

November 28, 2017

By E-Mail

Irvin Shachter, Senior Counsel
Ministry of the Attorney General
Legal Services Branch
16th Floor, 777 Bay Street
Toronto, Ontario
M5G 2E5

Dear Mr. Shachter:

**Re: Request for Information and Production of Documents
City of Ottawa Official Plan Amendment 180
OMB Case No. PL170983**

We are co-counsel to Mattamy Homes Limited (“Mattamy”) and Minto Greenfield GP Inc. (“Minto”).

As you know, both Mattamy and Minto separately filed notices of appeal to the Ontario Municipal Board (“OMB”) of certain parts of the decision of the Ministry of Municipal Affairs (the “Ministry”) to approve, with modifications, City of Ottawa Official Plan Amendment 180 (“OPA 180”). These appeals, together with other appeals of OPA 180, have been assigned OMB Case No. PL170983 and have been scheduled for an OMB prehearing conference on January 3-5, 2018.

As you are also aware, through their appeals of OPA 180, both Mattamy and Minto are challenging the City of Ottawa’s (the “City”) conclusion that “there is no need to consider any changes to the Urban or Village land supply to accommodate the population, household or employment projected to 2036”, a determination that was apparently accepted by the Ministry through its approval of OPA 180.

In fact, both Mattamy and Minto maintain that an urban area boundary expansion is required through OPA 180 to ensure that sufficient land will be available in the City of Ottawa to accommodate an appropriate range and mix of land uses to meet projected needs over the proposed planning horizon to 2036. This position is supported by a memorandum prepared by IBI Group, dated June 1, 2017 (the “IBI Group Memo”), which was provided to both the City and Ministry well in advance of the Ministry’s decision to approve OPA 180, as modified.

Although we offered to have IBI Group meet with the Ministry, either on its own or together with City staff, in a letter dated June 5, 2017, we never received a response from the Ministry to this invitation. Instead, approximately two months later, the Ministry approved OPA 180 with no urban area boundary expansion, and with no explanation as to why it had either ignored or rejected the analysis and conclusions set out in the IBI Group Memo.

As this matter is now before the OMB for adjudication, we are writing to request information and the production of documents, which we maintain are relevant to the disposition of the issues identified in the appeals by Mattamy and Minto, and are necessary to properly prepare for a hearing of these appeals. For the purposes of this request, the term “document” is to be interpreted broadly, in a manner consistent with the term “record” as defined in the *Freedom of Information and Protection of Privacy Act*.

It is our hope that, through the early disclosure of the requested information and documents, the prospect of the parties reaching a resolution of the appeals, either in full or in part, will increase. At a minimum, we anticipate that the disclosure of this information and production of these documents early in the pre-hearing process will assist in reducing the required hearing time, by avoiding the need to potentially make these requests during the hearing through cross-examination of Ministry witnesses and the potential delay then required for responses and subsequent review.

Specifically, we are requesting from the Ministry the following information and documents:

1. Did Ministry staff review the IBI Group Memo between the date that it received the document on June 5, 2017 and the date that it made its decision to approve OPA 180, with modifications, on August 8, 2017? If so, please identify the name(s) and title(s) of the Ministry staff person(s) who reviewed the document.
2. If Ministry staff reviewed the IBI Group Memo between June 5, 2017 and August 8, 2017, did Ministry staff prepare any document that incorporates staff's consideration of the IBI Group Memo and, if so, please provide us with a copy of such document(s).
3. Did Ministry staff give consideration to accepting the offer made on behalf of Mattamy and Minto on June 5, 2017, to have IBI Group meet with Ministry staff, either on its own or together with City staff? If not, why not? If so, why did Ministry staff choose not to accept the invitation to meet with IBI Group after receiving the IBI Group Memo?

4. Did Ministry staff consult or otherwise communicate with staff in any other Ministry of the Government of Ontario regarding the IBI Group Memo? If so, please identify the details of such consultation / communication and provide copies of any documents prepared and/or exchanged in relation to such consultation / communication.
5. Did Ministry staff consult or otherwise communicate with any third party consultant regarding the IBI Group Memo? If so, please identify the details of such consultation / communication and provide copies of any documents prepared and/or exchanged in relation to such consultation / communication.
6. Did Ministry staff consult or otherwise communicate with the City of Ottawa regarding the IBI Group Memo? If so, please identify the details of such consultation / communication and provide copies of any documents prepared and/or exchanged in relation to such consultation / communication.
7. Does the Ministry disagree with any of the analysis contained within the IBI Group Memo? If so, please provide details identifying the portions of the analysis within the IBI Group Memo that the Ministry disagrees with, together with the reasons for such disagreement.

We trust that the Ministry will accept our request for the above information and production of documents and will confirm this acceptance, in writing, together with anticipated delivery date(s) for the requested documents and information. Please note that upon receipt of the requested documents and information, additional requests for documents and information may arise, potentially in the form of requests for clarification and/or additional documents that may be referred to in the Ministry's response.

Please be advised that if the Ministry refuses this request, or fails to respond in a timely manner, we intend to make a motion to the OMB at the prehearing conference on January 3-5, 2018, for an Order compelling the Ministry to produce these documents and provide the requested information, and possibly including a broader Order for discovery under Rule 33 of the OMB *Rules of Practice and Procedure*. If so, we would anticipate serving our Motion Record by Friday, December 15, 2017, which would require us to prepare the motion materials no later than the week of December 11, 2017. Accordingly, we request that the Ministry advise as to its position in response to this request for production as soon as possible, and no later than Friday, December 8, 2017.

We look forward to receiving the Ministry's response to this request. In the meantime, please do not hesitate to contact us if you have any questions or if you wish to discuss this matter further.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

copy: Timothy Marc, City of Ottawa
Clients
Ursula Melinz, Soloway Wright LLP
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