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Sent via E-mail to clerk@hamilton.ca

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

Dear Sir/Madam:

Re: Hamilton B-Line Light Rail Transit Project

We represent a number of businesses on Main Street and King Street who will be severely impacted by the proposed B-Line Light Rail Transit Project (the LRT Project). We intend to provide comments to the Minister of the Environment and Climate Change by June 28, 2017 on the Environmental Project Report Addendum on proposed changes to the LRT Project, notice of which was published on May 29, 2017.

In addition to our comments on the Addendum, we are writing at this time to respectfully request that City Council reconsider its use of the Transit Project Assessment Process (TPAP) as the mechanism to assess the impacts of the LRT Project. We urge the City to give written notice to the Ministry of the Environment and Climate Change pursuant to subsection 2(6) of O. Reg. 231/08 that it will proceed in accordance with Part II of the Ontario *Environmental Assessment Act* (EAA). In other words, **we are requesting that the City undertake a full and complete environmental assessment of the LRT Project**, rather than proceed in reliance upon the TPAP, an incomplete and truncated self-assessment process that exempts transit projects from some of the most important elements of the EAA.

The EAA was passed by the Ontario Legislature over 40 years ago, and became applicable to municipal projects in 1980. It is widely regarded as the most progressive EA legislation ever enacted. The primary hallmark of the EAA has always been its focus on good environmental planning, rather than just the specific effects of a defined project. It requires a proponent to, (1) define the problem or opportunity that needs to be addressed; (2) evaluate functionally different alternative ways to address that problem or opportunity (referred to as “alternatives to the undertaking”); (3) evaluate alternative methods of carrying out the preferred alternative; (4) rigorously and transparently compare environmental effects and the advantages and disadvantages to the environment of all of the alternatives; and (5) consider the full scope of the “environment”, including air, land and water, plant and animal life, human life, and social, economic and cultural conditions that influence the life of humans or a community. The EAA is a true “environmental assessment” process, not just an “environmental impact assessment” process.

In comparison, the TPAP requires that the proponent prepare an Environmental Project Report (EPR) that contains, (1) a final description of the transit project, a description of the preferred method of carrying it out and a description of the other methods considered; (2) the proponent's assessment and evaluation of the impacts that the preferred method and other methods might have on the environment; and (3) the proponent's criteria for assessment and evaluation of those impacts. The essence of a TPAP assessment is scoped impact assessment of a predetermined transit project, not good environmental decision-making in the context of the full scope of the "environment". The TPAP's primary benefit is its prescribed decision-making timeline, (which we note is intended to allow a proponent to get through the assessment process in a matter of months, not the many years that the B-Line LRT Project assessment process has already taken).

The other primary difference between the EAA and TPAP processes is that, under the EAA, a proponent is required to subject its environmental planning to independent review by a full team of government reviewers, following which any member of the public may ask the Minister to refer the project to the Environmental Review Tribunal for decision. That would provide members of the public like our clients with a full right to be heard, and the opportunity to test the proponent's case in a public forum.

Our clients believe that **a real EA** of the LRT Project would produce a fundamentally different assessment, especially in relation to social, economic and cultural matters. They believe that such an assessment may well persuade Council that the disadvantages of the LRT Project to the environment far outweigh the advantages, and that another alternative is preferred. We respectfully urge Council to give notice to the Ministry that it wishes to subject the LRT Project to a full environmental assessment under the EAA.

Yours truly,

MILLER THOMSON LLP

Per:



John Tidball
Certified Specialist (Environmental Law)

JRT/cw

