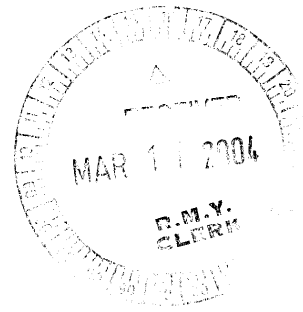


KAGAN
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To: Denis Kelly (Business Fax)
Company: Regional Municipality of York
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REGION OF YORK
CLERK'S OFFICE

FILE No. - *p03*

From: Ira T. Kagan
Direct Fax: (416) 324-4224
Phone: (416) 368-2100 Ext. 226

*→: Chair
; CAO
B. Tuckey*

Date and time of transmission: 3/11/04 10:20:48 AM
Number of pages including this cover sheet: 3

NOTES:

Please see attached.

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Ira T. Kagan
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E-mail: ikagan@kzfs.com
File # 03034

March 11, 2004

By Fax (905-895-3031)

Mr. Denis Kelly, Regional Clerk
Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z 1

Dear Mr. Kelly:

Re: ROPA 41 and the Minister's Modifications

We are the solicitors for S. & Z. Mizrahi Ltd./ Mahtaf Investments Limited ("Mizrahi"), and Richmond Greenhouses, with respect to the above-noted matter. The Mizrahi property is located at the southwest corner of Bayview Avenue and 19th Avenue. The Richmond Greenhouse property is located on the east side of Bayview Avenue two lots south of the Mizrahi property. Portions of both properties lie above the 245m surveyed contour of the Oak Ridges Moraine ("ORM"). Both properties are part of the ongoing Ontario Municipal Board hearing dealing with the proposed North Leslie Secondary Plan.

Both of our clients own land with the proposed North Leslie Secondary Plan area in Richmond Hill. Both of these properties are subject to both local and regional Official Plan Amendment applications that predate November 21, 2001 and are thus governed by the transition provisions of the Oak Ridges Moraine Conservation Act, 2001. The Ontario Municipal Board, in July of 2003, heard a motion in which both the private sector (various landowners) and the public sector (Town of Richmond Hill, Region of York and Toronto and Region Conservation Authority) participated. The motion was for an order respecting the applicability of the transition provisions to the Mizrahi and Richmond Greenhouse lands (among others). The OMB ruled that both of the above-noted properties are properly governed by the transition rules of the Oak Ridges Moraine Conservation Act, 2001. This decision applied not only to Official Plans, but also to the zoning by-laws and plans of subdivision that would implement the decisions on the Official Plan Amendments. Neither the province nor any party appealed that decision.

We have reviewed proposed amended ROPA 41 and have previously corresponded respecting the recognition of the Board's determination in any conformity amendment to be adopted by Regional Council (a copy of that letter is attached). We understand that proposed ROPA 41 is to be amended under proposed section 33 to reflect changes to the ORMCA proposed under the Province's draft legislation, Bill 27. However, we are concerned that such draft legislation may be, at a minimum, amended prior to an adoption by the Provincial Legislature. Accordingly, we believe that ROPA 41 should only reflect the in-force ORMCA and, in particular, the transition provisions set out in section 17 as they exist today.

Alternatively, and in order to avoid any possible interpretation that section 33 as drafted would alter our client's accrued and recognized full transition status, we would request that you amend section 33 in the draft ROPA 41, to specifically reflect the transition status of all of our client's development applications.

In addition to the foregoing, we note that proposed Map 13 – Areas of High Aquifer Vulnerability, which your staff have concluded is not required, may not reflect more refined and up-to-date mapping undertaken by the our client, the BEL Group, TRCA and York Region, in the context of the North Leslie OMB hearing. A report by Doug Jagger was recently prepared and filed with the TRCA (who has carriage of the environmental matters for the Region). The scope of work for this report was prepared with the concurrence of Mr. Rick Gerber (hydrogeologist for TRCA). Until this report is reviewed it would be premature to adopt Map 13. Accordingly, we believe that Map 13 should be excluded or it should be amended to reflect more up-to-date information.

Thank you for your consideration of this letter.

Yours very truly,



Ira T. Kagan
Encl.

cc. Julius DeRuyter
Claudio Brutto

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