opportunity to amend the draft OPA such that the concerns could be appropriately addressed.

Kindly ensure that we receive notice of the decisions of the Committee and City Council regarding this item.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

copy: Clients