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Please refer to: **Susan Rosenthal**
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December 2, 2009

By E-Mail Only to Regionalclerk@york.ca

Regional Planning and Economic Development Committee
c/o Denis Kelly, Regional Clerk
Corporate Services Department
The Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Dear Mr. Kelly:

**Re: Planning and Economic Development Committee
Agenda Item B.1 – York Region Official Plan – December 2009**

As you are aware, we are counsel to 775377 Ontario Limited (Belmont), Clearpoint Developments Ltd. and Upper City Corporation, owners of lands located within the southeast quadrant of Leslie Street and 19th Avenue, in the Town of Richmond Hill. These lands are located in the North Leslie Secondary Plan Area.

We have previously corresponded with the Region with respect to the June 2009 draft of the York Region Official Plan to express issues and concerns about the proposed policies. Copies of our June 17 and October 6, 2009 correspondence are attached for your information. We have also had the opportunity to participate in discussions with Regional Planning staff with respect to these concerns.

We are in the process of reviewing the December, 2009 draft of the proposed Region of York Official Plan (the "December 2009 draft OP") which is intended to be considered at the December 2nd Planning and Economic Development Committee meeting. The revised December 2009 draft OP contains numerous changes to the June draft which require a detailed review which we are now completing. As such, we reserve the opportunity to provide further comments with respect to the policies and mapping prior to the adoption of the December 2009 draft OP.



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It was our understanding based on discussions with staff that the mapping attached to the OP was intended to be amended to reflect the environmental schedules attached to the North Leslie Secondary Plan Area, which schedules were accepted by the Region, Town of Richmond Hill, as well as the Toronto and Region Conservation Authority and my clients as appropriately reflecting the Natural Heritage System and Protected Countryside designations and developable areas applicable to my clients' lands. The scale of the attached maps makes it very difficult to determine if these amendments have been made. As such, we will be requesting staff to provide blowups of the relevant areas in order to allow us to determine whether we continue to have any concerns. They have been kind enough to do so with respect to previous versions and we anticipate that this potential issue can be readily resolved. We do note, however, that some of the base mapping with respect to natural heritage features such as wetlands reflects old data which has not been ground-truthed. Provisions should be made in the final version of the OP to allow for updates to this mapping of natural heritage features such as wetlands and woodlands without the need for an amendment to the Official Plan.

Further, based on our initial review of the document, it would appear that many of the issues raised in our earlier letters have not been addressed to the satisfaction of our clients. Rather than reiterating our clients' concerns in this letter, we ask you to refer to our comments made in the enclosed letters with respect to the earlier June draft which apply equally to the December 2009 draft OP.

In addition to the comments already provided to you, my clients have the following concerns.

Policy 3.3.13

The December 2009 draft OP proposes to add a policy 3.3.13 "to consider the introduction of social housing and hospital development charges". The genesis and basis of this policy is unclear and does not recognize or acknowledge the applicable provisions and restrictions of the *Development Charges Act* in that regard. As such, the policy should be revisited.

Employment Lands Policies

This section contains a number of new policies which we are currently evaluating. We have the following preliminary comments:



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- a. It is unclear what is intended by the use of the word "identified" in proposed policy 4.3.2. We would suggest that it would be appropriate to replace the "identified" with "designated".
- b. The identification of "strategic employment lands" beyond the planning horizon of the OP as provided in proposed policy 4.3.4 may contravene the requirements of the Growth Plan and the Provincial Policy Statement which prohibit the designation of more than a 20 year supply of land. Furthermore, although the December 2009 draft OP purports to provide that Figure 2 is conceptual and non-operative, by including reference to Figure 2 in this and other sections, the Figure, in essence, may be interpreted as forming part of the operative section of the OP by reference.
- c. Policy 4.3.10 is an example of a policy which will potentially be at odds with policies approved or to be approved with respect to the North Leslie Secondary Plan Area. As noted in my earlier correspondence, to the extent that any of the policies of the Regional Official Plan conflict with, are inconsistent with or add obligations, restrictions or requirement to those already considered and approved or to be approved in connection with the North Leslie Secondary Plan, my clients object.
- d. It is unclear what is intended by new proposed policy 4.3.2. To the extent that the intention is to require that lands on Local Corridors and major streets which are adjacent to employment lands but not currently designated for employment uses to be used only for employment or ancillary uses, my clients object to this limitation as having no justification, analysis and no demonstrated need. Furthermore, there is potential that this policy could be at odds with the ultimate determination by the Ontario Municipal Board ("OMB") of the appropriate uses for my clients' lands.
- e. As previously discussed with staff, my clients have concerns with the wording of Policy 4.3.21 and are not satisfied that the inclusion of this policy addresses the concerns expressed in my earlier letter. The policy suggests that the "strategic employment designation" for North Leslie was considered by the OMB during the rehearing of my clients' appeal of its application for official plan amendment. It was not. It was only the local designation that was considered by the OMB at the rehearing. Accordingly, the proposed wording of the policy does not accurately reflect the factual context. As we have previously requested, we would ask that Figure 2, as it relates to my clients' lands be deferred and be revisited after the OMB issues its Decision with respect to the local designation of my clients' lands.



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Housing Supply

We note the proposed changes to Policies 5.1.5 and suggest that the June 2009 wording is more appropriate. It is the local municipality that is in the best position to ensure that the policy objective is met.

Policy 5.2.15

My clients object to this policy particularly given that proposed densities for my clients' lands were just considered by the OMB this year with no suggestion from the Region for alternative density provisions to those proposed by my clients. In any case, the Growth Plan density policies are intended to be implemented at a town-wide level and not on a secondary plan basis. At the very least, this policy should be reworded to encourage the re-examination.

Policy 5.2.19

My clients object to the requirement to comply with all required items in the Guidelines for Community Development and the ability for the guidelines to change without amendment to the plan. Any guideline or amendment thereto sought to be imposed by this policy should be subject to the same public process associated with the adoption of this plan as set out under the *Planning Act* to ensure transparency and fairness to all affected members of the public, including landowners and ratepayers.

Sustainable Development

My comments in my October 6th letter applies to the revised policies in the December 2009 draft OP.

Street Policies

We wish to have a better understanding of the proposed change to Policy 7.2.50 prior to adoption of the December 2009 draft OP.

Our earlier October 6th letter expressed concern about the new proposed Regional 43 metre right of way in the vicinity of my clients' lands. We continue to object to these revised rights of way and note that at no time during the rehearing of the appeals related to my clients' lands did the Region raise the need for, or even the possibility of, increased rights of way beyond 36 metres for these roads. In fact, despite the fact that the sufficiency of other roadway widths within the North Leslie Secondary Plan area were raised and addressed by the OMB, the Region



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continued to support secondary plan policies for 36 metre road rights of way for Leslie Street, 19th Avenue, Bayview Avenue and Elgin Mills Road.

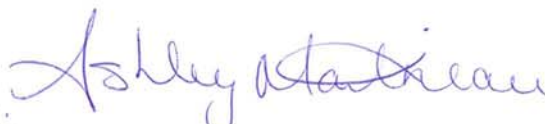
Transition Provisions

The transition policies contained in policies 8.4.13-8.4.15 do not address the concerns expressed in my earlier letters with respect to proposed Regional policies which add to, change, conflict with or are inconsistent with the requirements, obligations and restrictions imposed in connection with the North Leslie Secondary Plan approved or to be approved by the OMB. They do not recognize the approved status (or to be approved upon the issuance of the OMB Decision) of the secondary plan area or provide that implementing development applications be subject to and tested against the North Leslie Secondary Plan policies. We request that a policy be added to this effect grandfathering the North Leslie Secondary Plan lands and clarifying that the implementing development applications, including, without limitation zoning, subdivision, condominium, and site plan applications whether already submitted or to be submitted are to be subject to and tested against the policies of the North Leslie Secondary Plan and not against the additive, inconsistent or conflicting policies of the new Regional Official Plan.

We thank you for the opportunity to provide these comments and would request that these matters be further addressed by your staff prior to the OP being brought to Council for adoption.

Yours sincerely,

DAVIES HOWE PARTNERS

per: 
Susan Rosenthal

encls: Davies Howe Partners Letter, June 17, 2009
Warren Sorensen Letter, September 24, 2009
Davies Howe Partners Letter, October 6, 2009

copy: Mr. John Waller, Director of Long Range and Strategic Planning, Region
Mr. Warren Sorensen
Clients



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Please refer to: **Susan Rosenthal**
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October 6, 2009

By E-Mail Only to bryan.tuckey@york.ca

Mr. Bryan Tuckey
Commissioner of Planning and Development Services
York Region Administrative Centre
Planning and Development Services Department
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Dear Mr. Tuckey:

Re: Proposed York Region Official Plan, June 2009 Draft

As you are aware, we are counsel to 775377 Ontario Limited (Belmont), Clearpoint Developments Ltd. and Upper City Corporation, owners of lands located within the southeast quadrant of Leslie Street and 19th Avenue, in the Town of Richmond Hill. These lands are located in the North Leslie Secondary Plan Area.

We have had an opportunity to review the June 2009 draft of the proposed Region of York Official Plan (the "June 2009 draft OP") which is intended to be considered at tomorrow's public meeting.

Designated Strategic Employment Lands

We would note that the issues raised in our previous June 17, 2009 correspondence to the Region about the draft Regional OP, particularly those related to the proposed identification of our clients' lands as Designated Strategic Employment Lands, have not been addressed in the June 2009 draft OP. Rather than repeating the issues, we ask that you have reference to our previous letter, a copy of which is attached. We continue to object to this identification and related policies in Chapters 4 and 5, as well as 8.4.5. I would note that the Richmond Hill allocations in Table 1 may also require adjustment upon the issuance of the Board's Decision with respect to my clients' lands.



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Potential Conflict with North Leslie Secondary Plan Policies

We have had the opportunity to review correspondence from Sorensen, Gravely, Lowes to the Region dated September 24, 2009, on behalf of the North Leslie Residential Landowners Group Inc., identifying potential confusion and conflicts between the Ontario Municipal Board's determination of the appropriate amendments to the Region and Town Official Plan and the policies and mapping contained in the June 2009 draft OP. These comments equally apply to my clients' lands and we adopt and support the comments made in that letter. I have attached a copy of that letter for your information.

Although the land uses for my clients have not yet been finally decided and are awaiting the Board's Decision, many of the policies to be applicable to the ultimate uses have been settled. It was the position of all parties, including the Region, that most of the policies of the North Leslie Secondary Plan, including those relating to natural heritage, hydrological and hydrogeological policies, environmental and other required studies at further development stages and those relating to affected lands in the Greenbelt Plan, would apply to my clients' lands regardless of the ultimate land use designation. Despite the ongoing Regional Plan review, there was no suggestion by the Region at the Ontario Municipal Board rehearing that any of these policies were inadequate, inappropriate or required enhancement.

I reiterate Mr. Sorensen's suggestion that the minimum density and affordable housing requirements in the June 2009 draft OP are examples of policies that should not supersede or amend already fully considered, and in most cases, jointly presented (landowners, Town and Region) policy direction. To this I would add policies related to LEEDs certification. Like Mr. Sorensen, I do not intend to provide an exhaustive list of potentially confusing and conflicting policies. Those I have specifically referenced are illustrative only.

In addition, my clients have requested approval of a land use designation adjacent to Highway 404 which includes the opportunity for seniors housing. Further, day care facilities have been proposed as a permitted use within lands adjacent to Highway 404 by the Town and Region and by my clients whether the lands are designated for employment or for residential uses. These proposed uses are inconsistent with Policy 3.2.6 of the June 2009 draft OP. To the extent that the Board Decision permits these uses on that part of my clients' lands adjacent to the 404, we object to the proposed policy.



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While my clients support the inclusion of the North Leslie Secondary Plan Area within the Region's Urban Boundary in accordance with the Decision of the Ontario Municipal Board respecting this secondary plan area, like Mr. Sorensen we note and share his comments about discrepancies between the Board's Decision and the mapping attached to the June 2009 draft OP. In addition, with respect to Maps 10 and 12, my clients have concerns relating to the effect of the mapping together with the associated policies. These concerns include increased road widths for both 19th Avenue and Leslie Street and the inclusion of a "flyover" under what appears to be "planned basic street widths".

With respect to the road widths, these are greater than previously required under the existing Regional OP and may impose greater obligations to the development of our clients' lands from those approved and being considered by the Board. We wish to have a better understanding of the implications prior to adoption by Regional Council.

Furthermore, my clients object to the inclusion on the mapping of a flyover in the vicinity of my clients' lands, together with its companion policies. Not only did the Ontario Municipal Board determine that it was inappropriate to reflect a potential flyover on the mapping for the North Leslie Secondary Plan Area, there is a significant question based on the Board's Decision about the need for and appropriateness of a flyover in the proposed location. Despite the almost three years that has passed since the Board's original Decision, the Region has not proceeded to an environmental assessment to justify the appropriateness or need for the flyover. It is not "planned" even though there has been more than ample opportunity to do so. The flyover or crossing should be deleted from the Schedule. Furthermore, policies reflecting the opportunity for these midblock crossings should reference the requirement to show need and appropriateness in accordance with an environmental assessment.

In summary, my clients object to any new policies imposing additional or inconsistent restrictions, obligations or requirements to those already considered and approved or to be approved in connection with the North Leslie Secondary Plan Area.

We thank you for the opportunity to provide these comments and would appreciate the opportunity to meet with you to discuss these concerns prior to the preparation of the next draft of the proposed Regional OP and its consideration by Council.



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As previously requested by us, please provide us with notification of the adoption of the Draft York Region Official Plan.

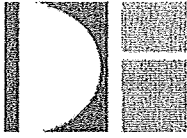
Yours sincerely,

DAVIES HOWE PARTNERS

Per: 
Susan Rosenthal

encls: Davies Howe Partners Letter, June 17, 2009
Warren Sorensen Letter, September 24, 2009

copy: Mr. Denis Kelly, Regional Clerk
Mr. Warren Sorensen
Ms. Patricia Foran
Mr. Andrew Madden
Clients



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Please refer to: **Susan Rosenthal**
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June 17, 2009

By E-Mail

Planning and Economic Development Committee
c/o Denis Kelly, Regional Clerk
Corporate Services Department
York Region Administration Building
17250 Yonge Street, 4th Floor
Newmarket, ON L3Y 6Z1

Dear Mr. Kelly

**Re: Planning and Economic Development Committee
Agenda Item D.3 – Draft York Region Official Plan – June 2009**

We are counsel to 775377 Ontario Limited (Belmont), Clearpoint Developments Ltd. and Upper City Corporation, owners of lands located within the southeast quadrant of Leslie Street and 19th Avenue, in the Town of Richmond Hill. These lands are located in the North Leslie Secondary Plan Area.

We thank you for acknowledgement of our request for notice regarding the York Region Official Plan and look forward to receiving continued notices of all meetings, open houses, actions, reports and other documents with respect to the proposed Regional Official Plan.

We have only had a brief opportunity to review the staff report and draft Official Plan, particularly as it relates to our clients' lands, but wish to note a few preliminary comments, recognizing that the purpose of this report is to formally initiate the circulation of the draft Official Plan posted this week on your website. A more fulsome analysis and comments will be forthcoming throughout the process outlined in staff's report.

Designation of Lands within the Urban Area

We support the inclusion of the North Leslie Secondary Plan Area within the Region's Urban Boundary in accordance with the decision of the Ontario Municipal Board respecting this secondary plan area.



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Designated Strategic Employment Lands – Figure 2

It is inappropriate to show any part of my clients' lands as Designated Strategic Employment Lands, and we take strong objection to this identification on Figure 2. As the Region is well aware, our clients' lands are currently before the OMB, at a rehearing in which the Region has fully participated, and the critical question before the Board relates to their appropriate designation. These lands are not designated for employment uses and thus the reference to "Designated" is patently incorrect. It is in the OMB's hands to determine whether these lands should be designated for employment or residential uses and until such time as the OMB makes this decision, it is premature to reflect any specific land use designation on any Schedules circulated to the general public. It would be more appropriate to identify these lands as being subject to an Ontario Municipal Board hearing.

Moreover, on September 26, 2008, in response to a Staff Report which previously proposed to designate my clients' lands, among a number of other landholdings, as Regionally Significant Employment Areas, the Region was advised by the Province that the Province did not support such a designation for any of the lands, including my clients' lands. We have not been notified, nor are we aware of any *Planning Act* process or application since then which would support the lands being designated as proposed in the draft Regional Official Plan.

We, therefore, request that the identification of our clients' lands as Designated Strategic Employment Lands be deleted from Figure 2 prior to circulation of the draft Regional Official Plan to the public.

Once again, thank you for your acknowledgement of our request for notice and information about the timing of this update. We look forward to continued information and the opportunity for an ongoing dialogue.

Yours sincerely,

DAVIES HOWE PARTNERS

Susan Rosenthal

Copy: Clients
Warren Sorensen
Ms. Patricia Foran



Sorensen Gravely Lowes
P l a n n i n g A s s o c i a t e s I n c .

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Principals: Warren Sorensen, P.Eng, MCIP, RPP
Catherine Gravely, MES, MCIP, RPP
Paul Lowes, MES, MCIP, RPP
Senior Associate: Carol-Anne Munroe, MCIP, RPP

September 24, 2009

The Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Attention: **Mr. Bryan Tuckey**, MCIP, RPP
Commissioner of Planning and Development Services

Dear Sir:

Re: Proposed York Region Official Plan, June 2009 Draft
North Leslie Residential Landowners Group Inc.

We are retained as planning consultants by the **North Leslie Residential Landowners Group Inc.**, and have reviewed the June 2009 draft of the proposed Region of York Official Plan (June 2009 Draft) on behalf of this client group.

The North Leslie Residential Landowners Group Inc. represents a number of landowners in Richmond Hill in the general area bounded on the west by Bayview Avenue, on the south by Elgin Mills Road, on the north by 19th Avenue and on the east by Leslie Street and Rouge River Tributary Two.

As you know the North Leslie area has been the subject of exhaustive planning and environmental study in recent years, leading to lengthy proceedings before the Ontario Municipal Board (OMB). The Region is of course aware of, and has been involved in, both the study process and in the OMB proceedings, along with the Town of Richmond Hill, the TRCA, other interested agencies and parties, and the affected landowners and landowner groups.

A number of concerns relate to the potential confusion that may arise from the mapping and related policy provisions included in the June 2009 Draft, where these may not fully reflect the relatively definitive state of studies, planning determination and approval applicable to the lands of the North Leslie Residential Landowners Group Inc. Those lands are not subject to the recent OMB rehearing, and therefore the November 2006 OMB decision constitutes the final determination of the appropriate amendments to the Regional and Town Official Plans. Although the amendment documents have not yet been formally put into effect, there is no dispute with those aspects of the OMB decision.

For example, the appropriate Secondary Plan designations and policies for affected lands within the Greenbelt Plan are settled by the OMB decision. Some but not all of the lands designated as "Protected Countryside" by the Greenbelt Plan were identified through detailed studies and evidence as "Natural Heritage System" and those lands together with appropriate buffer areas were so designated by the OMB decision. The appropriate policies to apply to the identified Natural Heritage System lands were determined and approved by the OMB. Other portions of the Protected Countryside lands remain beyond the Natural Heritage System, and are subject to differing policies also approved by the OMB.

The broad-brush nature of mapping in the June 2009 Draft, and the inclusion of Greenbelt Plan information on several of the proposed Official Plan Maps (including Maps 1, 2, 3, 4 and 5) presents a concern. Maps 3, 4 and 5 purport to identify "Natural Heritage System" lands within the Greenbelt Plan designations of Protected Countryside, and co-extensive with those designations. For North Leslie, this identification is not accurate and not consistent with the detailed studies and OMB approvals noted above.

The June 2009 Draft also proposes a variety of policy directions that, if interpreted to apply to the implementation of already approved policies for North Leslie through, could pose substantial disruption for the appropriate consideration and disposition of subsequent zoning and subdivision approval processes in accordance with the November 2006 OMB decision. The various minimum density and affordable housing requirements proposed in the June 2009 Draft are examples of policies that should not be interpreted so as to supercede or modify already approved policy directions.

These specific examples represent illustrative rather than exhaustive comments on the June 2009 Draft. In these and other respects, our concern is that the ongoing implementation of the already accomplished decision-making (based on agreed-upon detailed studies already completed, policies settled and endorsed through the OMB process) for these lands should not be confused or inhibited by new Regional Official Plan provisions. Clarifying statements should, we believe, be added to the June 2009 Draft to avoid this problem.

We appreciate the opportunity to provide these comments and trust that the concerns we have identified in this letter will receive your careful attention in preparing the next draft of the proposed Regional Plan.

Please ensure that we are notified of further steps in this process. In this and any other respect, please do not hesitate to call if any further information is desired.

Yours very truly,

SORENSEN GRAVELY LOWES PLANNING ASSOCIATES INC.

A handwritten signature in cursive script, appearing to read 'W. Sorensen', written in dark ink.

Warren Sorensen, P.Eng., MCIP, RPP
Principal

Copy North Leslie Residential Landowners Group Inc. c/o Mr. Andrew Madden