



May 19, 2017

VIA EMAIL TO Committee Clerk Ida Bedioui – ida.bedioui@hamilton.ca

City of Hamilton
71 Main Street West
1st Floor, Hamilton
Ontario,
L8P 4Y5

Attention: City of Hamilton Municipal Council

Re: DAR-15-024 (the "Site Plan")
And Re: 25CDM-201608 (the "Condominium Application")
And Re: 435 Garner Road East, Ancaster

Dear Sirs/Mesdammes,

Further to our letter of May 15, 2017 and our request to speak to the motion heard by Planning Committee to impose additional conditions on the Condominium Application and in particular the imposition of entry gates (the "Condition"), please accept this letter as our submission in response to that motion:

1. **3 Roads:** Committee's discussion did not consider that three (3) gates are required rather than one. There are 3 roads into the condominium site (it is called "Augusta"). Councillor Ferguson's motion did not mention that the issues (cost, maintenance, disruption, etc.) occur three times in this site meaning that there will be one gate for each 17 homes.
2. **Neighbouring Condominiums:** Committee discussed that "the Neighbours don't pay condo fees". This is not true. The vast majority of homes in the immediate area consist of a condominium community of four condominiums shown as "3A", "3B", "4A" and "4B" (see attached key plan). The City's Condition imposes a disparity within the community; Owners of homes in the Augusta condominium will wonder why the City requires them and not any of their neighbors, or any condominiums in the City of Hamilton for that matter, to have gates and to absorb costs the maintenance costs.
3. **Cost to Install and Destruction of Roadways:** It was stated that the gate will be a minimal cost. This is not true. The actual cost to install operational gate systems will be several hundred thousand dollars because there are three (3) gate systems to install with underground electrical systems and a dedicated transformer, the constructed roadways will need to be destroyed and reconstructed to install three underground electrical conduits to electrical control panels on three roadways. The estimated costs of the City's condition is \$500,000.00.

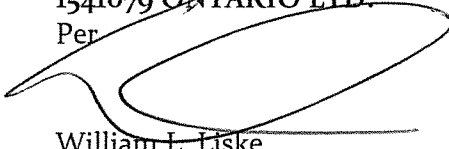
4. **Costs to Maintain and Private Garbage Collection:** It was stated that the gate will be a minimal cost. This is not true. The actual cost to maintain the operational gate systems will increase the residents' common expense by 290% based on an independently obtained budget increase which will be a material change permitting the cancellation of the Applicant's purchase agreements forming a monthly payment to the owners that would carry a \$30,000 mortgage payment based on a conventional amortized mortgage. Part of the reason for this is by imposing gates the site will no longer qualify for municipal garbage collection now foisting private collection costs on the residents.
5. **Destruction of Site:** As a result of the City's condition, the residents in the site will be disrupted by the destruction of their current roadways for the underground construction and trenching of the three electrical systems.
6. **Material Change:** The imposition of the City's condition results in a material change to the proposed condominium under section 74 of the Ontario *Condominium Act*. Section 74 entitles buyers of dwellings within condominium projects to rescind purchase transactions in the event of material changes. The 290% increase in monthly expenses, together with the significant change in the way owners tenants and visitors can access the site are clearly material changes. Accordingly the City's condition puts the Applicant at risk with all purchasers now being entitled to rescind their purchase transactions.
7. **Lot Yield:** It was stated that the only reason why the site is as designed is for lot yield. This is not true. In fact, if the subject site was designed as a gated community as requested by Planning Committee it would only have one gated road in and not three. Reducing the roadways and entrances would have increased the land area for additional lot designs and a higher density/Lot yield.
8. **Posts for Gate System on Private Lands:** The lands on either side of the entrances to Augusta are in private ownership not part of this condominium. We don't have the right to impose gate posts or underground electrical systems on these private lands, nor access them for future maintenance purposes. It is likely that the City's condition may be impossible to implement.
9. **Common Elements Condominiums:** It was stated by Committee that there are no known common element condos in Hamilton with gates. The few condominiums that have gates are standard condominiums. The difference is that common element condominiums are freehold homes and lots, generally with a less restrictive or involved condominium presence and lower common charges. Although the imposition of gates is opposed by the Applicant, it is especially so in the context of common element condominiums which are more closely similar to freehold communities which are not restricted in terms of access and costs.

We would be pleased to address Council at its meeting to be held May 24, speak to the Condition, and answer any questions council may have with respect to the above.

Best Regards,

1541079 ONTARIO LTD.

Per

A large, stylized handwritten signature in black ink, appearing to be 'William L. Liske', written over the 'Per' text and extending to the right.

William L. Liske
General Counsel

cc. James Webb
cc. Fred Losani

BLOCK 163
OPEN SPACE
& CONSERVATION
0.406ha

STORM WATER
MANAGEMENT POND

Ancaster Glen Phase 2
Towns

Ancaster Glen Phase 2
Towns

Ancaster Glen Phase
3B (Astoria Phase 2)

BLOCK 164
OPEN SPACE
& CONSERVATION
0.650ha

Ancaster Glen Phase
4A (Augusta Phase 1)

Ancaster Glen Phase
4B (Augusta Phase 2)

Ancaster Glen Phase
3A (Astoria Phase 1)