

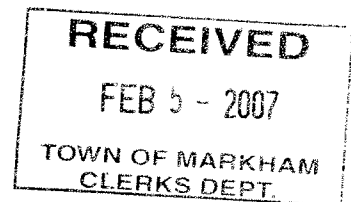
**TOWNSEND, ROGERS LLP**  
BARRISTERS AND SOLICITORS

*Council*  
*(See M. 1 Rep. 6)*

PLEASE REFER TO:  
Susan Rogers (Ext. 224)  
Email: [susan.rogers@townsendrogers.ca](mailto:susan.rogers@townsendrogers.ca)  
Assistant: Kate King (Ext. 221)  
E-mail: [kate.king@townsendrogers.ca](mailto:kate.king@townsendrogers.ca)

February 2, 2007

Town of Markham,  
c/o Clerks Office,  
101 Town Centre Boulevard,  
Markham, Ontario  
L3R 9W3



Honourable Mayor and Members of Council

**Re: 1375504 Ontario Inc., - 7778 Kennedy Road, Markham**  
**Finance and Administration Report To General Committee - January 15, 2007**  
**Development Charges Credit Request at 7778 Kennedy Road.**

We have just today been retained by 1375504 Ontario Inc. with respect to the amount of development charges being requested in respect to its development at 7778 Kennedy Road in Markham. We understand that Mr. Gerry Mintz has been attempting to resolve this issue for over a year, to no avail. The client has therefore made a decision to retain legal counsel to address the issue.

We have reviewed the report to General Committee from the Corporate Services Department - which was considered by General Committee on January 22, 2007 relating to the request for a credit or refund of development charge levies by our client. We understand this report will be coming before Council on February 13, 2007.

Given that we have just recently been retained we are respectfully requesting that Council defer this matter to allow us to complete our investigations into the matter, and attempt to resolve the issues. We are asking that the report be deferred indefinitely, while we take the necessary steps to sort the matter out. It is our advice to our client that if this is not resolved with the municipality, then resort must be had either to the Ontario Municipal Board or to the courts. A decision by the Council of the nature recommended in the report would prejudice the attempts to resolve the matter.

We are also concerned with the characterization of some of the information contained in the report on which the Council would be basing its decision at this time.

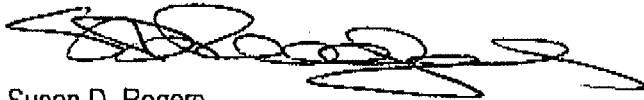
For example, the report refers to a "reduction in the Town's fees and levies by an amount equal to the fair market value of a parcel of land" which was conveyed to the Town at the time of payment. Please be clear that the decision by the Town of Markham to take land as part payment of the value of the levies, does not in any way lead to the conclusion that the levies were reduced. The levies were paid fully.

Furthermore, it is our client's position, with which we concur, that there is no intention in any development charge legislation, that a landowner should pay levies for units that were not constructed. On page 4 of the report to General Committee, there is a suggestion that the services have been constructed to service the 41 lots which were not constructed. If that is true, then there are other units, which are not part of this development, which are benefiting from the services paid for by this development. That is certainly not the intent of the development charges legislation.

We understand that the resolution of this may be complex and may have serious legal and policy ramifications. We are prepared to work with the Town to address those. However, we feel that a decision of the nature recommended in this report at this time would not be helpful to that end.

We thank you for your attention to this matter.

Yours truly,  
TOWNSEND ROGERS LLP



Susan D. Rogers  
Partner

c.c. Gerry Mintz, Calearth International Development Inc.  
Andy Taylor, Commissioner Corporate Services.  
Catherine Conrad, Town Solicitor