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December 10, 2012

SENT VIA EMAIL

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

Attention: Vanessa Robicheau, City Clerk

Dear Ms. Robicheau:

Re: Proposed Rental Housing Licensing Model

I am a solicitor, practicing in the City of Hamilton primarily in the area of real property law. I have read the staff report to Planning Committee PED10049(j) detailing and advancing a licensing model to govern rental housing units in the City of Hamilton (1-6 dwelling units) (the "Licensing Model").

I do not believe that requiring landlords to be licensed will have Council's desired effect of "cleaning up" student housing or otherwise setting a pragmatic property standard for residential rental units. The effect will likely be to cripple the existing rental market in this City in the face of an affordable housing shortage. Council should abandon this initiative, relying instead on enforcing its existing by-laws and utilizing governance tools under the *Residential Tenancies Act, 2006* (the "Act").

Should Council wish to proceed with a Licensing Model in the face of such widespread public objection (from landlords and tenants alike), then I offer the following comments:

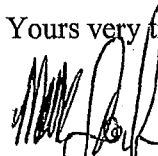
1. **Assignability:** There is no valid reason why a landlord's licence must be personal in light of all proposed licensing requirements dealing with the rental property and not the character of

the licensee. The by-law should be amended to allow a licence to be assignable and transferable to subsequent owners of the rental premises.

2. **Statutory Exemptions:** Council should have deference to the detailed regulatory regime under the Act, a provincial law which governs the rights and responsibilities of landlords throughout the Province. Section 5 of the Act identifies a number of residential units or circumstances which, for greater public policy reasons, have been exempted from the application of the Act. The Provincial Legislature has deemed it prudent for these units not to be considered residential rental units. City Council should have deference to this rationale and exempt its Licensing Model from any residential unit exempt under the Act.
3. **Uniformity, Consistency and the New Zoning By-law:** City Council has implemented a new zoning by-law which attempts to bring all former area municipalities under one common zoning regime. This has occurred in stages; however, residential zones have not been consolidated under the new zoning by-law. As such, residential zoning is widely inconsistent throughout the amalgamated City of Hamilton. Setbacks, uses, ceiling heights, definitions and a myriad of other regulatory items vary considerably from former municipality to former municipality. The effect will be that landlords will be licensed differently and subject to different standards of pre-licensing qualifications depending on where the rental unit is situated. A house in the lower City will be harder to license than if that exact same house were located in Glanbrook. Most of the stale, outdated zoning that will be a barrier to compliant licensing occurs in the former City of Hamilton. Indeed, the City's pilot project in which data for this Licensing Model was gathered was limited to the former City of Hamilton (Wards 1-8). In order to correct this apparent irregularity, Council should defer imposing this licensing regime on landlords until after the new zoning by-law has been amended to apply a uniform zoning regime to all residential properties in the City of Hamilton.

Although I ask Council to reconsider a rental housing Licensing Model at all, if Council proceeds, at a minimum, it should implement the three concepts identified above.

Yours very truly,



Mark R. Giavedoni

MRG/ar

cc. Joe Xamin, Manager, Operational Strategies, City of Hamilton