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File No. 701744

June 11, 2014

**By E-Mail Only to Denis.Kelly@york.ca**

Regional Chair Bill Fisch and Members of Regional Council  
The Regional Municipality of York  
17250 Yonge Street  
Newmarket, Ontario  
L3Y 6Z1

*Attention: Mr. Denis Kelly, Regional Clerk*

Dear Mr. Kelly:

**Re: Regional Council Meeting – June 12, 2014  
Report No. 1 of the Commissioner of Transportation and  
Community Planning – City of Markham Official Plan, Part 1  
775377 Ontario Ltd. (Belmont)**

We are counsel to 775377 Ontario Ltd. (“Belmont”), the owner of approximately 35 hectares of land located east of Leslie Street, west of Highway 404 and south of 19<sup>th</sup> Avenue in the Town of Richmond Hill. A map identifying their lands is attached. The majority of the property is planned for single family dwellings and townhouses and subdivision approval is currently being pursued for these uses.

We are writing in respect of the above noted Report and recommendations which was first released last month and deferred to a special council meeting on June 12, 2014. The report, which recommends approval of the draft City of Markham Official Plan (the “draft OP”), contains modifications to the Draft OP of concern to our client, and in particular to Map -10- Transportation, which continues to reflect a Mid-Block crossing of Highway 404 between Elgin Mills Road and 19<sup>th</sup> Avenue (the “Overpass”).

Our client has consistently been on record opposing and questioning the need for and appropriateness of providing an Overpass between Elgin Mills and 19<sup>th</sup> Avenue. In that regard it has appealed both the Regional Official Plan and the Town of Richmond Hill Official Plan, which appeals are pending. On our client’s behalf, we also filed a letter of objection to the Draft OP with the City of Markham on April 23, 2013. A copy of our letter is enclosed for your information.



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Belmont continues to object to the identification of a mid-block Overpass between Elgin Mills and 19<sup>th</sup> Avenue.

Belmont's position is:

1. Need

The need for the Overpass has not been demonstrated. In determining need, land use planning policy and objectives must be taken into consideration. It is an underlying principle of the applicable land use policies that new infrastructure only be committed where there is a transparent and convincing demonstration of need. This has not been demonstrated for the proposed Overpass.

The Ontario Municipal Board ("OMB") in dealing with the North Leslie Secondary Plan (PL020446) found that need for the Overpass was not demonstrated. The findings of the OMB should be taken seriously by York Region and the substantial evidence from that hearing should not be ignored.

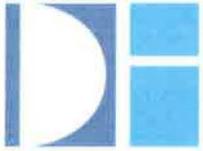
19<sup>th</sup> Avenue, immediately north of the suggested location of the Overpass, is planned to be widened to at least four lanes. Land has already been taken from adjacent landowners to accommodate this. A full interchange at 19<sup>th</sup> Avenue and Highway 404 is also expected. An additional Overpass so close to the existing 19<sup>th</sup> Avenue overpass does not make sense. These other improvements will more than adequately address traffic circulation and connectivity, rendering the Overpass redundant.

The obvious redundancy of the Overpass in this location is even more apparent when you take into consideration the fact that there is very little potential for additional traffic to the north of 19<sup>th</sup> Avenue since most of the lands immediately to the north are in the Greenbelt and will not be developed.

Without demonstrating the need for the Overpass, it should not be identified as a potential mid-block road crossing in the draft OP.

2. Key Considerations Relating to the Growth Plan have not been Appropriately Accounted For

The *Places to Grow Act, 2005* was enacted to ensure that planning occurs in a rational and strategic way in the Province. The efficient use of infrastructure and



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maximization of the value of public investments are pillars of the legislation and the Growth Plan.

The guiding principles of the Growth Plan seek the optimization of new and existing infrastructure to support growth in a compact, efficient form. The Growth Plan's infrastructure policies emphasize efficiency in the transportation system. The direction is clear: new infrastructure should not be committed where it is unnecessary.

The construction of new infrastructure without demonstrated need is plainly not optimal or efficient, and therefore, the Overpass fails to satisfy the requirements of the Growth Plan.

### 3. Cost Benefit Analysis Fails

The estimated cost of the Overpass (which does not extend beyond Leslie Street) is a staggering \$20 Million and cannot be justified without a compelling demonstration of need. At a time when government resources are stressed by competing needs and revenues and budgets are so tight, this expenditure does not make sense.

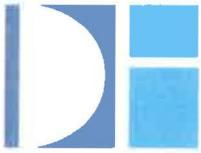
### 4. Impact on Business Investments by Honda and Enbridge

Honda's concerns with the Overpass are clearly stated in its letter to York Region on June 24, 2013 and correspondence filed by Ms. Gatzios on their behalf dated May 15, 2014. Enbridge's similar objections are outlined in a letter from Aird & Berlis on their behalf dated May 15, 2014.

The Overpass would be disruptive to both Honda's and Enbridge's operations. The inclusion of an Overpass in this location and its effect on their existing businesses and potential expansion plans could dissuade Honda and Enbridge from future investment and expansion in York Region and Markham. Given that need has not been demonstrated, it is inappropriate to take this risk.

### 5. Impact on Residential Development to the West

The North Leslie Secondary Plan, including Belmont's lands, has been designated to permit thousands of residential units, primarily in the form of single family dwellings and townhouses. The Overpass, as currently contemplated, would bisect the residential community on the Belmont lands terminating at Leslie Street,



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resulting in the potential for substantial industrial traffic to infiltrate into this planned neighbourhood. This will create unacceptable impacts which should not be ignored.

Based on the foregoing and earlier submissions, Belmont requests that Map 10 and any associated maps and appendices be amended to remove the identification of a potential mid-block crossing of Highway 404 between Elgin Mills and 19<sup>th</sup> Avenue. In addition, all related policies in the draft OP should be amended as necessary to reflect the deletion of the Overpass from the Map.

Should you have any questions or should you wish to meet to discuss the foregoing, please do not hesitate to contact the undersigned.

Yours sincerely,

**DAVIES HOWE PARTNERS LLP**

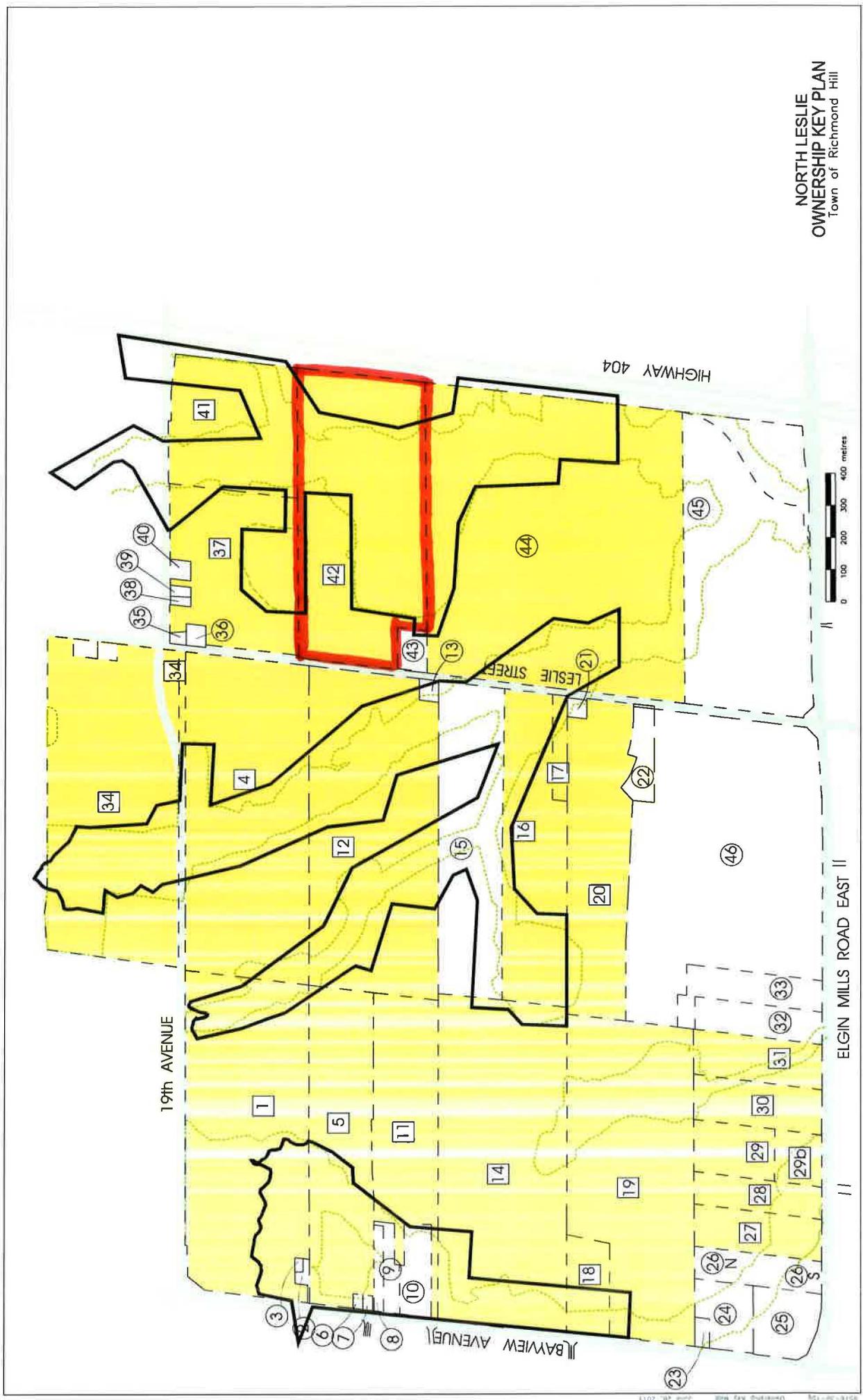
per:

Susan Rosenthal  
Professional Corporation

SR:am  
encls.

copy: Client  
Mr. Jim Hughes, Hughes Management  
Mr. Terry Wallace, Lea Consulting Ltd.  
Ms. Kimberly Kitteringham, City Clerk, City of Markham

**NORTH LESLIE**  
OWNERSHIP KEY PLAN  
Town of Richmond Hill





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Please refer to: **Susan Rosenthal**  
e-mail: susanr@davieshowe.com  
direct line: 416.263.4518  
File No. 701744

April 23, 2013

**By E-Mail Only to [kbavington@markham.ca](mailto:kbavington@markham.ca)**

Ms. Kitty Bavington  
Clerks Department  
Town of Markham  
Markham Civic Centre  
101 Town Centre Boulevard  
Markham, Ontario  
L3R 9W3

Dear Ms. Bavington:

**Re: Draft City of Markham Official Plan, 2012  
Development Services Public Meeting – April 23, 2013  
Letter of Objection  
775377 Ontario Ltd. ("Belmont")**

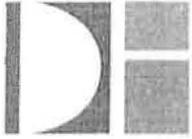
We are counsel to 775377 Ontario Ltd. ("Belmont") the owner of approximately 35 hectares of land located east of Leslie Street, west of Highway 404 and south of 19th Avenue in the Town of Richmond Hill.

We have had an opportunity to review the draft Official Plan for the City dated September, 2012 (the "2012 draft Official Plan") which is intended to be considered at tonight's public meeting. We provide the following comments on our client's behalf:

***Proposed Flyover or Mid-Block Collector***

Our client is fundamentally concerned with the identification of a flyover or mid-block crossing (the "Flyover") over Highway 404 between Elgin Mills and 19<sup>th</sup> Avenue and objects to its identification on Map 10 together with its companion policies (7.1.3.1 and 9.8.1.5(a)), as well as any other policy in the 2012 draft Official Plan related to the Flyover.

As you may be aware, our client has appealed the identification of a Flyover in this general location both in connection with the York Region Official Plan and the Richmond Hill Official Plan, and a hearing with respect to this matter is pending.



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The need for the Flyover in this location has not been proven or justified and it is inappropriate and unwarranted to include its identification and mapping in the 2012 draft Official Plan. Furthermore, in an Ontario Municipal Board hearing specifically related to the North Leslie Secondary Plan Area in 2006, the question of the need for a flyover between Elgin Mills Road and 19<sup>th</sup> Avenue was raised. Not only did the Board determine that it was inappropriate to reflect a potential flyover on the mapping for the North Leslie Secondary Plan Area, there is a significant question based on the Board's decision about the need for and appropriateness of a flyover at all in this location.

The Flyover is not "planned" even though there has been more than ample opportunity to do so. The Flyover should be deleted from Map 10.

We thank you for the opportunity to provide these comments and would appreciate an opportunity to meet with you to discuss these concerns prior to the preparation of the next draft of the proposed City Official Plan and its consideration by Council.

Please do not hesitate to contact us if you have any questions or should you wish to meet to discuss the foregoing matters.

Yours sincerely,  
**DAVIES HOWE PARTNERS LLP**

Susan Rosenthal  
Professional Corporation

SR:JL

copy Client