



**Kagan
Shastri** ^{LLP}
LAWYERS

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File #: 15007

February 18, 2016

By email

Mayor Geoffrey Dawe and Members of Town Council
Town of Aurora
100 John West Way, Box 100
Aurora, ON, L4G 6J1

Attention: Mr. Slawomir Szlapczynski, Acting Town Solicitor

Dear Mr. Szlapczynski:

**Re: Redevelopment of the Highland Gate Golf Club
 21 Golf Links Drive, Aurora
 Town File Nos. SUB-2015-01, OPA-2015-01 and ZBA-2015-02
 OMB Case Nos. PL151160, PL151161 & PL151162**

We are co-counsel to Highland Gate Developments Inc. (“HGDI”) with respect to the above-noted matter. Our client has requested that we provide the Town with our client’s response to the February 8, 2016 letter of objection from the Highland Gate Rate Payers Association (“HGRPA”) to the Town. Although we are also in receipt of the HGRPA’s letter of objection dated January 25, 2016, we will only respond to the February 8th version as it appears to represent the HGRPA’s most current position.

Before dealing with each of the HGRPA’s issues, however, we feel it important to note that despite the passage of nearly a year since the applications were filed, despite all of HGDI’s materials being made publically available and despite the HGRPA having retained an experienced land use planner and experienced municipal lawyer, the HGRPA has not provided to date any alternative plan or plan modifications which are supported by policy or technical rationale. Neither has the Association made any meaningful effort to work collaboratively with HGDI to address the HGRPA’s stated concerns. The HGRPA has yet to make public any analysis from its land use planner or any other professionals it may have retained. It certainly appears, therefore, that the exchange of information has been very much a one-way street.

HGDI, through previous correspondence to the HGRPA, has requested and reminded them on several occasions of promises they made to provide HGDI with documents in the possession of the HGRPA. BY way of example only, the HGRPA has never provided HGDI or the Town with any technical support for the alternative development plan which was posted on the HGRPA website. Despite these several reminders the HGRPA has failed to provide those documents.

This is making it difficult to continue good faith discussions with them. One has to wonder how the HGRPA would view our client if it was our client withholding information which had been promised.

As is evident from the analysis below, the matters raised by the HGRPA in its February 8, 2016 letter of objection have already been dealt with extensively by HGDI and its consulting team. In some cases these HGRPA issues have also been dealt by the Town's own peer review consultants. The details of this follow. For ease of reference the text in *bold italics* is from the HGRPA's February 8, 2016 letter of objection and our responses are organized accordingly to the same subject headings set out in the HGRPA's letter.

Heading: 1.0 INTRODUCTION

We note the Association's comment about seeking to work collaboratively with the Applicant but our client is finding that hard to reconcile with the fact that:

1. The HGRPA has failed to provide materials it promised to, as detailed earlier.
2. The HGRPA did not do our client the courtesy of copying it on either the January 25, 2016 or February 8, 2016 letters of objection to Council. This is to be contrasted with the manner in which our client has made its material public and ensured that it was received by the HGRPA.

HGDI has reached out proactively, throughout the process, to the HGRPA in an effort to establish a dialogue with Board members since its formation in December 2014 but those efforts have gone unreciprocated. Examples of such efforts include but are not limited to the following:

1. November 21, 2014 – ClubLink meets with Dave Newton, Councillor John Abel to discuss its intention to establish a new use for the golf course lands.
2. December 22, 2014 – ClubLink and Geranium extends invitation to HGRPA to meet with Dave Newton, David LeClaire, Justin Limpright, Dianne Grassie (executive members of HGRPA Board of Directors of the HGRPA) to advise of the formation of the joint venture and the intention to file a development application.
3. January 21, 2015 - HGDI extends invite and meets with Dave Newton, David LeClaire, Justin Limpright, Dianne Grassie (executive members of HGRPA Board of Directors).
4. March 2, 2015 - HGDI delivers of copy of full application submission to David LeClaire, Vice President of HGRPA.
5. July 10, 2015 - Following the June 24th public planning meeting, HGDI met with Dave Newton, Dave LeClaire, Colette Nemni, Kevin Beswick (HGRPA Board members).

6. July 24, 2015 - Transmittal to HGRPA of HGDI's responses to the HGRPA's presentation at the June 24th public meeting. [Letter addressed to Council and copied to the HGRPA.]
7. September 8, 2015 - Transmittal to HGRPA of HGDI's response to LSRCA comments.
8. October 13, 2015 - Copy of HGDI responses to the September 30, 2015 public meeting provided to HGRPA by email to Dave Newton and David LeClaire, together with Flowers/Kagan correspondence to Alan Patton (legal counsel to the HGRPA), which enclosed the following documents:
 - a) HGDI response dated October 13th to questions from the September 30, 2015 public meeting.
 - b) HGDI response to community questions, dated July 9, 2015.
 - c) HGDI response dated July 24, 2015 to the HGRPA presentation at the June 24th public meeting.
 - d) HGDI correspondence to the Town regarding parkland and trails, dated February 27, 2015.
 - e) Altus Group analysis of resale housing market: Highland Gate Community, dated September 29, 2015; and
 - f) Town's peer review (Poulos and Chung) comments on HGDI's transportation report (prepared by BA Group).
9. October 14, 2015 - Follow up communications with Susan Walmer and Michelle Tremblay (HGRPA representatives) respecting the Oct. 13, 2015 meeting with the LSRCA.
10. October 27, 2015 - HGDI meets with HGRPA (Dave Newton, David LeClaire and HGRPA land use planner Andrea Bourrie) at the home of Association President, Dave Newton. Agree to meet again in November, with input of its planner, to attempt to resolve concerns. The HGRPA subsequently cancelled the November 19th meeting.
11. October 28, 2015 - Email to Michelle Tremblay, then Director of the HGRPA, copy to Council, responding to comments and questions which had been sent only to the Town and not to HGDI.
12. November 30, 2015 – Shared with the HGRPA, HGDI's submissions to Minister Ted McMeekin, Deputy Minister LeBlanc, CAO of York Region, and Aurora Council respecting Susan Walmer's submissions to Council on November 24, 2015.

13. December 2, 2015 - HGDI meeting with HGRPA (Dave Newton, David LeClaire, and land use planner Andrea Bourrie and by phone) and the Town. Minutes prepared.
14. December 14, 2015 - Meeting with HGRPA (Dave Newton, Dave LeClaire, and land use planner Andrea Bourrie). Minutes prepared.
15. January 13, 2016 - Meeting with HGRPA (Dave Newton and Susan Walmer) and the Town. Minutes prepared.
16. January 18, 19, 21, 22, 25, 26, 2016 - Follow up communications with HGRPA regarding Minutes of January 13, 2016 meeting, and
17. January 28, 2016 - HGDI (Flowers/Kagan) write to HGRPA legal counsel requesting copies of all technical material in support of the Association's proposed plan, as posted on its website.

HGRPA Heading: 2.0 PLANNING AND COMMUNITY DESIGN

A. New Development within Stable Neighbourhoods:

HGDI Response: These matters were previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Information Overview dated July 9, 2015.
- Response by HGDI to Presentation by HGRPA dated July 24, 2015.
- Response to Resident Questions and Comments dated October 13, 2015.
- Urban Design Guidelines dated February 27, 2015; and
- Architectural Design Guidelines dated February 25, 2015.
- Urban Design Peer Review by The Planning Partnership dated October 20, 2015
- HGDI response to the Urban Design Peer Review dated October 26, 2015

It should also be noted that the majority of the area currently designated Stable Neighbourhoods that surround the subject site are zoned R2 and thus homes are permitted to a maximum height of 10m.

The proposed development introduces a significant number of new cul-de-sacs and “single-loaded” roads. The single-loaded roads create reverse frontage lots where existing rear yards are directly adjacent to new public road rights of way.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.

- Information Overview dated July 9, 2015, and
- Response to Resident Questions and Comments dated October 13, 2015.

B. Proposed High Density Residential Development in Block 224

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Information Overview dated July 9, 2015.
- Response to Resident Questions and Comments dated October 13, 2015.
- Transportation Considerations dated February 26, 2015.
- Poulos & Chung Peer Review Comments dated September 18, 2015
- Response to Poulos & Chung Peer Review Comments dated September 28, 2015;

HGRPA also requests clarification on the ownership and existing easement conditions regarding the Golf Club and Highland Green Condo parking lot in order to comment properly on the proposed Application.

HGDI Response: The easements are registered on title. This information is available publicly to anyone interested.

C. Clarification on the future development intent for Block 226

HGDI Response: HGDI will either add block 226 to proposed lot 12 or come to some other acceptable arrangement with the adjacent homeowners.

2.2 Proposed Zone Provisions

A. Detached Dwelling Second Density Residential (R2):

i. Proposed reduction in minimum interior side yard (to 1.2 m)

ii. Proposed removal of the lot coverage requirement on “Custom Lots”

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015, and
- Information Overview dated July 9, 2015.

iii. Change in definition of “established grade”

HGDI Response: This matter was previously addressed in Planning Opinion dated February 27, 2015.

iv. Increase in the maximum building height

This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015, and
- Response to Resident Questions and Comments dated October 13, 2015.

It should also be noted that the majority of the area designated Stable Neighbourhoods that surrounds the subject site are zoned R2 and thus permits homes to a maximum height of 10m.

B. Third Density Apartment Residential (RA)

i. Requirement for Off-Site Parking (Block 225)

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Information Overview dated July 9, 2015, and
- Response to Resident Questions and Comments dated October 13, 2015.

2.3 Mitigation Measures

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Information Overview dated July 9, 2015;
- Construction Impact Mitigation Plan dated March 2015, and
- Reply to Urban Design and Architectural Design Peer Review Comments dated October 26, 2015.

2.3 ORM Lands and ORMCP

A. The Beacon Natural Heritage Evaluation Report

HGDI Response: The LSRCA has thoroughly reviewed the proposed development including compliance with the Oak Ridges Moraine Conservation Plan. The LSRCA has issued conditions

of draft plan approval (September 28, 2015) and has thus determined compliance with the ORMCP.

This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Natural Heritage Evaluation dated February 27, 2015.
- Geomorphic Assessment, dated February 26, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015, and
- Conditions of Draft Approval from the LSRCA dated September 28, 2015.

There are other concerns on different portions of the proposal on the ORM lands. Another example, to illustrate that there needs to be more scrutiny regarding the ORM portions of the proposal, is outlined in the HGDI planning report Section 2.5.1 pages 69-71 which deal with the “encroachment of street “A” into the MVPZ of the wetland north of Timberline Trail to provide a second access for vehicles.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Natural Heritage Evaluation dated February 27, 2015.
- Geomorphic Assessment dated February 26, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015, and
- Conditions of Draft Approval from the LSRCA dated September 28, 2015.

HGRPA request that the Town work through the HGDI proposal on the ORM lands utilizing independent consultants and the LSRCA to assess that the need for the elements/portions of the HGDI has been demonstrated to the Town’s satisfaction and that the appropriate mitigation plan if possible can be implemented.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Natural Heritage Evaluation dated February 27, 2015.
- Geomorphic Assessment dated February 26, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 17, 2015.
- Water Budget Analysis by Golder Associates dated September 3, 2015.
- Conditions of Draft Approval from the LSRCA dated September 28, 2015, and

- Peer Review Report by RJ Burnside dated October 7, 2015 (which peer reviewed seven reports)

The HGRPA believes that there are elements in the HGDI proposal that should be rejected on a policy basis and utilizing the one foot reserves may be an effective tool to put these amendments to the HGDI plan in place.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Town of Aurora General Committee Report re: One Foot Reserves dated January 13, 2015.
- Planning Opinion dated February 27, 2015.
- Natural Heritage Evaluation dated February 27, 2015.
- Geomorphic Assessment dated February 26, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 17, 2015.
- Conditions of Draft Approval from the LSRCA dated September 28, 2015, and

3.0 TRANSPORTATION/ TRAFFIC IMPACT STUDY

HGDI Response: This matter was previously addressed in the following reports and correspondence. It should be noted that this includes the Town commissioned Peer Review by Poulos and Chung Transportation Consultants, which peer review the HGRPA is aware of.

- Planning Opinion dated February 27, 2015.
- Transportation Considerations Report by BA Group dated February 26, 2015.
- Poulos & Chung Peer Review dated September 18, 2015, and
- HGDI Response to Poulos & Chung Peer Review Comments dated September 28, 2015.

A. Proposed Road Rights-of Way, On-street parking

An Alternative Development Standard of 17.5 m for new roads has been proposed. The HGRPA has concerns that a reduced pavement width will not provide adequate space to allow for resident and visitor on-street parking. Please confirm that on-street parking can be accommodated.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Transportation Considerations dated February 26, 2015.
- Poulos and Chung Peer Review dated September 18, 2015

- HGDI Response to Poulos & Chung Peer Review Comments dated September 28, 2015.
- Functional Servicing and Stormwater Management Report dated February 2015.
- HGDI Response to Resident Questions and Comments dated October 13, 2015, and
- Information Overview dated July 9, 2015.

B. Proposed Road Rights-of-Way, Low-Impact Development (LIDs)

An Alternative Development Standard of 17.5 m for new roads has been proposed. A portion of the right-of-way will be reserved for an LID bio-retention system. The HGRPA requests additional details with respect to the constructability and maintenance of this system with particular emphasis on the long term maintenance of the system, potential for easements to protect the system and the oversight mechanisms planned by the Town and LSRCA that this proposed system is effective and is the correct solution in perpetuity. Please take into consideration the community's normal weather condition as well as the periodic major storm events and the potential impact from climate change. Has a similar right-of-way been proposed in other parts of Aurora?

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Functional Servicing and Stormwater Management Report dated February 2015.
- Response to Resident Questions and Comments dated October 13, 2015.
- Information Overview dated July 9, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 17, 2015, and
- Conditions of Draft Approval from the LSRCA dated September 28, 2015, and
- October 14, 2015 email to Susan Walmer and M. Tremblay (HGRPA Board Members). Summary of meeting with the LSRCA held October 13, 2015

C. Traffic Impact Study

The introduction of over 180 new lots, as well as a high density residential apartment building, within the community will change the current traffic conditions. The HGRPA has concerns with the Traffic Impact Study submitted as part of these applications. This does not address the future traffic conditions adequately. The HGRPA also requests that a formal road survey is completed pre and post construction to assess the Engineering stability and function of the roads and the impact of traffic patterns should this proposal be approved. Again emphasis needs to be placed on the high density impact as well as the impact of the new single family dwellings.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Transportation Considerations dated February 26, 2015.
- York Region Transportation Services comments dated May 19, 2015.
- Poulos and Chung Peer Review dated September 18, 2015
- HGDI response to Poulos & Chung Peer Review Comments dated September 28, 2015.

D. Golf Links Road as a Collector Road

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Transportation Considerations dated February 26, 2015.
- Poulos and Chung Peer Review dated September 18, 2015, and
- Response to Poulos & Chung Peer Review comments dated September 28, 2015.

E. Road Safety

The HGRPA does not feel that these impacts have been reviewed.

The HGRPA wishes to raise these comments and questions to the Town as the Association has significant concerns and requests that the Town, and its peer reviewer, review these comments.

HGDI Response: This matter was previously addressed in the following reports and correspondence including the Town commissioned Peer Review report by Poulos & Chung:

- Planning Opinion dated February 27, 2015.
- Transportation Considerations dated February 26, 2015.
- Peer Review by Poulos & Chung, dated September 18, 2015, and
- HGDI Response to Poulos & Chung Peer Review Comments dated September 28, 2015.

4.0 NATURAL ENVIRONMENT

A. Limits of Developable Area

The development application proposes the filling of existing natural heritage features with no apparent compensation or mitigation.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Natural Heritage Evaluation dated February 27, 2015.

- Geomorphic Assessment dated February 26, 2015.
- Information Overview dated July 9, 2015.
- Response to Resident Questions and Comments dated October 13, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 17, 2015.
- Response to LSRCA Comments dated September 2, 2015.
- Response to LSRCA Comments (Pond and Watercourse) dated September 2, 2015.
- Conditions of Draft Approval from the LSRCA dated September 28, 2015.
- Peer Review of the above reports by RJ Burnside dated October 7, 2015, and October 14, 2015 email to Susan Walmer and M. Tremblay respecting the summary report of the meeting with the LSRCA held on October 13, 2015.

B. Creek Re-alignment

A creek is proposed to be re-aligned and on-line ponds are proposed to be removed. HGRPA is seeking clarification on the requirement for this action.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Planning Opinion dated February 27, 2015.
- Natural Heritage Evaluation dated February 27, 2015.
- Geomorphic Assessment dated February 26, 2015.
- Information Overview dated July 9, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 17, 2015.
- Response to LSRCA Comments (Pond and Watercourse) dated September 2, 2015, and
- Conditions of Draft Approval from the LSRCA dated September 28, 2015.

C. Tree Removal

A significant number of trees will be removed through the development process, and others may be damaged as a result of construction activities. HGRPA is seeking clarification on protection of existing mature trees and compensation for trees requiring removal.

HGDI Response: The HGRPA fails to acknowledge the poor condition of many of the existing trees as well as the substantial tree-planting programme that has been proposed by HGDI. Moreover, this matter was previously addressed in the following reports and correspondence:

- Natural Heritage Evaluation dated February 27, 2015.
- Information Overview dated July 9, 2015.

- Response by HGDI to Presentation by HGRPA dated July 24, 2015, and
- Response to Resident Questions and Comments dated October 13, 2015.

D. Green Space

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Natural Heritage Evaluation dated February 27, 2015.
- Information Overview dated July 9, 2015.
- Response by HGDI to Presentation by HGRPA dated July 24, 2015.
- Response to Resident Questions and Comments dated October 13, 2015, and
- Conditions of Draft Approval from the LSRCA dated September 28, 2015.

The Town should also review the process and outcomes from the Phase 1 and 2 Environmental Assessment and HGRPA requests a peer review that captures input from all stakeholders including an appropriate sampling of the HGRPA membership homeowners abutting the HGDI lands.

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Phase I ESA dated February 25, 2015, and
- Phase II ESA dated February 26, 2015.

E. Toxicity

This matter was previously addressed in the following reports and correspondence:

- Phase I ESA dated February 25, 2015, and
- Phase II ESA dated February 26, 2015.

5.0 FUNCTIONAL SERVICING AND STORMWATER MANAGEMENT

A. Stormwater Management

HGDI Response: The HGRPA comments on stormwater were previously addressed in the following reports and correspondence:

- Functional Servicing and Stormwater Management Report dated February 2015.
- Response to Resident Questions and Comments dated October 13, 2015.

- Information Overview dated July 9, 2015
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 17, 2015, and
- Conditions of Draft Approval from the LSRCA dated September 28, 2015.

B. Groundwater

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Functional Servicing and Stormwater Management Report dated February 2015.
- Hydrogeological Investigation dated February 27, 2015.
- Geotechnical Investigation dated February 27, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 17, 2015.
- Conditions of Draft Approval from the LSRCA dated September 28, 2015, and
- Email to Sue Walmer and Michelle Tremblay re: Highland Gate Meeting with LSRCA Synopsis dated October 14, 2015.

C. Service Relocations

HGDI Response: This matter was previously addressed in the following reports and correspondence:

- Functional Servicing and Stormwater Management Report dated February 2015.
- Construction Impact Mitigation Plan dated March 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 11, 2015.
- Response to Lake Simcoe Region Conservation Authority (LSRCA) comment letter dated August 17, 2015, and
- Conditions of Draft Approval from the LSRCA dated September 28, 2015.

6.0 SECURITY

HGDI Response: Appropriate conditions of draft plan approval are expected for this development but the condition proposed by the HGRPA is neither appropriate nor reasonable.

Yours very truly,

A handwritten signature in cursive script that reads "Ira Kagan".

Ira T. Kagan
Encl.

cc. Clients

Ms. Denise Baker and Ms. Kim Mullin (Weir Foulds LLP)
Mr. Alan Patton (counsel to the HGRPA)
Mr. Don Given and Mr. Matthew Cory (MGP)

Yours very truly,
DAVIES HOWE PARTNERS LLP

Electronically signed for Mark Flowers

Mark R. Flowers
Professional Corporation