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November 12, 2007

VIA FACSIMILE

Our File No.: 95715

Mayor Frank Scarpitti and Members of Markham Council
Town of Markham Anthony Roman Centre
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

Dear Mayor and Members of Council:

Re: Proposed Repeal of By-law No. 2001-137 and New Fireworks By-law

Further to our meeting with Markham Town Staff regarding the Canadian Pyrotechnic Council's perspective with respect to the proposed new fireworks by-law, the purpose of this letter is to provide you with an overview of our client's comments in that regard.

The CPC is a national association composed of leading businesses within the fireworks industry in Canada. One of the fundamental goals of the CPC is to ensure the safe and fair regulation of the sale and use of fireworks throughout its members' jurisdiction.

As we advised the General Committee on October 22nd, the CPC is committed to working with the Town to ensure that the proposed by-law provides for sufficient but fair regulation for businesses engaged in the sale of fireworks in the Town, recognizing that the fireworks industry is already one of the most heavily regulated.

On October 25th, a letter was sent to the Town Solicitor on behalf of the CPC (attached) outlining their concerns with respect to the proposed by-law. On October 30th, representatives from the CPC met with Markham staff to review and elaborate on these issues.

The following comments highlight our review of the Update Memo, dated November 1st, 2007 prepared by the Town Clerk, which has been attached to the report entitled *Fireworks By-law Amendments Update (2.3)* that will be before Markham Council on November 13th.

Timing for the Discharge of Family Fireworks

As per the Update Memo, Town Staff concur with our request to recognize the need for an "inclement weather" day to provide individuals an ability to discharge family fireworks on a day other than Victoria Day and Canada Day. We agree with the conclusion made by

Town staff to allow for the discharge of family fireworks on the preceding day of Victoria Day and Canada Day.

Weight Limit on Family Fireworks

As per the Update Memo, Town Staff agree with our concerns with respect to the 10 kilogram weight limit on the purchase of family fireworks. We agree with the conclusion made by town staff to remove the 10 kilogram purchase restriction from the by-law.

Inconsistency with Discharge and Sale of Fireworks

As mentioned in our previous deputation at the General Committee on October 22nd and noted in the follow-up letter to Town Counsel, dated October 25th, the CPC believes that there is an inconsistency with the regulations on the timing of purchase and discharge of family fireworks.

Policy 2.1 provides that individuals may discharge Family Fireworks on days other than Victoria Day and Canada Day provided that they have a Permit. In the opinion of the CPC, this is an appropriate recognition of the increasing cultural and ethnic diversity of the Town of Markham.

However, Policy 6.1(d) of the draft by-law only permits vendors to sell Family Fireworks or possess Family Fireworks for the purpose of sale on "Victoria Day, Canada Day and each of the seven days immediately preceding Victoria Day and Canada Day". As a result, while residents of Markham will be able to obtain a Permit to allow the discharge of Family Fireworks on days outside of the Victoria Day/Canada Day period, no legally operating fireworks business in the Town of Markham will be permitted to sell Family Fireworks to residents.

The CPC believes this places existing businesses in a difficult situation as they will be prohibited from selling to customers, notwithstanding that the customers have followed the regulations of the by-law and paid the \$50.00 fee in order to obtain a Permit.

As a result, we continue to recommend that Policy 6.1(d) be revised to read as follows:

"No person shall sell Family Fireworks except pursuant to a permit issued by the Town or on Victoria Day, Canada Day and each of the seven days immediately preceding Victoria Day and Canada Day."

Town Staff have recommended that no action be taken on the aforementioned suggestion. The CPC maintains its position that this aspect of the by-law is inconsistent with its intent and that introducing year-round sales would provide for a better environment in which the regulation of fireworks could be undertaken in a fair and effective manner. The CPC continues to offer its expertise and assistance to Town staff to explore this opportunity.

Proposed Permit Fee for Individuals

The CPC recognizes that the Town must introduce user fees and permit fees in order to off-set the cost of training and inspections. However, the CPC believes that the proposed

November 12, 2007

Page 3

\$50.00 fee for an individual permit is prohibitive and will result in many Markham residents avoiding the cost of permits by purchasing fireworks in other area municipalities where there are lower or non-existent fees.

In the alternative, and to ensure that the Town is provided with appropriate revenue to implement the education and training components of this initiative, the CPC would support an increase on the license fee in order to off-set the proposed \$50.00 permit fee. The City of Toronto's Fireworks By-law introduced a \$25.00 fee for a Special Occasion Permit, an amount which was justified as the City did not place a weight limit on the amount of fireworks which could be purchased. The CPC requests that a similar fee be used by the Town and that the license fee be increased proportionally to off-set any lost revenue.

Staff did not provide comment on this recommendation and have not provided any rationale for the proposed fee amount. The CPC continues to believe that a reduced discharge fee for family fireworks would promote compliance with the by-law and result in improved public safety. The CPC therefore reiterates its request that the discharge fee for family fireworks be reduced.

Conclusion

As a result of the conclusions made by the Town with respect to our submission as summarized above, we ask that the Town of Markham consider a review of the new Fireworks By-law one year after it comes into force and that staff be asked to report back to Council on its effectiveness. The CPC is willing to participate in this review and to provide any assistance that the Town may need in the preparation of this report.

On behalf of the CPC we wish to thank the Markham Fire Department, By-law department and the Town Clerk for meeting with our organization to review these issues.

Yours very truly,

AIRD & BERLIS LLP



Eileen P. Costello

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