

AIRD & BERLIS LLP

Barristers and Solicitors

Patricia A. Foran
Direct: 416.865.3425
E-mail: pforan@airdberlis.com

April 5, 2006

File No. 84604

VIA FACSIMILE

Planning and Economic Development Committee
Regional Municipality of York
17250 Yonge Street
Newmarket, ON L3Y 6Z1

Chair and Members of Committee:

**Re: April 5, 2006 Committee Meeting
Report of the Commissioner of Planning and Development Services
Town of Markham Official Plan Amendment No. 140/Repeal of OPA 116**

We are the solicitors for 1463069 Ontario Limited and 1512406 Ontario Limited.

We are on record with the Town of Markham respecting OPA 140 and OPA 116 (and its repeal). Our clients are also appellants to OPA 116.

Our clients support the repeal of OPA 116 but do not support the approval of OPA 140. Attached please find our letters to the Town of Markham dated September 2, 2005 and October 9, 2005 which outlines our clients' concerns with the process of adoption associated with OPA 140. We respectfully request that Committee not adopt the Staff recommendation to approve OPA 140 and instead refer this issue back to Staff for further discussions with our clients and the other OPA 116 appellants.

The lands which are subject to OPA 140 are not within the Town's urban boundary. As such, it is the Town which controls the process of bringing these lands into the urban boundary. Accordingly, there is a unique opportunity afforded to the Town to engage in meaningful discussion and consultation with affected landowners regarding their concerns with the amendment, without any risk to the Town. Unfortunately, the Town has not done so to date and our concerns remain unaddressed.

Secondly, there is a perception that our clients do not support any environmental policies on these lands. In contrast, our clients have sought to have the environmental policies reflect sound ecologically based criteria, which to date these do not.

We would strongly recommend that your Committee defer consideration of the report and amendment before you, and instead direct Staff to consult with our clients and their consultants with a view to understanding our clients' concerns, and resolving them if possible.

April 5, 2006
Page 2

Yours very truly,

AIRD & BERLIS LLP



Patricia A. Foran

PAF/jg
Encl.

cc: 1463069 Ontario Limited
1512406 Ontario Limited

::ODMA\PCDOCS\DOCS\2055984\1



**AIRD & BERLIS LLP**Barristers and Solicitors
Patent and Trade Mark AgentsPatricia A. Foran
Direct: 416.865.3425
E-mail: pforan@airdberlis.com

COPY

September 2, 2005

File No. 84604

VIA EMAIL (atari@markham.ca) & FACSIMILEDevelopment Services Committee
Town of Markham, 101 Town Centre Blvd
Markham, Ontario
L3R 9W3
Attention: Councillor George McKelvey, Chair

Dear Mr. Chairman:

**Re: Proposed repeal of By-law 2003-299 and Proposed New Official Plan
Amendment to Replace OPA 116
File MI.462
Public Meeting - Development Services Committee on September 6, 2005**

We are the solicitors for 1463069 Ontario Limited and 1512406 Ontario Limited.

I have received a copy of Mr. Kagan's letter to you of today's date. Our clients, along with Mr. Kagan's clients, have been appellants involved in the OMB process relating to OPA 116. We support Mr. Kagan's observations as set out in his letter.

We would support the Town continuing consultations with affected landowners. There is no risk to the municipality in proceeding in this fashion, given the protections afforded through the changes to the *Planning Act* through Bill 26 and the *Greenbelt Protection Act* and Greenbelt Plan. In this respect, we note that the staff report indicates that this exercise is not intended to represent the conformity exercise under the *Greenbelt Act* required of the Town of Markham.

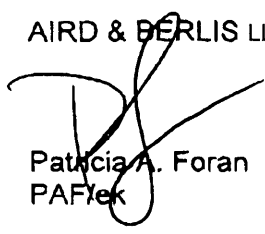
We would suggest that a more appropriate manner of proceeding would be to repeal OPA 116, direct staff to consult with affected landowners, and determine, through the Town-wide conformity process, whether any Official Plan policies are required in advance of any initiative to urbanize the lands affected by OPA 116. This approach would be fairer to affected landowners, would eliminate the possibility of duplicate appeals and successive OMB hearings regarding the same issues, and recognizes the control afforded to Markham through the aforementioned legislative changes that were not in place at the time that Council adopted OPA 116.

September 2, 2005
Page 2

We would also ask that we be provided with notice of any decision on behalf of Committee and Council in this matter.

Yours very truly,

AIRD & BERLIS LLP



Patricia A. Foran
PAF/ek

cc: Mai Somermaa
I. Kagan
P. DeMelo
R. Smith

\\ODMA\PCDOCS\DOCS\1939169\1

AIRD & BERLIS LLP

Barristers and Solicitors

Patricia A. Foran
Direct: 416.865.3425
E-mail: pforan@airdberlis.com

COPY

October 9, 2005

File No. 84604

VIA FACSIMILE

His Worship Mayor Cousens and Members of Council
Town of Markham
101 Town Centre Blvd
Markham, ON
L3R 9W3

Dear Sirs and Madam:

**Re: Proposed repeal of By-law 2003-299 and Proposed New Official Plan
Amendment to Replace OPA 116
File MI.462
Council Meeting – October 11, 2005**

We are the solicitors for 1463069 Ontario Limited and 1512406 Ontario Limited.

We attended before the Development Services Committee on September 6, 2005 with respect to the above-captioned matter. Our clients have been appellants involved in the OMB process relating to OPA 116.

We are disappointed that the Town chose not to engage in consultations with affected landowners given the opportunities presented at this time. In particular, given the protections afforded through the changes to the *Planning Act* (Bill 26) and the *Greenbelt Protection Act* and Greenbelt Plan, we are dismayed that the Town did not embrace this opportunity to discuss issues outstanding with respect to the proposed replacement OPA and OPA 116.

We are particularly concerned that Town staff have chosen to discuss issues with certain stakeholders, such as the Rouge Park Alliance, and have ignored affected landowners.

We continue to submit that a more appropriate manner of proceeding would be to repeal OPA 116, direct staff to consult with affected landowners, and determine, through the Town-wide Greenbelt conformity process, whether any Official Plan policies are required in advance of any initiative to urbanize the lands affected by OPA 116. This approach would assist with minimizing the possibility of duplicate appeals and successive OMB hearings regarding the same lands and the same issues.

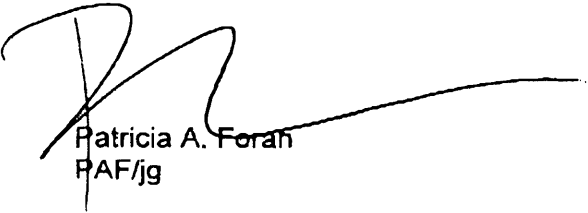
October 9, 2005

Page 2

We would also ask that we be provided with notice of any decision on behalf of Council in this matter.

Yours very truly,

AIRD & BERLIS LLP



Patricia A. Foran
PAF/jg

cc: ✓ M. Somermaa
✓ J. Kagan
✓ P. DeMelo
✓ R. Smith

\\ODMA\PCDOCS\DOCS\1956985\1