

November 28, 2017

By E-Mail

Timothy C. Marc, Senior Legal Counsel
City of Ottawa
City Clerk and Solicitor Department
Ottawa City Hall, 3rd Floor
110 Laurier Avenue West
Ottawa, Ontario
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Dear Mr. Marc:

**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, 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 *Municipal 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 City witnesses and the potential delay then required for responses and subsequent review.

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

1. The City’s housing projection model, the result of which is shown in Figure 26 of the City Report, “Growth Projections for Ottawa: Prospects for Population, Housing, Employment and Land, 2014 - 2036”, November 2016, in the Excel (.xlsx, .xls) file format. We are also requesting an explanation of the model inputs and assumptions where the model does not explicitly define them.
2. Details related to the City’s reconciliation of rural supply and demand including:
 - a. the rationale for assuming 9% of demand to generate the 11,775 rural units; and
 - b. the November 2016 report considered village residential supply, but not other rural supply. According to the Rural Residential Land Survey, 2013 – 2014 update, the estimated rural supply was 10,842 units.
3. Details of the City’s intensification supply. The 2004 City Report, “Where Will We Live? Housing Potential in Ottawa” was the last report we are aware of to document intensification opportunities. We request that the City provide the information (including mapping, sites, density and unit yield) used or considered to demonstrate that there are sufficient opportunities to meet the estimated intensification target of 50,440 units used in the City’s analysis.

4. Details of the housing starts and housing construction data used in the City's analysis, in order to establish the 2014 mid-year residential greenfield supply shown in Figure 40 of the City Report, "Growth Projections for Ottawa: Prospects for Population, Housing, Employment and Land, 2014 - 2036", November 2016.
5. Details concerning the various sites where the City has proposed to allow employment land conversions through OPA 180, including anticipated household and population yields for each of these sites and an explanation of how these yields were derived. Specifically we request the City to identify:
 - a. assumed residential land areas and net to gross ratios by site; and
 - b. the basis of the unit mix assumption (45% singles, 3% semis, 42% rows and 10% apartments) in the City Addendum Report, "Growth Projections for Ottawa: Prospects for Population, Housing, Employment and Land, 2014 - 2036 Addendum: Inclusion of Recommended Conversions of Employment Land Supply", November 2016.
6. Copies of all documents related to any communications between the City and the Ministry concerning the position of Mattamy and/or Minto that OPA 180 should include an urban area boundary expansion, including but not limited to any communications regarding the contents of the IBI Group Memo.
7. Confirmation whether the City disagrees 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 City disagrees with, together with the reasons for such disagreement.

We trust that the City 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 City's response.

Please be advised that if the City 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 City 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 City 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 City'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

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