

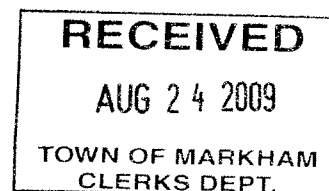
McDERMOTT & ASSOCIATES LIMITED

LAND USE & ENVIRONMENTAL PLANNING CONSULTANTS

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August 24, 2009



The Mayor and Members of Council
Corporation of the Town of Markham
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

Attention: Ms. Kimberley Kitteringham
Town Clerk

Re: Internal Road North of Sixteenth Avenue
Part 3, Plan 65R-12779 In Part Of Lot 16, Concession 7, Town of Markham
Markham Heritage Centre / Red Banner Developments Limited
Our File: PN 5109

Dear Mayor Scarpitti and Members of Council:

On August 11, 1989, Red Banner Developments Limited entered into a Site Plan Agreement with the Town of Markham in relation to the development of the Markham Heritage Centre, municipal address of 5970 - 5990 Sixteenth Avenue. The Agreement was subsequently registered on the title of the lands, being Parts 1, 4, 5 and 8 of Plan 65R-12779 and Part 1 of Plan 65R-10123, on August 15, 1989. A copy of the Site Plan Agreement is attached hereto together with a survey illustrating the location of the respective parts.

In accordance with the requirements of the Site Plan Agreement, Red Banner Developments Limited, undertook to construct the *interior road* over Part 3 of Plan 65R-12779, that is lands held under the ownership of the Town of Markham. The works involved the placement of watermains, sanitary sewers, storm sewers, utilities and related appurtenances together with construction of the internal road, inclusive of curbs, gutters and related works, in accordance with the requirements of the Town of Markham. To guarantee that the works were constructed to the satisfaction of the Town of Markham, Red Banner Developments Limited was, by way of Paragraph 17(x) and Item 6 on Schedule "D" of the Site Plan Agreement, required to post a Letter of Credit in the amount of \$105,000.00.

In this context, reference is made to Schedule "E", entitled Return Of Letters Of Credit, attached to and forming part of the Agreement, and more specifically Item 6 thereof which reads as follows, namely:

"Road Construction: Reduction to a minimum of 50% upon acceptance of work to base coarse asphalt. After placement of top coarse asphalt to the satisfaction of the Director of Engineering the Letter of Credit will be reduced to 20% for a final two year guarantee period."

We confirm that construction of the internal road was completed to the satisfaction of the Town of Markham and that, following the two year guarantee period, the Letter of Credit with respect to construction of the internal road was fully released by the Municipality as provided for under the Site Plan Agreement.

The interior road, which is under the ownership of the Town of Markham, provides access from the northerly limits of Sixteenth Avenue to the driveways and off-street parking areas serving 5970 and 5990 Sixteenth Avenue, the Markham Heritage Centre. In addition, the interior road provides access to a gated entrance to the Markham Museum lands located directly to the north of the aforementioned commercial properties.

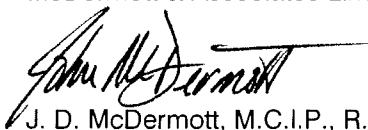
Our Client now understands that Part 3 of Plan 65R-12779 was never been formally assumed by the Town of Markham as a public road. In fact, Red Banner Developments Limited has provided for winter maintenance of the interior road since development of the commercial site circa 1989. It is further noted that, from time to time over the years since construction of the Markham Heritage Centre, the Town of Markham has provided for public access to the grounds of the Markham Museum via the interior road.

On behalf of our Client, Red Banner Developments Limited, we hereby request that the Council of the Town of Markham initiate the required procedures to provide for adoption of a By-law pursuant to the provisions of Section 31(2) of the Municipal Act, S.O. 2001, as amended, to dedicate Part 3 of Plan 65R-12779 as a public highway. It is suggested that adoption of a By-law to establish Part 3 as a public highway is consistent with the intent of the Site Plan Agreement given that the two year guarantee period has expired and that, while the Municipality has never formally recognized Part Three as a public road, it has been responsible for on-going maintenance of the interior road and related works since that time.

As Council may be aware, our Client requested that the Town of Markham initiate such procedures as may be necessary to convey Part 3 of Plan 65R-12779 to Red Banner Developments Limited at a nominal cost with a non-exclusive, perpetual easement in favour of the Town of Markham. This matter was discussed at some length during the course of a meeting with Mr. David Pearce and Ms. Christy Forster on February 24, 2009. Given the value placed upon the lands by the Town of Markham and the issues associated with public works situated within Part 3, acquisition of the lands by Red Banner Developments Limited with a non-exclusive easement in favour of the Municipality was neither practical or feasible. Accordingly, our Client respectfully requests that Council now proceed with adoption of the required By-law under the Municipal Act to designate Part 3 of Plan 65R-12779 as a public highway and that the Municipality assume responsibility for maintenance of the road and all related works as inferred by way of the Site Plan Agreement.

We would be pleased to attend such meetings as may be necessary to facilitate resolution of this matter to the satisfaction of both the Town of Markham and our Client. Should you have any questions or require further information in relation to this matter, please do not hesitate to contact the undersigned.

Sincerely yours,
McDermott & Associates Limited



J. D. McDermott, M.C.I.P., R.P.P.
Principal Planner

encl.

copy to: Mr. Keith Lahey
Red Banner Developments Limited