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Please refer to: **Susan Rosenthal**
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File No. 800204

April 4, 2016

By E-Mail Only to mayor@hamilton.ca

Mayor and Members of Council
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Dear Mayor and Members of Council:

Re: Greenbelt Plan Review and Municipal Comprehensive Review

We are writing on behalf of our clients, Carmen Chiaravalle, 1694408 Ontario Inc., Demik Brothers Hamilton Ltd., John Edward Demik, Peter Demik and Elaine Vyn (collectively, the "Twenty Road East Landowners Group"), the owners of lands in the south area of the City of Hamilton, in the Twenty Road area. The lands are centered around the intersection of Twenty Road and Miles Road, located immediately adjacent to the south central urban area of the City of Hamilton, east of the Hamilton International Airport, west of the Redhill Business Park South, and north of Dickenson Road.

We are writing in furtherance to our previous correspondence to City staff (attached). To date, we have not received a response. As such, we ask that Council formally receive this communication at its meeting on April 13, 2016, and direct staff to provide a written response to the questions posed herein. We would like to have further clarity from the City on its position with respect to the inclusion of lands to be considered pursuant to its municipal comprehensive review, including any review associated with the Greenbelt Plan Review.

We acknowledge and appreciate the City's confirmation that the Twenty Road East Landowners Group lands will be included for consideration as part of the municipal comprehensive review commencing this year, as required by both the Provincial Policy Statement and Growth Plan.

However, it appears that Staff and/or the City takes the position that the first priority for inclusion in an urban boundary expansion be given to non-employment lands in the Elfrida area. The City of Hamilton's Planning and Economic Development department has stated in its correspondence dated January 26, 2016, that "the intent of the City of Hamilton is that the Elfrida lands are its first



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priority for non-employment lands; and The Twenty Road East lands as shown in Schedule D [AEGD Minutes of Settlement dated February 3, 2015 (the “Minutes”)] are the City’s next priority for non-employment and after the Elfrida lands”.

We disagree with this position. It is our opinion that the setting of development timing, the identification of areas for development, and urban expansion priorities in advance of conducting the Municipal Comprehensive Review is contrary to provincial policy.

It is important to understand that Twenty Road East Landowners Group is not a party to the Minutes referred to above, nor did it agree to the purported priority scheme set out therein at Schedule D. In fact, we made it clear that we did not agree with it.

It remains our position that the question of which lands, if any, should be included in the City’s urban boundary is an issue that is still to be addressed by the Ontario Municipal Board, in the context of the current appeal of the City’s Urban and Rural Official Plans (which has not been resolved).

Our clients do not agree that the inclusion of their lands in the urban boundary should only follow after the Elfrida lands have been accommodated, either as part of the current Official Plan appeals or in the context of future municipal comprehensive reviews conducted by the City. In that regard, any growth management studies should consider our clients’ lands at the same time, on the same basis, and under the same considerations as the Elfrida lands.

Importantly, the Twenty Road East Landowners Group lands are non-prime agricultural lands within the White Belt, unlike the Elfrida area which does contain prime agricultural lands. This should be a key consideration in the selection of expansion lands, in accordance with Provincial policy. The importance of protecting prime agricultural lands is one of the cornerstones of provincial policy as is evidenced in both Provincial legislation and policies like the *Places to Grow Act* and Growth Plan, the Provincial Policy Statement, 2014 and the Greenbelt Act and Plan.

Our comments are consistent with our submissions to Council in February of 2014, in connection with our objection to a staff recommendation to spend funds on an analysis of an urban boundary expansion specifically for the Elfrida area. Copies of our letters are attached. At that time, we objected to the use of funds pending the ongoing Ontario Municipal Board hearing. The OMB’s consideration will



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consider the appropriateness of including not only the Elfrida lands, but those owned by our clients as well as others.

We also submitted that if funds were to be expended, the assessments should include our clients' lands. We took the position then, and continue to take the position now, that it is contrary to the law and policies dictating urban expansions, including the *Provincial Policy Statement* and *Growth Plan*, to embark on a municipal comprehensive review with a predisposition as to which lands should be given priority for an urban boundary expansion. The City is required to undertake a fulsome and unbiased review, and to assess all properties equally. We trust that the City recognizes that this is their obligation.

We look forward to receiving a response to the questions contained in our correspondence, in order to provide clarification of the City's position.

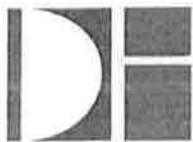
Yours sincerely,

DAVIES HOWE PARTNERS LLP

per: Susan Rosenthal
Professional Corporation

SR:am

copy: Ms. Rose Caterini, Clerk, City of Hamilton
Ms. Maria Gatzios, Gatzios Planning + Development Consultants Inc.
Clients



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Please refer to: **Susan Rosenthal**
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direct line: 416.263.4518
File No. 800204

March 9, 2016

By E-Mail Only to *Michael.Kovacevic@hamilton.ca*

Mr. Michael Kovacevic
City of Hamilton
Legal Services
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Dear Mr. Kovacevic:

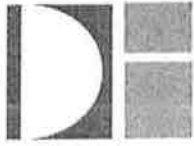
Re: Greenbelt Plan Review and Municipal Comprehensive Review

We are writing on behalf of our clients, Carmen Chiaravalle, 1694408 Ontario Inc., Demik Brothers Hamilton Ltd., John Edward Demik, Peter Demik and Elaine Vyn (collectively, the "Twenty Road East Landowners Group"), and in furtherance to our previous e-mail dated February 9, 2016.

We acknowledge and appreciate the City's confirmation that the Twenty Road East Landowners Group lands will be included for consideration as part of the municipal comprehensive review commencing this year, as required by both the Provincial Policy Statement and Growth Plan.

The City of Hamilton's Planning and Economic Development department has stated in its correspondence dated January 26, 2016, that "the intent of the City of Hamilton is that the Elfrida lands are its first priority for non-employment lands; and The Twenty Road East lands as shown in Schedule D are the City's next priority for non-employment and after the Elfrida lands". We would like to have further clarity from the City of Hamilton's legal department if, in fact, this is the position of the City, as it pertains to the municipal comprehensive review associated with the Greenbelt Plan Review.

We wish to clarify that as part of the current appeal of the City's Urban and Rural Official Plans, the question of which lands, if any, should be included in the City's urban boundary is an issue that is still to be addressed. This includes consideration of whether the Twenty Road East Landowners Group lands should be included in the urban boundary as part of the current Official Plan process, in advance of the Elfrida lands, should there be insufficient forecasts to accommodate both landholdings at this time.



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Our client continues to maintain this as an issue at the Ontario Municipal Board hearing, and does not agree that its inclusion should only follow after the Elfrida lands have been accommodated, either as part of the current Official Plan appeals or in the context of future municipal comprehensive reviews conducted by the City. In that regard, any growth management studies should consider our clients' lands at the same time, on the same basis, and under the same considerations as the Elfrida lands.

We look forward to receiving a response to the questions contained in this letter and our previous email, in order to provide clarification of the City's position.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

per. Susan Rosenthal
Professional Corporation

SR:KJ

copy: Twenty Road East Landowners Group
Ms. Maria Gatzios, Gatzios Planning



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Please refer to: **Susan Rosenthal**

e-mail: susanr@davieshowe.com

direct line: 416.263.4518

File No. 800204

February 25, 2014

By E-Mail Only to Rose.Caterini@hamilton.ca and clerk@hamilton.ca

Mayor and Members of Council
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4YK

Attention: *Rose Caterini, Clerk*

Dear Mayor and Members of Council:

**Re: Council Agenda Item 6.2 - February 26, 2014
General Issues Committee Report 14-004
Elfrida Urban Boundary Expansion
Background Studies (PED 14011) (City-Wide)**

We are counsel to Carmen Chiaravalle, 1694408 Ontario Inc., Demik Brothers Hamilton Ltd., John Edward Demik, Peter Demik and Elaine Vyn on behalf of the Twenty Road East Landowners (collectively known as the "Twenty Road East Landowners"). Our clients own land in the south area of the City of Hamilton, in the Twenty Road area. The lands are centered around the intersection of Twenty Road and Miles Road, located immediately adjacent to the south central urban area of the City of Hamilton, east of the Hamilton International Airport, west of the Glanbrook area business park, and north of Dickenson Road.

We are writing further to our letter dated February 18, 2014 (a copy of which is attached) in connection with the above noted matter to be considered by Council tomorrow. As noted in our letter to the General Committee, we object to the staff recommendation to remove the Elfrida Urban Boundary Expansion studies from "parked" status, and to approve the allocation of \$500,000 in the 2014 Capital Budget for the completion of various studies regarding this matter.

It remains our opinion that no allocation for these studies should be made while the question of the urban boundary expansion and the designation of the Elfrida Lands as Special Policy Area is under appeal and before the Ontario Municipal Board (the "Board"). In our view, such an allocation is premature and a disrespect of the Board's process. It is the Board that now has the mandate to determine the



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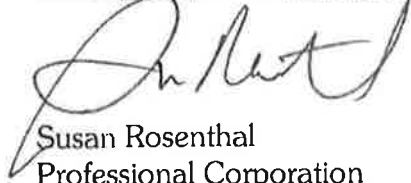
question of whether a special policy area or urban boundary expansion should be approved, and if so where. In our view, it is an improper and irresponsible use of public funds given the uncertainty of whether these studies can ever be implemented should the Board determine that Elfrida is not the next, or only, growth area.

We understand that despite this, the General Committee has recommended that the funds be allocated for studies for the Elfrida Lands. As such, it is our respectful submission that, notwithstanding our view that such funds should remain parked at this time, if Council is inclined to agree with the recommendation of the General Committee and support the allocation of the monies to proceed with the above-mentioned studies, staff should be directed to include our clients' lands in the study area for future growth for which the funds are to be allocated. This will ensure that the studies cover other areas under consideration by the Board for urban boundary expansion.

Please feel free to contact the undersigned to discuss this matter further.

Yours sincerely,

DAVIES HOWE PARTNERS LLP



Susan Rosenthal
Professional Corporation

SR:md

encl.

copy: G. Paparella, Director of Growth and Planning, City of Hamilton
M. Minkowski and M. Kovacevic, Counsel, City of Hamilton
M. Gatzios, Gatzios Planning + Development Consultants Inc.
Clients



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Please refer to: **Susan Rosenthal**
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File No. 800204

February 18, 2014

By E-Mail Only to clerk@hamilton.ca

Chair and Members of General Issues Committee
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4YK

Dear Chair and Members of General Issues Committee:

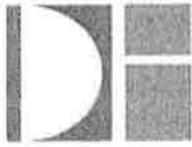
**Re: Elfrida Urban Boundary Expansion
Background Studies (PED 14011) (City-Wide)**

We are counsel to Carmen Chiaravalle, 1694408 Ontario Inc., Demik Brothers Hamilton Ltd., John Edward Demik, Peter Demik and Elaine Vyn on behalf of the Twenty Road East Landowners (collectively known as the "Twenty Road East Landowners"). Our clients own land in the south area of the City of Hamilton, in the Twenty Road area. The lands are centered around the intersection of Twenty Road and Miles Road, located immediately adjacent to the south central urban area of the City of Hamilton, east of the Hamilton International Airport, west of the Glanbrook area business park, and north of Dickenson Road.

We are writing to provide our comments regarding the report submitted by Ms. Joe-Anne Priel to the General Issues Committee, for their meeting on February 19, 2014. In brief, we object to the staff recommendation to remove the Elfrida Urban Boundary Expansion from "parked" status, and to approve the allocation of \$500,000 in the 2014 Capital Budget for the completion of various studies regarding this matter. No allocation for these studies should be made while the question of the urban boundary expansion and the designation of the Elfrida Lands as Special Policy Area is under appeal.

Importantly, both the Rural and Urban Hamilton Official Plans have been appealed to the Ontario Municipal Board (the "Board"), following the Province's deletion of any references to the Elfrida area therein. The appeals of the Rural and Urban Hamilton Official Plan by, among others, my clients, the Twenty Road East Landowners, will include consideration by the Board, of the following matters:

- (a) Which areas within the City, if any, should be identified as the next residential or mixed use growth area(s);



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- (b) the appropriateness of applying a Special Policy Area to the Elfrida Lands;
- (c) whether my clients' lands should be shown as the/a priority area for growth; and
- (d) which lands, if any, including the Twenty Road East Lands and the Elfrida Lands, should be considered for urban expansion.

Until such time as the Board considers the above noted appeals, it cannot be concluded that Elfrida is the next major mixed-use growth area, as set out in the report. Depending on the Board's determination of the appeals, there is the potential that these lands will not be designated as the next growth area or Special Policy Area. There is also the potential that other lands will be so designated or that more than one area will be so identified. Depending on the Board's disposition, a different allocation of funds than proposed in the report may be appropriate. To date, a hearing of these issues has not been scheduled.

As such, we respectfully submit that it is premature, an improper use of public funds and disrespectful of the Board process to undertake any studies in relation to an urban boundary expansion in the Elfrida area, at this time. This matter is properly before the Board, and said process will ultimately determine the appropriateness and/or necessity of proceeding with any studies.

Please feel free to contact the undersigned to discuss this matter further.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

Susan Rosenthal
Professional Corporation

SR:MD

copy: Mayor and Members of Council
Guy Paparella, Director of Growth and Planning
Michal Minkowski and Michael Kovacevic
Clients
Maria Gatzios