



**Kagan  
Shastri** <sup>LLP</sup>  
LAWYERS

5

IRA T. KAGAN  
Tel. 416.368.2100 x 226  
Direct Fax: 416.324.4224  
[ikagan@ksllp.ca](mailto:ikagan@ksllp.ca)

File: 08322

April 24, 2012

**By email**

His Worship Mayor Frank Scarpitti and Members of Council  
Town of Markham  
101 Town Centre Blvd  
Markham, Ontario  
L3R 9W3  
Attn: Ms. Kimberley Kitteringham, Town Clerk

Dear Mayor Scarpitti

**Re: Proposed Markham Sports, Entertainment and Cultural Centre in Markham Centre**

We are the solicitors to Times Group Corporation ("Times") who, as you know, is a major landowner and developer in Markham Centre. Times is very proud of its tradition and reputation in Markham. It is proud to be a leading developer of LEED certified residential condominiums. Through its efforts the Town has become a GTA leader in intensification but more importantly, in doing so in a responsible and sustainable fashion. Times' projects reduce water and wastewater usage, provide affordable housing for existing and new residents, and provide transit supportive densities to help make VIVA a success. Times' project in Uptown Markham is a multi-year, complete community build-out. The investment for those lands (nearly 100 acres) was made before the proposed Sports, Entertainment and Cultural Centre was announced. Moreover, the city negotiated, less than two years ago, a very generous section 37 benefit package with Times. In addition, Times front-ended, at considerable expense, the Highway 7 sewer that will benefit lands well beyond its own (including Town-owned lands). All of this was negotiated prior to the current Sports, Entertainment and Cultural Centre proposal.

The purpose of this letter is to request that council reconsider the amount proposed to be levied against apartment units in Markham Centre. The April 19, 2012 staff report proposes that an apartment in Markham Centre pay \$4,500 which is nearly the same as a detached house outside Markham Centre (\$5,000). It is unrealistic to expect a 600ft<sup>2</sup> apartment in Markham Centre to afford the same levy as a larger and more expensive detached. The unintended effect of charging a \$4,500 levy on an apartment in Markham Centre will be to make it more difficult to achieve intensification, affordable housing and LEED development in Markham Centre. This must be avoided at all costs.

We are aware that BILD has advised the town that it feels this levy is illegal and should not be applied. We are not taking any position, in this letter, on the legality of the levy. Instead the purpose of this letter is to address the inequity in the quantum of the rate as applied to apartments within Markham Centre. Given the financial decisions made by Times recently (which includes front-ending the Highway 7 sewer and the generous section 37 agreement), we ask that council reconsider the proposed levy for the apartments in Markham Centre.

Yours very truly,

A handwritten signature in cursive script, reading "Ira Kagan". The signature is written in dark ink and is positioned above the printed name.

Ira T. Kagan

cc. Times Group Corporation

6  
ALO  
March 19, 2012

His Worship Mayor Frank Scarpitti  
Town of Markham  
101 Town Centre Blvd.  
Markham, Ontario  
L3R 9W3

Dear Mayor Scarpitti,

It is understood that the Town of Markham is exploring the potential to establish a Sports, Entertainment and Cultural Centre within the Town, and through an undertaking, wishes to extract payments from developers in the form of a "voluntary contribution" to the cost of the centre which includes set rates, secured in the form of an irrevocable Letter of Credit.

These payments are not accounted for in the Town's development charges background study, nor are they included in the Town's development charges by-law. The payments are required as a separate matter and as a pre-condition to the release of land for development. As such, **these payments appear to be obligatory and cannot be considered to be voluntary in nature.**

It has been brought to our attention that the Town sees the voluntary park contribution in North Oakville as a precedent for this action. The facts related to North Oakville are entirely different. The agreement there arose as a part of a complex set of settlement negotiations associated with an appeal at the Ontario Municipal Board. Only certain developers agreed to this payment and chose to do so in exchange for other consideration. In addition, the acquisition history relating to this park and the development charge treatment is also substantially different. In short, there is little to no relevance of this agreement that would apply to the obligatory payment being required by the Town for the Centre.

BILD members have abided by the requirements of the *Development Charges Act* over the years, and have paid their fair share for growth related infrastructure that is required to be funded by the Act. Additional payments outside of these already significant contributions causes a great deal of concern amongst our members. **BILD cannot and will not support any sort of "contribution" collected outside of the prevue of the *Development Charges Act*.**

Sincerely,



Paula Tenuta, MCIP RPP  
Vice President, Policy & Government Relations

7

**Hau, Lucy**

---

**Subject:** FW: Proposed Sports, Entertainment, and Cultural Centre in Markham Centre

**From:** Li, Joe  
**Sent:** April-26-12 9:31 AM  
**To:**  
**Cc:** Kitteringham, Kimberley  
**Subject:** Re: Proposed Sports, Entertainment, and Cultural Centre in Markham Centre

Dear Mr Haydyn,

Thank you for taking the time to write to you and express your strong opinion concerning the arena issue. I'm forwarding your email to the clerk department for circulation to be included in today Special Council meeting.

Regards,

Joe Li  
Regional Councillor

**From:** Haydyn, Paul  
**Sent:** Thursday, April 26, 2012 08:52 AM  
**To:** Li, Joe  
**Cc:**  
**Subject:** Proposed Sports, Entertainment, and Cultural Centre in Markham Centre

Dear Mr Li,

Regarding tonight's meeting on the proposed Sports, Entertainment, and Cultural Centre in Markham Centre.

I would have no issue, if Graeme Roustan et al wanted to purchase land, build an arena and host an NHL team in Markham Centre. I do take exception to the Town of Markham providing the land and borrowing money, levying money and taxing to finance the construction and future costs of the arena.

Please vote against bylaw 2012-91.

Sincerely,

Paul Haydyn.

---

This email may be privileged and/or confidential, and the sender does not waive any related rights and obligations. Any distribution, use or copying of this email or the information it contains by other than an intended recipient is unauthorized. If you received this email in error, please advise the sender (by return email or otherwise) immediately. You have consented to receive the attached electronically at the above-noted email address; please retain a copy of this confirmation for future reference.

Ce courriel est confidentiel et protégé. L'expéditeur ne renonce pas aux droits et obligations qui s'y rapportent. Toute diffusion, utilisation ou copie de ce courriel ou des renseignements qu'il contient par une personne autre que le (les) destinataire(s) désigné(s) est interdite. Si vous recevez ce courriel par erreur, veuillez en aviser l'expéditeur immédiatement, par retour de courriel ou par un autre moyen. Vous avez accepté de recevoir le(s) document(s) ci-joint(s) par voie électronique à l'adresse courriel indiquée ci-dessus; veuillez conserver une copie de cette confirmation pour les fins de référence future.

8

Hau, Lucy

---

**Subject:** FW: ARENA - Resident's Opinon

**From:** Chiu, Alex  
**Sent:** April-26-12 8:12 AM  
**To:** Kitteringham, Kimberley  
**Subject:** Re: ARENA - Resident's Opinon

Thanks Chris I'll forward this to our clerk to be part of our correspondent for tonight meeting.

Kimberly please table this tonight.

Thanks  
Alex

-----  
Sent from my BlackBerry Wireless Handheld

**From:** Chris Stevenson  
**Sent:** Thursday, April 26, 2012 12:24 AM  
**To:** Chiu, Alex  
**Subject:** ARENA - Resident's Opinon

Hello Mr. Chiu,

I am a Markham resident in Ward 8 and have lived here my entire life.  
Last year, I took my life savings and purchased my first home in Downtown Markham.  
I fully **support** the building of this new arena. Since the 90's we have all dreamed that Markham Centre would be something special....a beacon of economic growth in the GTA.

Now that we are ready to take the vision to the next level, please ensure that we do not lose the opportunity because we were too scared to commit.

This new arena would accelerate the economic development of Markham Centre and would be inline with the Town's vision.

**Please seize this opportunity for the residents of Markham by passing the vote on April 26th.**

There are already blogs online of people wanting this arena built at Ontario Place or Woodbine Live. Other municipalities would love to get their hands on this major development project, please ensure that does not happen Mr. Chiu.

Thank you for your time,

Chris

9

**Hau, Lucy**

---

**Subject:** FW: The Proposed NHL Markham Arena

**From:** Li, Joe

**Sent:** Thursday, April 26, 2012 11:38 AM

**To:**

**Subject:** Re: The Proposed NHL Markham Arena

Hi Eileen,

Thank you for taking the time to write to member of council and express your opinion.  
I'll forward your email to the clerk department for circulation for today Special Council meeting.

Regards,

Joe Li  
Regional Councillor

**From:** eileen liasi

**Sent:** Thursday, April 26, 2012 01:25 AM

**To:** Campbell, Colin; Shore, Howard; Landon, Gord; Burke, Valerie; Hamilton, Don; Jones, Jim; Scarpitti, Frank; Kanapathi, Logan; Heath, Jack; Moretti, Carolina; Chiu, Alex; Ho, Alan; Li, Joe

**Subject:** The Proposed NHL Markham Arena

Dear Council Member,

I welcome a new sports and entertainment centre in Markham but under private ownership only. I was surprised to learn that Council was going to borrow so much money for an arena when it wouldn't consider borrowing even a quarter of that to fix basic essential infrastructure in Thornhill. The latter is the responsibility of Council, an NHL arena is not. Even more surprising is the willingness to go into debt after all the penny-pinching to achieve the zero % tax increases. In my opinion the Town has no business getting involved in this kind of enterprise and I fear for the future financial well being of the Town if it does.

Having read the latest article on yorkregion.com dated April 25, late this afternoon (hopefully it is accurate), I am shocked at the misrepresentations that have occurred. It causes one to wonder what else has been misrepresented and to distrust all the arrangements, even more so the rush to a decision.

I support Regional Councillors Jones and Li in that Markham needs to defer this decision until all the facts are known and clear to everyone and that includes residents. We have councillors who can't or won't explain to their residents how they are going to vote because they still have questions and this is the day before the vote. If councillors don't have all the facts they need at this point, Council needs to step back and take more time to consider and reflect on this extremely important issue. Council also needs to give residents the time to study and understand the truths of the matter because we are reading completely different facts the evening before the vote, so what are we supposed to believe?

I support a 60 day deferral of the issue to give the Town time to get the correct facts out to residents which will allow them to make properly informed deputations to Council and to give councillors more time to fully

comprehend and reflect on the new understanding they will gain between now and the upcoming vote. I believe this is the only logical way forward.

Eileen Liasi.

10

**Hau, Lucy**

---

**Subject:** FW: Town Debt - Markham Arena Proposal

**From:** Li, Joe  
**Sent:** April-26-12 2:02 PM  
**To:**  
**Cc:** Kitteringham, Kimberley  
**Subject:** Re: Town Debt - Markham Arena Proposal

Dear Toinette,

Thank you for taking the time to write to me and member of council in order to express your opinion and the view of your rate payer association.

I'm forwarding your email to the clerk department for circulation for today Special Council meeting.

Regards,

Joe Li  
Regional Councillor

**From:** Bayview Glen Residents  
**Sent:** Thursday, April 26, 2012 01:22 PM  
**To:** Jones, Jim; Li, Joe  
**Cc:** Burke, Valerie; Shore, Howard; Gallyot, Marlene; Ku, Miriam;  
**Subject:** Town Debt - Markham Arena Proposal

April 26, 2012

Re: Message to Regional Councillor Jones and Regional Councilor Li regarding proposed Markham Arena

Dear Regional Councillor Jones and Regional Councillor Li,

On behalf of the Bayview Glen Residents Association, we would like to thank you for raising issues regarding the proposed GTA Centre Sports and Entertainment Arena project.

We have shared our concerns with Councillor Burke and Councillor Shore and wish to lend our support to your current position regarding the proposed Town-owned sports and entertainment arena.

We concur with your concerns that the Town should not be in the arena business and also the need to ensure that other private sector entities are able to participate in the arena project.

We question, which we will expand further, if the agreement contravenes the Ontario Municipal Act, specifically the debt and financial obligation limit (Ontario Reg. 403/02).

We also question if existing Town Leasing Policies pertaining to "material" financial lease agreements exceeding 0.5% of the Town's annual debt and financial obligation limit is also being contravened by this arena proposal.



If we correctly understood Friday's presentation, the financial participation has already been determined and the final details according to comments by the Mayor will, due to proprietary information, not be subject to public review until the agreement is finalized.

We also appreciate the constraints on members of Council who have been subject to a confidentiality agreement – common practice in private sector but highly unusual for municipal government.

What was not clear until the later part of Friday's presentation was the role of the Remington Group. Although identified as "World Class Partnership" (pg.10) we learned that Remington Group is the guarantor only and that it is GTA Sports and Entertainment, Mr. Roustan's group that is the source of the \$162.5 million.

Unclear in the presentation is the current ownership of the arena land – will the land be donated to the Town by the Remington Group or is the land currently owned by the Town?

We also heard statements that the taxpayers will not be burdened by the project as monies from Section 37, quasi- Tax Increment Financing (TIF), and (voluntary) surcharge on future development charges would suffice to cover costs.

Identifying development charge monies as the arena funding source, funds intended to cover cost of new and growth related infrastructure, as superfluous and incidental to the purpose which the monies were originally intended is a concern.

Is there a second arena funding source identified if BILD challenges the surcharge at the OMB which might be the case based on current comments from the development industry?

We understood, from the presentation, that up to 90% of Markham's share of the \$162.5 million will be at little to no risk to taxpayers and that the share to the 88,000+ Markham households would be \$160.00 per year over a five year period.

Unclear however, based on comment made by Mr. Roustan and Mr. Taylor is what portion of the \$162.5 million is attributable to the Town taxpayers – 10% of \$162.5 million or the full amount?

As we stated earlier, we question if the agreement is consistent with and conforms to existing Ontario Municipal Act legislation, particularly the Debt and Financial Obligation limit. (Link to Ontario Regulation 403/02 [http://www.e-laws.gov.on.ca:80/html/source/regs/english/2002/elaws\\_src\\_regs\\_r02403\\_e.htm](http://www.e-laws.gov.on.ca:80/html/source/regs/english/2002/elaws_src_regs_r02403_e.htm))

As we understand, the Town's current annual debt obligation limit based on the Ministry of Municipal Affairs and Housing (MMAH) Financial Information Return (FIR) is as of January 1, 2012, \$65,012,990. (Please see Schedule 81 under annual repayment limit: <http://csconramp.mah.gov.on.ca/fir/View/FI101936%20Copy.pdf> )

Is the arena project which has been identified as a capital facility (use as a community centre) and as a material financial lease agreement qualify under current Ontario Capital Financing and Debt Policy regulations and the Town's Leasing Policies and Goals?

According to the most recent Town Leasing Policies and Goals that we have been able to refer (Town of Markham Leasing Policies and Goals, Finance and Administration Committee, September 2003), projects identified as having "material impact" and defined in the regulation as costs or risks that significantly affect, or would reasonably be expected to have significant effect on the debt and financial obligation limit, would be subject to requirements of the Ontario regulation. Unfortunately, as this agreement is not subject to public review, we must rely on Council to determine if the financial terms meet current Ontario and Town regulations.

We also question if Council is able to commit to a 20 year long term debt of \$162.5 million which exceeds the term of this Council. What safeguards are in place for not only existing but future Town ratepayers if we commit to a substantial financial commitment which has not been subject to regulatory and public review?

The Town has boasted as being debt free but has ignored the fact that we as residents of York Region currently are responsible for one of the highest per capita debts in the Province of Ontario.

The long term debt responsibilities and the fact that last year the Region was permitted by the Provincial government to exceed Annual Repayment Limits until 2021 puts all current and future residents of the Region at great financial risk. We would not want to see the Town expose residents to further long term financial risk without assurance that all regulations (Ontario and Town) are in force and that safeguards are in place to ensure that the best interests of residents are being served.

An outside review of the current proposal by independent source or the Ministry of Municipal Affairs may be warranted in order to determine if Town and Provincial regulatory regulations are being observed, resolving many of the outstanding questions concerning the current arena proposal.

We would support a 60 day review of the arena proposal, permitting other private sector entities the opportunity to participate thereby releasing the Town from questionable potential financial risk and debt obligation.

Sincerely,

Toinette Bezant,  
on behalf of the Bayview Glen Residents Association

cc: Councillor Valerie Burke, Ward 1  
Councillor Howard Shore, Ward 2  
Ralph Levine, Executive, Bayview Glen Residents Association.



**Hau, Lucy**

---

**Subject:** FW: The Proposed NHL Markham Arena

**From:** Li, Joe  
**Sent:** April-26-12 2:18 PM  
**To:**  
**Cc:** Kitteringham, Kimberley  
**Subject:** Re: The Proposed NHL Markham Arena

Dear Marilyn,

Thank you for taking the time to write to member of council about your concern in the arena issue.

I want to assure you that from day 1 my position is very clear that unless the arena project is 100 percent privately funded instead of being own by the Town, I cannot and will not support the arena project in any shape or form period.

Again thank you for your passion in volunteering your time and I do appreciate it.

Regards

Joe Li  
Regional Councillor

NB: I'll forward your email to the clark department for circulation for tonight Special Consult Meeting.

---

**From:** Marilyn Ginsburg  
**Sent:** Thursday, April 26, 2012 01:22 PM  
**To:** Li, Joe; Ho, Alan; Chiu, Alex; Moretti, Carolina; Heath, Jack; Kanapathi, Logan; Scarpitti, Frank; Jones, Jim; Hamilton, Don; Burke, Valerie; Landon, Gord; Shore, Howard; Campbell, Colin  
**Subject:** Re: The Proposed NHL Markham Arena

Dear Council Member,

I am writing to support the perspective of Eileen Liasi, whose email you have already received. I concur with her substantive points and especially with her view that this vote is premature. I think that on a matter of this importance every Council member should inform herself or himself of the possible long term negative effects on the Town if this project does not turn out as anticipated. You may also refer to the email from Toinette Bezant on the details of what could go wrong, and what the implications would be for all of us.

**I also have to wonder how many members of Council have taken the time to find out how their constituents feel about this project. It is, afterall, our money that is on the line. In addition, the people you represent could have other priorities for that size of an expenditure. I am not at all sure that we gave you a mandate to make this kind of development decision without extensive consultation with the public. This is not a decision on a road, or a subdivision, or a community centre for a local neighbourhood. This is risky, expensive, and most importantly, optional.**

I truly feel that there has not been adequate time given to finding out how the residents of Markham feel about a project of this magnitude. Make no mistake, if it fails, this will be what you are all remembered for. Is that the political legacy you want?

Marilyn Ginsburg, Thornhill

----- Original Message -----

**From:** [eileen liasi](mailto:eileen.liasi@markham.ca)

**To:** [ccampbell@markham.ca](mailto:ccampbell@markham.ca) ; [hshore@markham.ca](mailto:hshore@markham.ca) ; [glandon@markham.ca](mailto:glandon@markham.ca) ; [vburke@markham.ca](mailto:vburke@markham.ca) ; [dhamilton@markham.ca](mailto:dhamilton@markham.ca) ; [jjones@markham.ca](mailto:jjones@markham.ca) ; [fscarpitti@markham.ca](mailto:fscarpitti@markham.ca) ; [ikanapathi@markham.ca](mailto:ikanapathi@markham.ca) ; [jheath@markham.ca](mailto:jheath@markham.ca) ; [cmoretti@markham.ca](mailto:cmoretti@markham.ca) ; [achiu@markham.ca](mailto:achiu@markham.ca) ; [alan.ho@markham.ca](mailto:alan.ho@markham.ca) ; [joeli@markham.ca](mailto:joeli@markham.ca)

**Sent:** Thursday, April 26, 2012 1:25 AM

**Subject:** The Proposed NHL Markham Arena

Dear Council Member,

I welcome a new sports and entertainment centre in Markham but under **private** ownership only. I was surprised to learn that Council was going to borrow so much money for an arena when it wouldn't consider borrowing even a quarter of that to fix basic essential infrastructure in Thornhill. The latter is the responsibility of Council, an NHL arena is not. Even more surprising is the willingness to go into debt after all the penny-pinching to achieve the zero % tax increases. In my opinion the Town has no business getting involved in this kind of enterprise and I fear for the future financial well being of the Town if it does.

Having read the latest article on yorkregion.com dated April 25, late this afternoon (hopefully it is accurate), I am shocked at the misrepresentations that have occurred. It causes one to wonder what else has been misrepresented and to distrust all the arrangements, even more so the rush to a decision.

I support Regional Councillors Jones and Li in that Markham needs to defer this decision until all the facts are known and clear to everyone and that includes residents. We have councillors who can't or won't explain to their residents how they are going to vote because they still have questions and this is the day before the vote. If councillors don't have all the facts they need at this point, Council needs to step back and take more time to consider and reflect on this extremely important issue. Council also needs to give residents the time to study and understand the truths of the matter because we are reading completely different facts the evening before the vote, so what are we supposed to believe?

I support a 60 day deferral of the issue to give the Town time to get the correct facts out to residents which will allow them to make properly informed deputations to Council and to give councillors more time to fully comprehend and reflect on the new understanding they will gain between now and the upcoming vote. I believe this is the only logical way forward.

Eileen Liasi.

Aberfeldy Crescent,  
Thornhill.



LIBERTY *for all*

12

April 26, 2012

Mayor and Members of Council  
Town of Markham  
101 Town Centre Boulevard  
Markham, ON  
L3R 9W3

**Ref: Special Council Meeting April 26, 2012  
Markham Sports, Entertainment and Cultural Centre**

We applaud the Town of Markham's initiative in attempting to bring a major Sports, Entertainment, and Cultural Centre to Markham, and specifically Markham Centre.

We have however huge concerns with the proposed process for the repayment of the debt associated with this Centre, specifically as it relates to a charge on all new developments in the Town of Markham for the next twenty years. We have received very little information on this other than your report to General Committee of April 29<sup>th</sup>, and what has been written in the press.

As you are aware we (Liberty Development Corporation) have an approved development called World on Yonge that essentially has been presold with permitted construction activity now in progress. We can not at this time accept any proposal that would entail additional price increases to our purchasers on closing. Without further information being disclosed to us up to this time we have to make the assumption that this is your intention.

We respectfully request time for further consultation on this matter.

Yours truly

On behalf of **Liberty Development Corporation**

A handwritten signature in black ink, appearing to read "Bill O'Donnell". The signature is written in a cursive, flowing style.

Bill O'Donnell

cc. Mr. Fred Darvish  
Mr. Latif Fazel