

June 2, 2022

By E-Mail Only to regionalclerk@york.ca

Chris Raynor, Regional Clerk
Regional Municipality of York
York Region Administrative Centre
17250 Yonge Street
Newmarket, ON
L3Y 6Z1

Dear Mr. Raynor:

**Re: York Regional Council Meeting, May 26, 2022, Item I.3
10951 Kipling Avenue, City of Vaughan (the “City”)
City Files: OP.09.003, Z.09.026 (“Applications”)**

We are counsel to 1539253 Ontario Inc., the owner (the “**Owner**”) of the lands known municipally as 10951 Kipling Avenue (the “**Subject Lands**”) in the City. As you know, the Owner has submitted Applications to the City to facilitate the development of a privately-owned and publicly-accessible outdoor and indoor recreational centre (the “**Proposal**”).

Our client’s consultants monitored the York Regional Council Meeting held on May 26, 2022, and it is our understanding that there were questions raised with respect to the motion made by Regional Councillor Jackson (the “**Motion**”). The Motion, which the Owner supports, is that the Regional Municipality of York (the “**Region**”), as part of its municipal comprehensive review (“**MCR**”) leading up to the approval new Regional Official Plan, refine the Provincial Agricultural Land Base Mapping (the “**Mapping**”) such that the Subject Lands retain their currently in-force designation as Rural Use Area. This would support the City’s ability to use the Subject Lands for municipal recreational uses. It is our understanding that the following questions were raised:

1. Whether municipal uses are exempt from the policies of the *Greenbelt Plan*, even if the uses are permitted by a zoning by-law; and
2. Whether the City can zone the Subject Lands to permit a recreational use, municipal or private, without the Subject Lands retaining their Rural designation.

Our client has asked us to provide an opinion with respect to these questions to assist staff in their deliberations.

The short answer to both questions is no.

Section 8 of the *Greenbelt Act, 2005* (the “**GBA**”) states that the *Greenbelt Plan* prevails in the case of a conflict between the *Greenbelt Plan* and a zoning by-law. Further, section 20 of the *GBA* states that the *GBA* prevails in the case of conflict with any other legislation. The Subject Lands are within the Greenbelt area and are not proposed to be removed from the Greenbelt area. Therefore, a zoning by-law or other legislation cannot prevail over prohibitions outlined in the *Greenbelt Plan*. In this case, the *Greenbelt Plan* permits recreational uses on lands designated as *rural lands*, but it does not permit recreational uses on lands designated as *prime agricultural areas*. If the Subject Lands retain their existing Rural designation, recreational uses are permitted.

Instead, and as contemplated by the Motion, the Region may refine the Mapping as part of its MCR, to remove the Subject Lands from the *prime agricultural area* of the *Greenbelt Plan*, so that the Subject Lands retain their in-force Rural designation. This in-force Rural designation permits recreational uses and will facilitate the goal of Councillor Jackson’s motion. It is our opinion that this approach is the most appropriate path forward.

This refinement exercise is permitted, and in fact required, by the *Greenbelt Plan*, which requires the Region and the City to refine and augment their official plan mapping to bring *prime agricultural areas* into conformity with the provincial Mapping and implementation procedures. The Region and the City have not yet completed this exercise. Where this has not been completed, the *Greenbelt Plan* indicates that municipalities shall continue to retain existing designations for *prime agricultural areas* within the Protected Countryside. This means that the Region and the City’s in-force Official Plan designations still apply to the Subject Lands (*i.e.* Rural Use Area). The Region and City’s applicable in-force designations do not identify the Subject Lands as *prime agricultural areas*; however, the provincial Mapping does. Therefore, through this exercise, the Region and City have the ability to refine the Mapping to ensure that the Subject Lands are not identified as *prime agricultural area*, and that their existing Rural designation is retained.

Thank you for the opportunity to provide comments, and please do not hesitate to contact the undersigned should you have any questions.

Yours truly,
DAVIES HOWE LLP



Robert G. Miller

RGM: go

copy: His Worship Mayor Maurizio Bevilacqua, *maurizio.bevilacqua@vaughan.ca*
Regional Councillor Mario Ferri, Vaughan, *mario.ferri@vaughan.ca*
Regional Councillor Gino Rosati, Vaughan, *gino.rosati@vaughan.ca*
Regional Councillor Linda Jackson, Vaughan, *linda.jackson@vaughan.ca*
Mr. Paul Freeman, Vaughan, Chief Planner, *paul.freeman@york.ca*
Ms. Sandra Malcic, Vaughan, Director, Long Range Planning, *sandra.malcic@york.ca*
Ryan Mino, KLM Planning Partners Inc.
Client