



**CALEARTH
INTERNATIONAL
DEVELOPMENT INC.**

7240 Woodbine Ave., Suite 215
Markham, Ontario, Canada, L3R 1A4
Tel: 416 721 1016 Fax: 416 512 1575
email: caelearth@rogers.com

Fax

310803
7:55 a. m.

Date:	06 08 02	From:	Gerry Mintz
To:	Ms. Sheila Birrell	Co.:	Caelearth International Dev. Inc.
Co./ Dept.	1375504 Ontario Inc.	Phone #	416 721-1016
Phone #	905 475 4729	Fax #	416 512-1575
Fax #	905 479 7771		

TOTAL PAGES being transmitted, including this page 13

Re: 1375504 Ontario Inc.
7778 Kennedy Road (formerly 4488 14th Avenue), Markham

Hello Ms. Sheila Birrell:

Please find enclosed our letters to the Town of Markham, dated August 2, 2006, June 27, 2006 and June 2, 2006 and their attachments.

Please advise the undersigned that you have received this, and/or any additional information or documentation you may require, and advise of the date, time and place of the Committee meeting.

Yours truly,

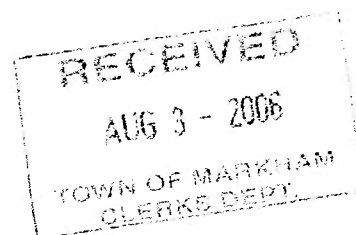
CALEARTH INTERNATIONAL DEVELOPMENT INC.
Consulting Engineers and Project Managers

Gerry Mintz

Gerry Mintz, P.Eng.
Principal Engineer

Encl.

Ref. Fax to Sheila Birrell 06 08 02





**CALEARTH
INTERNATIONAL
DEVELOPMENT INC.**

7240 Woodbine Ave., Suite 215
Markham, Ontario, Canada, L3R 1A4
Tel: 416 721 1016 Fax: 416 512 1575
Email: Calexarth@rogers.com

CONSULTING ENGINEERS

August 2, 2006

Town of Markham
Anthony Roman Centre
101 Town Centre Boulevard
Markham, Ontario L3R 9W3

Attn: Ms. Sheila Birrell, CMO
Town Clerk

**Re: 1375504 Ontario Inc., 7778 Kennedy Road (formerly 4488 14th Avenue), Markham.
Overpayment of Development Charges**

Please accept this letter as a request to have this subject matter placed on the earliest Committee meeting agenda and for the undersigned to appear as a formal delegation at that Committee meeting.

The subject matter as been studied in detail and reviewed with Members of Council and Town staff for approximately the last nine months.

Considerable documentation has been researched, correspondence sent and received, and numerous telephone conversations and meetings have been held to endeavor to reach a fair and just conclusion.

After much review and deliberation it was concluded that, in order to finalize, it must be brought before Committee of Council and then Council.

We attach herewith our letters to the Town of Markham, dated of June 2, 2006 and June 27, 2006, also to be placed on the agenda.

Please advise the undersigned of any additional information or documentation you require, and advise of the date, time and place of the Committee meeting.

Yours truly,

CALEARTH INTERNATIONAL DEVELOPMENT INC.
Consulting Engineers and Project Managers

Gerry Mintz

Gerry Mintz, P.Eng.
Principal Engineer



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Email: Calearth@rogers.com

CONSULTING ENGINEERS

June 27, 2006

Town of Markham
Anthony Roman Centre
101 Town Centre Boulevard
Markham, Ontario L3R 9W3

Attn: Mr. Frank Scarpitti
Deputy Mayor

Re: 1375504 Ontario Inc., 7778 Kennedy Road (formerly 4488 14th Avenue), Markham

Thank you for again making time for a meeting with the undersigned held on Friday, June 23rd, 2006 at 10:00a.m, to endeavor to finalize this matter.

We reviewed a copy of our letter to you dated June 02, 2006 sent as a result of the meeting held on May 26, 2006 with yourself and members of Town staff.

We discussed the fact that all of the financial obligations from the Owner to the Town had been met in 1991 and fully paid, totally in accordance with the requirements of the October 22, 1991 Site Plan Control Agreement for the 123 units.

At the conclusion it was agreed that this matter should be brought before Committee and then Council for finalization.

It was agreed that prior to the Committee meeting, possibly to be held in the first part of September, the undersigned will contact the individual Members of Council to review and apprise them of the details of the over payment and the appropriate refund requested.

Thank you for your continued cooperation to resolve this matter at the earliest possible time.

Yours truly,

CALEARTH INTERNATIONAL DEVELOPMENT INC.
Consulting Engineers and Project Managers

Gerry Mintz

Gerry Mintz, P.Eng.
Principal Engineer

CALEARTH INTERNATIONAL DEVELOPMENT INC.
7240 Woodbine Ave., Suite 215
Markham, Ontario L3R 1A4
Tel: 416 721 1016 Fax: 416 512 1575

Fax

060605

To:	Bonnie Leonard	From:	Gerry Mintz
Fax:	905 479 7763	Pages:	10, incl cover pg
Phone:	905 475 4891	Date:	06 06 05
Re:	7778 Kennedy Rd, Develop Charges	CC:	client

Urgent For Review Please Comment Please Reply x Please
Recycle

Hello Bonnie Leonard:

As promised we are sending a confirming letter emanating from the meeting held on Friday May 26, 2006 in the mayor's boardroom re the above matter.

We are sending this by Fax, because we are installing a new computer system and our email is temporarily down.

Regards,

CALEARTH INTERNATIONAL DEVELOPMENT INC.


Gerry Mintz, P.Eng.

Ref. Fax to Town 06 06 05

**CALEARTH
INTERNATIONAL
DEVELOPMENT INC.**

7240 Woodbine Avenue., Suite 215
Markham, Ontario, Canada L3R 1A4
Tel: 416 721 1016 Fax: 416 512 1575

CONSULTING ENGINEERS

Sent by Email to ~~bleonard@markham.ca~~ *Fax*
Jun 02, 2006

Town of Markham
Anthony Roman Centre
101 Town Centre Boulevard
Markham, Ontario L3R PW3

Attn: Mr. Frank Scarpetti
Deputy Mayor

Re: 1375504 Ontario Inc., 7778 Kennedy Road (formerly 4488 14th Avenue), Markham

Thank you for arranging a meeting between representatives of the Town and the Owners held on Friday May 26, 2006 at 1:00pm in the Mayor's boardroom and attended by the following

For the Town:

Mr. Frank Scarpetti,	Deputy Mayor
Andy Taylor,	Commissioner of Corporate Services
Catherine Conrad,	Town Solicitor
Jennifer Nelson,	Mgr Development Finance
Alan Brown,	Director, Engineering

For the Owners, 1375504 Ontario Inc.

George Vella	Solicitor
Gerry Mintz	Consulting Engineer

We reviewed the very brief summary of the project history as contained in our letter of May 25, 2006.

The Town Solicitor commented on the very brief summary stating that the actual unit count contained in the Oct 22, 1991 Site Plan Control Agreement (SPCA) with Town of Markham is 123 units instead of 109 units.

...2/

The 123 units total actually appear in the text of the SPCA as a summation of the units cited on page 10 of the agreement whereas the 109 units appear on the Site Plan attached as Schedule under Article 3.1 of the SPCA.

We were instructed to use a unit count of 123 as the legal unit count in the SPCA.

On the basis we have developed the Prepaid Development Charges Analysis dated 06 05 30 attached here to as " Attachment A".

It was agreed that a total amount paid under the SPCA is as follows:

Under the SPCA cited in Schedule "C" in paragraph 8.

Total Levies and Fees Payable	\$915,500.00
Less Recoveries	<u>\$245,058.00</u>
Net paid to Town	\$670,442.00

On the basis, the amount paid per unit for 123 units is \$5451.00 each.

The SPCA contained the 123 units has the final number of units, for the total projects. Under Phase I, 82 units were actually built, thus 41 units have been prepaid under this SPCA. Therefore for a new application of 54 units in Phase II, with 41 units prepaid, leaves a total of 13 units for which additional charges apply.

Because of the complications with regard to calculating a credit for the phase II 54 units, it was concluded that a refund should be paid prior to entering into any new agreement, so that the new SPCA for the 54 units, may stand on its own merit.

Based on these figures we have calculated that the amount for the 41 prepaid units under the SPCA at \$5451.00 each, is \$223,481.00

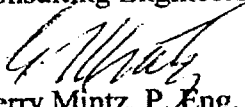
Based on the accumulated interest at Canada Bank Rate as per attached Development Charges Refund table attached hereto, the total refund is \$442,386.00.

On the basis the Town may now proceed to change the amount based on the current rates for Phase II without any restrictions or hindrances to any prior commitments.

Again we appreciate your co-operation to conclude this matter as soon as possible.

Regards,

CALEARTH INTERNATIONAL DEVELOPMENT INC.
Consulting Engineers and Project Managers


Gerry Mintz, P. Eng.
Principal Engineer

Ref. Letter to Town 06 06 02

ATTACHMENT "A": to Letter to Town June 2, 2006

1375504 Ontario Inc., 7778 Kennedy Road (formerly 4488 14th Avenue), Markham

Prepaid Development Charges Analysis

Based on information received at meeting with Town Friday May 26, 2006

06 05 30

Zoning Bylaw 90-81, 19th of March, 1991 allows mixed -use building, residential	123 units
Total Land Approved for Development in Site Plan Control Agreement (SPCA)	
dated 22nd day of October, 1991	2.78 ac
Total Units -approved Site Plan SP1 by Cole Sherman	109 units
Total Units -on page 10 in text of Agreement	123 units

Solicitor stated 123 units should be used

Total Development Payable Fees - paid in 1991 for 123 units	\$	915,500
Recoveries	\$	245,058
Net paid to Town	\$	670,442
Per unit prepaid to Town for	123 units is	\$5,451 each

Number of units built in Phase I	82 units
Number of prepaid units remaining (123-82)	41 units
Total new development	54 units
Total new units not prepaid	13 units

Amount prepaid for 41 units at	\$5,451 is	\$	223,481
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Total Accumulated Amount with Interest at Canada Bank Rate is	\$	442,386
(see attached Development Charges Refund table)		

\$223,481	Canada Bank Rate	Interest Owing	Refund Due
Compound Interest			
<u>1991</u>			
October(9 days)	8.17%	\$441.73	\$223,922.40
November	7.69%	\$1,434.97	\$225,357.37
December	7.67%	\$1,440.41	\$226,797.78
<u>1992</u>			
January	7.08%	\$1,338.11	\$228,135.89
February	7.56%	\$1,437.26	\$229,573.15
March	7.65%	\$1,463.53	\$231,036.68
April	6.85%	\$1,318.83	\$232,355.51
May	6.50%	\$1,258.59	\$233,614.10
June	5.91%	\$1,150.55	\$234,764.65
July	5.50%	\$1,076.00	\$235,840.66
August	5.11%	\$1,004.29	\$236,844.94
September	5.69%	\$1,123.04	\$237,967.98
October	7.37%	\$1,461.52	\$239,429.50
November	8.82%	\$1,759.81	\$241,189.31
December	7.36%	\$1,479.29	\$242,668.61
<u>1993</u>			
January	6.81%	\$1,377.14	\$244,045.75
February	6.09%	\$1,238.53	\$245,284.28
March	5.36%	\$1,095.60	\$246,379.88
April	5.60%	\$1,149.77	\$247,529.66
May	5.10%	\$1,052.00	\$248,581.66
June	4.79%	\$992.26	\$249,573.91
July	4.41%	\$917.18	\$250,491.10
August	4.90%	\$1,022.84	\$251,513.94
September	4.90%	\$1,027.02	\$252,540.95
October	4.63%	\$974.39	\$253,515.34
November	4.36%	\$921.11	\$254,436.44
December	4.11%	\$871.44	\$255,307.89
<u>1994</u>			
January	3.88%	\$825.50	\$256,133.39
February	4.10%	\$875.12	\$257,008.51
March	5.64%	\$1,207.94	\$258,216.45
April	6.07%	\$1,306.14	\$259,522.59
May	6.31%	\$1,364.66	\$260,887.25
June	6.92%	\$1,504.45	\$262,391.70
July	6.04%	\$1,320.70	\$263,712.40
August	5.60%	\$1,230.66	\$264,943.06
September	5.54%	\$1,223.15	\$266,166.22
October	5.62%	\$1,246.55	\$267,412.76
November	6.04%	\$1,345.98	\$268,758.74
December	7.43%	\$1,664.06	\$270,422.80
<u>1995</u>			
January	8.38%	\$1,888.45	\$272,311.25
February	8.38%	\$1,901.64	\$274,212.90
March	8.47%	\$1,935.49	\$276,148.38

\$223,481	Canada Bank Rate	Interest Owing	Refund Due
July	3.00%	\$974.76	\$390,876.94
August	3.00%	\$977.19	\$391,854.13
September	3.00%	\$979.64	\$392,833.77
October	3.00%	\$982.08	\$393,815.85
November	3.00%	\$984.54	\$394,800.39
December	3.00%	\$987.00	\$395,787.39
2003			
January	3.00%	\$989.47	\$396,776.86
February	3.00%	\$991.94	\$397,768.80
March	3.25%	\$1,077.29	\$398,846.09
April	3.50%	\$1,163.30	\$400,009.39
May	3.50%	\$1,166.60	\$401,176.09

\$223,481	Canada Bank Rate	Interest Owing	Refund Due
December	5.25%	\$1,444.74	\$331,671.99
1999			
January	5.25%	\$1,451.06	\$333,123.05
February	5.25%	\$1,457.41	\$334,580.47
March	5.00%	\$1,394.09	\$335,974.55
April	5.00%	\$1,399.89	\$337,374.45
May	4.75%	\$1,335.44	\$338,709.89
June	4.75%	\$1,340.73	\$340,050.61
July	4.75%	\$1,346.03	\$341,396.65
August	4.75%	\$1,351.36	\$342,748.01
September	4.75%	\$1,356.71	\$344,104.72
October	4.75%	\$1,362.08	\$345,466.80
November	5.00%	\$1,439.45	\$346,906.25
December	5.00%	\$1,445.44	\$348,351.69
2000			
January	5.00%	\$1,451.47	\$349,803.15
February	5.25%	\$1,530.39	\$351,333.54
March	5.50%	\$1,610.28	\$352,943.82
April	5.50%	\$1,617.66	\$354,561.48
May	6.00%	\$1,772.81	\$356,334.29
June	6.00%	\$1,781.67	\$358,115.96
July	6.00%	\$1,790.58	\$359,906.54
August	6.00%	\$1,799.53	\$361,706.07
September	6.00%	\$1,808.53	\$363,514.60
October	6.00%	\$1,817.57	\$365,332.18
November	6.00%	\$1,826.66	\$367,158.84
December	6.00%	\$1,835.79	\$368,994.63
2001			
January	5.75%	\$1,768.10	\$370,762.73
February	5.75%	\$1,776.57	\$372,539.30
March	5.25%	\$1,629.86	\$374,169.16
April	5.00%	\$1,559.04	\$375,728.20
May	4.75%	\$1,487.26	\$377,215.46
June	4.75%	\$1,493.14	\$378,708.60
July	4.50%	\$1,420.16	\$380,128.76
August	4.25%	\$1,346.29	\$381,475.05
September	3.75%	\$1,192.11	\$382,667.16
October	3.00%	\$956.67	\$383,623.83
November	2.50%	\$799.22	\$384,423.04
December	2.50%	\$800.88	\$385,223.92
2002			
January	2.25%	\$722.29	\$385,946.22
February	2.25%	\$723.65	\$386,669.87
March	2.25%	\$725.01	\$387,394.87
April	2.50%	\$807.07	\$388,201.95
May	2.50%	\$808.75	\$389,010.70
June	2.75%	\$891.48	\$389,902.18

\$223,481	Canada Bank Rate	Interest Owing	Refund Due
April	8.17%	\$1,880.11	\$278,028.49
May	7.64%	\$1,770.11	\$279,798.61
June	6.97%	\$1,625.16	\$281,423.77
July	6.87%	\$1,611.15	\$283,034.92
August	6.59%	\$1,554.33	\$284,589.25
September	6.71%	\$1,591.33	\$286,180.58
October	7.65%	\$1,824.40	\$288,004.98
November	6.07%	\$1,456.83	\$289,461.81
December	5.79%	\$1,396.65	\$290,858.46
<u>1996</u>			
January	5.37%	\$1,301.59	\$292,160.05
February	5.50%	\$1,339.07	\$293,499.12
March	5.25%	\$1,284.06	\$294,783.18
April	5.00%	\$1,228.26	\$296,011.44
May	5.00%	\$1,233.38	\$297,244.82
June	5.00%	\$1,238.52	\$298,483.34
July	4.75%	\$1,181.50	\$299,664.84
August	4.25%	\$1,061.31	\$300,726.15
September	4.25%	\$1,065.07	\$301,791.22
October	3.50%	\$880.22	\$302,671.45
November	3.25%	\$819.74	\$303,491.18
December	3.25%	\$821.96	\$304,313.14
<u>1997</u>			
January	3.25%	\$824.18	\$305,137.32
February	3.25%	\$826.41	\$305,963.73
March	3.25%	\$828.65	\$306,792.39
April	3.25%	\$830.90	\$307,623.28
May	3.25%	\$833.15	\$308,456.43
June	3.25%	\$835.40	\$309,291.83
July	3.50%	\$902.10	\$310,193.93
August	3.50%	\$904.73	\$311,098.67
September	3.50%	\$907.37	\$312,006.04
October	3.75%	\$975.02	\$312,981.06
November	4.00%	\$1,043.27	\$314,024.33
December	4.50%	\$1,177.59	\$315,201.92
<u>1998</u>			
January	4.50%	\$1,182.01	\$316,383.92
February	5.00%	\$1,318.27	\$317,702.19
March	5.00%	\$1,323.76	\$319,025.95
April	5.00%	\$1,329.27	\$320,355.22
May	5.00%	\$1,334.81	\$321,690.04
June	5.00%	\$1,340.38	\$323,030.41
July	5.00%	\$1,345.96	\$324,376.37
August	5.00%	\$1,351.57	\$325,727.94
September	5.75%	\$1,560.78	\$327,288.72
October	5.50%	\$1,500.07	\$328,788.79
November	5.25%	\$1,438.45	\$330,227.24

\$223,481	Canada Bank Rate	Interest Owing	Refund Due
December 1999	5.25%	\$1,444.74	\$331,671.99
January	5.25%	\$1,451.06	\$333,123.05
February	5.25%	\$1,457.41	\$334,580.47
March	5.00%	\$1,394.09	\$335,974.55
April	5.00%	\$1,399.89	\$337,374.45
May	4.75%	\$1,335.44	\$338,709.89
June	4.75%	\$1,340.73	\$340,050.61
July	4.75%	\$1,346.03	\$341,396.65
August	4.75%	\$1,351.36	\$342,748.01
September	4.75%	\$1,356.71	\$344,104.72
October	4.75%	\$1,362.08	\$345,466.80
November	5.00%	\$1,439.45	\$346,906.25
December	5.00%	\$1,445.44	\$348,351.69
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January	5.00%	\$1,451.47	\$349,803.15
February	5.25%	\$1,530.39	\$351,333.54
March	5.50%	\$1,610.28	\$352,943.82
April	5.50%	\$1,617.66	\$354,561.48
May	6.00%	\$1,772.81	\$356,334.29
June	6.00%	\$1,781.67	\$358,115.96
July	6.00%	\$1,790.58	\$359,906.54
August	6.00%	\$1,799.53	\$361,706.07
September	6.00%	\$1,808.53	\$363,514.60
October	6.00%	\$1,817.57	\$365,332.18
November	6.00%	\$1,826.66	\$367,158.84
December	6.00%	\$1,835.79	\$368,994.63
2001			
January	5.75%	\$1,768.10	\$370,762.73
February	5.75%	\$1,776.57	\$372,539.30
March	5.25%	\$1,629.86	\$374,169.16
April	5.00%	\$1,559.04	\$375,728.20
May	4.75%	\$1,487.26	\$377,215.46
June	4.75%	\$1,493.14	\$378,708.60
July	4.50%	\$1,420.16	\$380,128.76
August	4.25%	\$1,346.29	\$381,475.05
September	3.75%	\$1,192.11	\$382,667.16
October	3.00%	\$956.67	\$383,623.83
November	2.50%	\$799.22	\$384,423.04
December	2.50%	\$800.88	\$385,223.92
2002			
January	2.25%	\$722.29	\$385,946.22
February	2.25%	\$723.65	\$386,669.87
March	2.25%	\$725.01	\$387,394.87
April	2.50%	\$807.07	\$388,201.95
May	2.50%	\$808.75	\$389,010.70
June	2.75%	\$891.48	\$389,902.18

\$223,481	Canada Bank Rate	Interest Owing	Refund Due
July	3.00%	\$974.76	\$390,876.94
August	3.00%	\$977.19	\$391,854.13
September	3.00%	\$979.64	\$392,833.77
October	3.00%	\$982.08	\$393,815.85
November	3.00%	\$984.54	\$394,800.39
December	3.00%	\$987.00	\$395,787.39
<u>2003</u>			
January	3.00%	\$989.47	\$396,776.86
February	3.00%	\$991.94	\$397,768.80
March	3.25%	\$1,077.29	\$398,846.09
April	3.50%	\$1,163.30	\$400,009.39
May	3.50%	\$1,166.69	\$401,176.09
June	3.50%	\$1,170.10	\$402,346.18
July	3.25%	\$1,089.69	\$403,435.87
August	3.00%	\$1,008.59	\$404,444.46
September	3.00%	\$1,011.11	\$405,455.57
October	3.00%	\$1,013.64	\$406,469.21
November	3.00%	\$1,016.17	\$407,485.38
December	3.00%	\$1,018.71	\$408,504.10
<u>2004</u>			
January	2.75%	\$936.16	\$409,440.25
February	2.75%	\$938.30	\$410,378.55
March	2.50%	\$854.96	\$411,233.51
April	2.25%	\$771.06	\$412,004.57
May	2.25%	\$772.51	\$412,777.08
June	2.25%	\$773.96	\$413,551.04
July	2.25%	\$775.41	\$414,326.45
August	2.25%	\$776.86	\$415,103.31
September	2.50%	\$864.80	\$415,968.11
October	2.75%	\$953.26	\$416,921.37
November	2.75%	\$955.44	\$417,876.81
December	2.75%	\$957.63	\$418,834.45
<u>2005</u>			
January	2.75%	\$959.83	\$419,794.27
February	2.75%	\$962.03	\$420,756.30
March	2.75%	\$964.23	\$421,720.54
April	2.75%	\$966.44	\$422,686.98
May	2.75%	\$968.66	\$423,655.64
June	2.75%	\$970.88	\$424,626.51
July	2.75%	\$973.10	\$425,599.62
August	2.75%	\$975.33	\$426,574.95
September	3.00%	\$1,066.44	\$427,641.39
October	3.25%	\$1,158.20	\$428,799.58
November	3.25%	\$1,161.33	\$429,960.91
December	3.50%	\$1,254.05	\$431,214.97
<u>2006</u>			
January	3.75%	\$1,347.55	\$432,562.51

October 18, 2006

Mr. G. Mintz, Principal Engineer
Calearth International Development Inc.
7240 Woodbine Avenue, Suite 215
Markham, Ontario L3R 1A4

Dear Mr. Mintz,

Re: 1375504 Ontario Inc. 7778 Kennedy Road – Development Charges

Thank you for your deputation to the meeting of the Town of Markham's General Committee on October 16, 2006 with respect to the subject matter.

This is to advise that Committee passed the following resolution at that time:

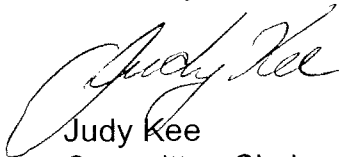
"That the presentation of Mr. Gerry Mintz, Calearth International Developments, regarding 7778 Kennedy Road and related development charges, be received and referred to staff;

And that staff also examine whether there actually was an overpayment, possible mechanisms to handle this situation, and the impact on the Town."

As you are aware, staff is in the process of preparing a report that will be presented to General Committee, once finalized.

If you have any questions regarding this matter, please contact Ms. Barb Cribbett, Treasurer, at 905-477-7000, Ext. 4735.

Sincerely,



Judy Kee
Committee Clerk

c: Ms. B. Cribbett, Treasurer
Ms. J. Nelson, Manager, Development Finance



June 12, 2006

Calearth International Development Inc
7240 Woodbine Avenue
Suite 215
Markham, ON
L3R 1A4

Attention: Mr. Gerry Mintz

Re: 1375504 Ontario Inc, 7778 Kennedy Road (formerly 4488 14th Avenue), Markham

Further to your letter dated June 2, 2006, this letter serves to clarify the Town's position on the outcome of the meeting held on Friday May 26, 2006.

The Town agrees that the unit count included in the October 22, 1991 Site Plan Control Agreement was 123 units. Town Staff did not agree that a credit was owing pursuant to this agreement, nor did Staff agree to issue a refund.

The Town Solicitor advised that neither a credit nor a refund could be sought under section 25(1) and (2) of the Development Charges Act, as development charges were never paid for either Phase 1 or 2.

The Town Solicitor also advised that there were three opportunities for requests for refunds or credits with respect to lot levies previously paid:

- The Development Charges Act 1997, and its associated O. Reg 82/98 provided an opportunity for landowners to make an application for a credit on or before October 1, 1999 in respect to fees paid relating to development under an agreement;
- The Town of Markham By-laws 147-1999, 148-1999 and 151-1999 included provisions for credits for lot levies previously paid, provided a building permit was issued prior to December 31, 2003;
- The Town notified your client on January 21, 2004 that the policy in respect of exemptions was currently being reviewed. The process undertaken to update the Development Charge by-laws was a public process. Public meetings were held on August 3rd, 2004 and August 31st, 2004.

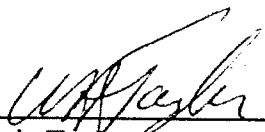
...2

Your client did not avail themselves of the opportunity to obtain a credit or exemption under any of the three circumstances listed above.

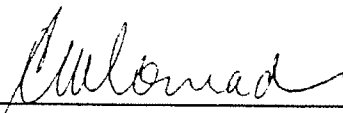
All discussions to date have been in reference to a site plan control agreement, between the Town and 777333 Ontario Limited, dated October 22, 1991. This site plan control agreement was amended on November 22, 1994. Paragraph 4(h) of this agreement states "...that an area specific by-law for this area will be required and the Owner further agrees to pay the charges upon passing of the by-law by the Town". This clearly indicates that the levies collected in the original site plan control agreement were not sufficient to fund the servicing requirements for this area and that the Town always intended to assess development charges on this site.

Your client may still make a request to Council for relief from the payment of development charges by by-law amendment or grant in lieu. In the event that Council agreed to provide relief from the payment of development charges, the refund may not be payable to the current registered owners, as they were not owners who made the original payment. Staff remains of the opinion that neither a credit nor a refund is owed, and will not support your request to Council.

Yours truly,



Andy Taylor,
Commissioner, Corporate Services



Catherine Conrad,
Town Solicitor

Copy to:
Frank Scarpitti, Deputy Mayor
Catherine Conrad, Town Solicitor
Barb Cribbett, Treasurer
Alan Brown, Director of Engineering
Jennifer Nelson, Manager of Development Finance