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BY EMAIL

Our Matter No. 91037

Chair John Taylor and Members of the Committee of the Whole
Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario L3Y 6Z1

Attention: Mr. Denis Kelly, Regional Clerk

Dear Mr. Kelly:

**Re: Committee of the Whole Meeting – June 12, 2014
Item F2.3 - Amendment No. 2 to the Vaughan Official Plan (2010) – The
Vaughan Mills Centre Secondary Plan**

We are the solicitors for Granite Real Estate Investment Trust (successor in interest to MI Developments Inc.) and Magna International Inc. ("Magna") and write with respect to the above referenced matter.

By way of background, Granite Real Estate Investment Trust ("Granite") is a public Canadian based real estate investment trust engaged in the ownership and management of predominantly industrial, warehouse and logistics properties. Granite's tenant base currently includes Magna and its operating subsidiaries as our largest tenants, together with tenants from other industries. Granite's properties consist of manufacturing plants, light industrial properties, corporate offices, product development and engineering centers and test facilities. Granite owns approximately 32 million square feet in over 100 income properties in North America and Europe. Over a dozen of these properties are located within the City of Vaughan and are leased primarily to Magna and its subsidiaries. These properties, both historically and today, represent a significant employment base within the city.

Magna is a leading global automotive supplier with 315 manufacturing operations and 82 product development, engineering and sales centres in 29 countries and has over 128,000 employees.

One of the Granite properties is known municipally as 401 Caldari Road and is zoned and designated for industrial uses and is currently leased to a subsidiary of Magna on a long term basis and contains a heavy stamping plant that operates 24 hours a day, 7 days a week, 365 days per year. The stamping plant, by its very nature, creates noise, both directly as a result of the stamping of metal as well as the large transport trucks which deliver and pick up from the plant 24 hours a day. The Tesmar Holdings Inc. ("Tesmar") property is in close proximity to 401 Caldari Road.

In 2005 Tesmar made an application to permit the residential development consisting of two residential towers approximately 32 stories in height and containing in the order of 600 units. This application was recommended for refusal by City of Vaughan Planning Staff because the introduction of residential uses was seen as incompatible with the industrial and employment uses and applicable planning policies including the *Provincial Policy Statement (2005)* and Vaughan Official Plan Amendment 450.

Notwithstanding the recommendation of City of Vaughan Planning Staff, City Council adopted Official Plan Amendment 653 ("OPA 653") which was forwarded to the Region of York for a decision.

Region of York Planning Staff expressed similar concerns to those expressed by City of Vaughan Planning Staff. Before a final decision could be made by the Region of York, Tesmar appealed OPA 653 to the Ontario Municipal Board. MI Developments Inc. together with CN Rail and the Region of York were granted party status on the Tesmar appeal. One of the primary issues before the Board is whether or not the Tesmar application constitutes a conversion of employment lands. Prior to a full hearing, by way of motion, Tesmar sought a determination by the Board that the application did not constitute a conversion. This motion was opposed by CN Rail, MI Developments Inc. and the Region of York. The Ontario Municipal Board, in a decision dated February 19, 2008 dismissed the motion by Tesmar and ordered that a full hearing be scheduled.

At the request of Tesmar, the appeals were adjourned *sine die* to be brought back at a subsequent date following the request of any of the parties. Since the adjournment, the appeals have been the subject of a mediation before the Board.

In the interim period, the City of Vaughan embarked upon the preparation of a new Official Plan and adopted that Official Plan on September 7, 2010. The Vaughan OP designated the subject lands "Prestige Employment". The associated policies for this designation would not permit a residential uses on the Tesmar property. A similar designation applied to the property owned by Delisle Properties Limited ("Delisle") and located immediately to the north of the Tesmar property. Region of York Planning Committee recommended approval of the City of Vaughan Official Plan with a "Prestige Employment" designation on the lands located at the north east corner of Jane Street and Rutherford Road. Notwithstanding this recommendation, the Region of York Council, at the initiative of City of Vaughan Councillors, endorsed the re-designation of the Tesmar and Delisle lands to "High-Rise Mixed Use". This modification to the Vaughan Official Plan (2010) was done without the benefit of any planning analysis by City of Vaughan or York Region planning staff and without proper public consultation.

This re-designation to High-Rise Mixed Use is currently before Ontario Municipal Board as part of the Vaughan Official Plan (2010) Ontario Municipal Board proceedings. Granite and Magna continue to oppose that re-designation. Furthermore, Granite and Magna and their experts are of the opinion that the unsubstantiated re-designation of these lands for residential purposes is contrary to, and inconsistent with, the *Growth Plan*, the *Provincial Policy Statement (2014)*, *Region of York Official Plan* and the *City of Vaughan Official Plan*.

In reliance upon the foregoing unsubstantiated re-designation of the Tesmar and Delisle lands, the Vaughan Mills Centre Secondary Plan recommends the designation of these lands for residential uses. In the course of the study leading to the adoption of the Secondary Plan, there was no critical analysis of permitting residential uses on the east side of Jane Street because of the decision that had already been made by the City of Vaughan and Region of York Council's to re-designate those lands for residential purposes. This is a case of the tail wagging the dog and inclusion of these lands within the Secondary Plan area, and their re-designation for residential purposes, is merely a reflection of this earlier political decision and has never been the subject of a recommendation by either City of Vaughan or Region of York planning staff.

We urge the Committee of the Whole to modify the Vaughan Mill Centre Secondary Plan to exclude the lands east of Jane Street and south of Rutherford Road from the Secondary Plan area and to make the necessary modifications to the remaining portions of the Secondary Plan to reflect the exclusion of these lands. This will create a proper and defined boundary between residential uses on the one hand, and an important and significant employment area on the other hand, and will avoid land use incompatibilities which threaten the viability of industrial uses such as those owned and operated by my clients'.

Kindly provide the undersigned with notice of the decision of the Committee of the Whole and Region of York Council with respect to the matter.

Yours very truly,

AIRD & BERLIS LLP



Steven A. Zakem

SAZ/jfs

c.c. Magna International Inc.
Granite Real Estate Inc.
Alan Heisey, Solicitor for Canadian National Railway
Michael Melling/Meaghan McDermid, Solicitors for Tesmar
Barry Horosko, Solicitor for Delisle Properties Limited

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