

Mr. Chairman and Members of the Committee

As many of you are aware The Effort Trust Company is a large landlord and property manager in the City of Hamilton. Our property base extends beyond the City of Hamilton to almost every community within the Province. Our experiences therefore are widely based and reflective of many businesses within Hamilton, perhaps simply on a larger scale.

Recently, we experienced a situation with the Water and Wastewater/Storm Arrears Policy ("Policy") which we felt was greatly unfair and asked for an opportunity to be heard to discuss the Policy. In our efforts, we wrote to the City Solicitor on December 4<sup>th</sup> 2013 (file copy attached) and asked for an opportunity to air our concerns and make recommendations on how the Policy could be amended to address the concerns of the landlord and property management community. Needless to say I was extremely disappointed to see that the Corporate Services Department would be proposing further prejudicial amendments to the Policy without consultation and virtually no notice.

The current Policy is a document that reflects a very powerful authority granted to a public body by the Municipal Act. The ability to transfer utility arrears onto the tax roll which has a "super priority" ahead of all other charges or liens is an extraordinary remedy to say the least. The extraordinary nature of this remedy is unique to municipally supplied utilities and not available to the other utility suppliers.

As with all extraordinary remedies, these rights ought to be used only in conjunction with extraordinary obligations to ensure fairness.

The current Policy, in my submission, has its flaws and requires further review. However, the proposed amendments are clearly designed to remove any serious obligations on the administrators and provide immunity from a failure to comply. And all of this without public consultation!

If the City of Hamilton truly believes that its Mission is "to provide quality public service"; if our Values are "Accountability, Cost Consciousness, Equity,...", then this amendment has no place in City Policies.

I would urge all members of this Committee to do the right thing and defer consideration of this policy amendment until staff have engaged in public consultation starting with those most affected by this Policy.

I believe that there are ways to improve the Policy that can give the administrators the certainty they need and yet satisfy the concerns and needs of the landlord and property management community.

**Gerald Asa**  
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December 4<sup>th</sup>, 2013

**City of Hamilton  
Legal Services Division  
21 King Street West, 12<sup>th</sup> Floor  
Hamilton, Ontario  
L8P 4W7  
Attention: Lia Magi, Solicitor**

Dear Ms. Magi:

Re: 802 ½ Upper Gage Avenue – Property Roll No. 070632089000000  
Mount Breeze Shopping Plaza Ltd. (Property Owner)

We are the Property Management Company appointed by Mount Breeze Shopping Plaza Ltd. for the above captioned property.

Your letter to our legal counsel, Mr. Scott Snider of November 20<sup>th</sup>, 2013, has been forwarded to me for review.

I am prepared to accept your settlement proposal contained therein, not because I think the City has acted correctly, nor do I think the settlement is fair, but as a practical matter, the legal fees incurred to continue are pursuit of a "just" and "fair" result will greatly exceed the benefits of any victory.

It remains our view that the City did breach its Water and Wastewater Arrears Policy. We believe that if the City is to engage in discussions with a tenant to structure a payment plan, at the very least, the City must notify the property owner of the arrears as if there is no payment plan. Anything less is prejudicial to the property owner.

As you know, we are a large property management company in this city and this policy can have significant impact upon us. I would appreciate the opportunity to discuss my concerns with City staff, particularly those at a Policy level, to ensure that staff understand the needs of the property owner and ensure that the application of the policy is fair to the property owner.

I enclose, herewith, our cheque in the amount of \$4,476.02 as full and final payment for the water arrears at the above captioned property.

Please ensure that the account is adjusted to reflect this settlement and that any arrears on the property tax bill are immediately reversed.

**Yours truly,**

**THE EFFORT TRUST COMPANY**

**Per:**

**Gerald Asa  
Vice President**

cc. Scott Snider  
15 Bold Street  
Hamilton, Ontario  
L8P 1T3