

Thornhill, November 6, 2023

Markham City Solicitor, Markham Counsel Maggie Cheung-Madar, Andrew Baker BLG and Julie Leger BLG:

Regarding: Correcting inaccurate information entered into evidence at the Ontario Land Tribunal Hearing Case No. OLT-22-003917, held Friday October 13, 2023

The purpose of this letter is to highlight and to correct inaccurate (and therefore misleading) evidence submitted by the Appellant, Timbercreek Four Quadrant GP2 Inc. (“the developer”). This evidence was used to support the executed minutes of the Settlement Agreement with the City of Markham (City) and to justify the overdevelopment¹ on the site known as Thornhill Square at 300 John Street.

It is our view that the Ontario Land Tribunal (OLT) received incorrect and/or misleading information from the Appellant’s Expert Witness in the recent OLT hearing, which potentially misleads the Tribunal’s understanding of this case and, if not rectified, sets a dangerous precedent for this and future potential cases.

To ensure that the outcome is founded on valid facts, AWRA, as the Registered Ratepayers Association where the subject land is located, and as a Participant in the hearing process, requests that the City of Markham ensures that correct facts are provided to the OLT while it is considering the case and before it issues an Interim Order.

Specifically, we note the following:

1. The affidavit of Michael Goldberg, the Appellant’s Expert Witness, dated October 12, 2023, statements #34 & #35 states:

“34. To the South:

a) Immediately to the south of the subject site is John Street, a 6-lane major collector road running in an east-west direction;

35 To the West:

b) The Thornhill Community Centre fronts on Bayview Avenue, a 6-lane major arterial road extending in a north-south direction.”

Facts: Bayview Ave. and John St. each encompass 4 lanes at Thornhill Square, and John St. narrows to only 2 lanes west of Bayview Ave.

2. The Appellant has used outdated 2010 York Region Official Plan and 2014 Markham Official Plan maps to support its testimony that a "proposed" GO Station on Green Lane is a likely possibility.

Fact: Metrolinx has no plans either for such a GO station or to conduct feasibility study for such a station.

¹“107. The Proposed OPA and Proposed ZBA would permit an overdevelopment of the site, are not in keeping with the character of the area and will be incompatible with the existing and planned uses located adjacent to the site,” Expert Witness Statement, City of Markham urban planning expert firm, Allan Ramsay Planning Associates, Inc.

Note: the affidavit of Michael Goldberg, dated October 12, 2023, statement #32 states: *“However, no identification of funding or advancement of this station is identified on the Metrolinx website.”*

In citing the Metrolinx website, the expert witness is assumed to include both the “2041 Regional Transportation Plan” and Metrolinx’s “GO Expansion Construction Projects: Richmond Hill Corridor,” dated November 15, 2022, neither of which, in reality, makes any reference to any new GO stations or additional services being provided at, or anywhere near, Green Lane in proximity to the proposed redevelopment of Thornhill Square.

The 2022 York Region Official Plan indicates a “GO Station Subject to further study” on Map 10, Rapid Transit Network. Since no further information is available related to such a Metrolinx study, we consider it an aspirational statement by York Region, and believe that Metrolinx’s plans, or lack of those, should be the basis of decision-making.

It is, therefore, our opinion that preparing development plans based on the provisioning of a GO station alluded to by a party that has no provisioning responsibility is tenuous at best. Furthermore, this testimony is used to legitimize other statements in the affidavit, specifically those used to justify the increased height beyond the 15-storey buildings found in the area, including the following:

- Statement #65: “The Subject Site may be subject to augmented higher order transit in the form of a proposed/potential GO Station to the east of the subject site.”
- Statement #67: “The proposed 19, 17, 12 and 7-storey mixed-use buildings are a compact form that should, in my opinion, be accommodated on this site, given the opportunities provided by the size and configuration of the Subject Site, its proximity to existing and planned public transit infrastructure, and the local context set out above.”
- Statement #110: “The proposed redevelopment will support existing and planned transit facilities that are in close proximity and promote alternative means of transportation.”
- Statement #121: “Map 1 also identifies a Proposed GO Station on the south side of John Street just east of the site as well as identifying a Potential Secondary Hub for Thornhill Centre to the west of the subject site.”

3. The Appellant’s expert oral testimony claimed that high occupancy vehicle (HOV) lanes and bus rapid transit (BRT) service could be added to Bayview Ave.

Fact: York Region has no plans to widen Bayview Ave. south of Hwy 7 to enable HOV lanes or service. Moreover, the Appellant (developer) provided no supporting documentation or evidence of any plans for widening Bayview Ave., for HOV lanes or for BRT service.

Our analysis of the evidence submitted by the Appellant highlights that incorrect and misleading information was entered into evidence, which would (1) mislead the Tribunal's understanding of the facts of this case, and (2) insert incorrect information into the record, which could impact future decision-making.

We understand that the purpose of the October 13, 2023 hearing was to present a Settlement Agreement between the City and the Appellant (developer), and we support efforts to find mutually acceptable outcomes. However, AWRA believes this settlement agreement permits an overdevelopment of the site, located in the heart of Thornhill Centre, and jeopardizes the liveability for current and future residents.

In closing, we would like to emphasize that it is critical to ensure that the outcome of this case is founded on valid facts. To that end, we request the City of Markham to inform the OLT of the above-noted inaccurate evidence entered with this case, while the Tribunal is considering the case and before it issues an Interim Order.

Sincerely,

Alena Gotz - President
on behalf of the Executive Board
Aileen-Willowbrook Residents Association Inc.

Cc:
Keith Irish, Councillor Ward 1
Development Services Committee
Arvin Prasad, Commissioner Development Services
Giulio Cescato, Director, Planning & Urban