

June 5, 2018

**By E-Mail**

Committee of the Whole  
City of Vaughan  
Vaughan City Hall  
2141 Major Mackenzie Drive  
Vaughan, Ontario  
L6A 1T1

**Attention: City Clerk**

Dear Sirs/Mesdames:

**Re: The Country Club (formerly the Board of Trade Golf Course)  
20 Lloyd Street, Vaughan**

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| Communication                               |
| COUNCIL: <u>June 19/18</u>                  |
| <u>cw</u> Rpt. No. <u>21</u> Item <u>48</u> |

We are counsel to Clubhouse Properties Inc., the owner of the lands known as The Country Club (formerly the Board of Trade Golf Course), which is municipally known as 20 Lloyd Street in the City of Vaughan (the "Lands").

For the reasons set out below, we are writing to request that the Committee of the Whole and City Council reconsider the resolution adopted at the Council meeting on May 23, 2018, and not proceed with any site-specific by-law amendment to the City's tree protection by-law(s) pending the completion of the ongoing City-initiated consultation process.

Late yesterday morning, our client received an email from Gus Michaels, the Director & Chief Licensing Officer of the City's By-Law & Compliance, Licensing & Permit Services Department. In that email, Mr. Michaels cited the following clauses, which he identified as an excerpt from the City Council meeting of May 23, 2018:

1. ***That appropriate staff be directed to request the owners of the Board of Trade Golf Course to formally agree in writing to abide by the provisions of the Private Property Tree Protection By-law as a gesture of good faith toward neighbouring residents, and to do so until such time as the consultations referenced above is concluded and Council takes what action it deems appropriate in light of said consultations; and***

2. ***That failing agreement with the above, that appropriate staff be directed to bring forward no later than the Committee of the Whole meeting of June 5, 2018, a site-specific by-law that subjects the said lands to the provisions of the Private Property Tree Protection By-law, until such time as the consultations referenced above is concluded and Council takes what action it deems appropriate in light of said consultations. [emphasis in original]***

At the time of Mr. Michaels' email, we understand that the Minutes of the May 23, 2018 Council Meeting were not yet available on the City's website. As a result, this was the first time that we became aware of the operative portion of the Council resolution from the May 23, 2018 meeting. Our client subsequently contacted the City Clerk's Office to inquire as to the status of the Council Minutes and only received a copy of the full Council resolution for the first time late yesterday afternoon.

Having just recently received a copy of the relevant excerpt of the Council Minutes, we understand that the preamble clauses to the above Council resolution are as follows:

***Whereas, an application to develop a portion of the Board of Trade Golf Course lands has been withdrawn but is expected to be re-submitted at some future as yet unspecified date; and***

***Whereas, local residents are concerned that trees other than those identified as hazardous to the public may be removed from the site while the application is in abeyance and prior to the completion of the current consultation with golf course and nursery operators as to whether trees on such sites should be covered by the Private Property Tree Protection Bylaw;***

As noted above, clause 1 of the Council resolution directs staff to request the owners of the Board of Trade Golf Course to formally agree in writing to "abide by the provisions of the Private Property Tree Protection By-law as a gesture of good faith toward neighbouring residents ...".

With respect, the above Council direction is vague and uncertain. First, it is our understanding that the "Private Property Tree Protection By-law" was By-law Number 185-2007, which was enacted by City Council on June 11, 2007. However, that by-law has since been repealed and replaced by the City's new "Tree Protection By-law" (By-law Number 052-2018), which was enacted by City Council on April 11, 2018.

Second, it is not clear what is intended by the reference to asking the owners to "abide by the provisions of the Private Property Tree Protection By-law", given that section 3.(2)(e) of the former by-law explicitly stated that a permit is not required to injure or destroy trees on a golf course.

Of note, a tree removal permit is also not required to injure or destroy trees on a golf course under the City's new Tree Protection By-law, which was just passed by City Council less than two months ago.

**It is also important to note that although our client is the owner of the Lands, it is not the operator of the golf course, and is therefore not responsible for any tree maintenance and/or removal that may occur as part of the ongoing operation of the golf course. As such, Clubhouse Properties Inc. is able to confirm that it has not removed any trees from the Lands, and will not remove any trees from the Lands while it is the landlord. Further, if Clubhouse proceeds with a future redevelopment application for the Lands, any tree removal would occur only after all necessary approvals are secured.**

**By contrast, ClubLink Corporation ULC ("ClubLink") is the tenant and the golf course operator on the Lands, and Clubhouse Properties Inc. has no relationship with ClubLink other than as landlord and tenant. Accordingly, Clubhouse Properties Inc. is not able to agree on behalf of, or otherwise bind, ClubLink with respect to any tree maintenance and/or removal that may occur as part of ClubLink's ongoing operation of the golf course.**

Of particular concern is the direction in clause 2 of the Council resolution, which directs staff to bring forward a "site-specific by-law" no later than today's Committee of the Whole meeting, if our client fails to agree to take specific steps that Council has characterized as a "gesture of good faith toward neighbouring residents".

Further, the clause indicates that the site-specific by-law would subject the Lands to the provisions of the Private Property Tree Protection By-law, which, as noted above, has recently been repealed. Conversely, if the intention is to bring forward a site-specific by-law that would amend the recently enacted Tree Protection By-law, the rationale for such an amendment is unclear.

It is our understanding that the Tree Protection By-law was supported by a staff report that was considered by the City's Committee of the Whole at its meeting on March 6, 2018 (the "Staff Report"), and that the Staff Report recommended the continued exemption of golf courses from the need to obtain a tree removal permit.

Further, in response to the Committee's recommendation to remove the exemption for golf courses and nurseries from the requirement to obtain a tree removal permit, staff recommended to Council that it defer adoption of the Committee's recommendation, "allowing City staff to undertake consultations with golf course and nursery owners and upon conclusion provide a report to a future Committee of the Whole with staff's finding and recommendation".

Importantly, staff did not recommend, and Council did not resolve, that the exemption for golf courses be removed pending the completion of the consultations. On the contrary, we understand that Council accepted staff's recommendation at its meeting on March 20, 2018, and enacted the Tree Protection By-law at its meeting on April 11, 2018, which specifically included the exemption for golf courses.

Further, the consultations between City staff and golf course owners/operators has been initiated, but is not yet completed, and we note that our client, as the owner of the Lands, and ClubLink, as the operator of the golf course, are, in good faith, participating in that City-initiated process.

Thus, it is not clear what has changed since March 20 and/or April 11, 2018, which would cause Council to now reconsider its earlier position regarding the exemption for golf courses (and for the Lands in particular), why it would consider doing so on a "site-specific" basis, and why a potential removal of the exemption would be specifically tied to our client failing to agree to a request by Council to make a "gesture of good faith towards neighbouring residents".

As noted above, the preamble to the Council resolution states, in part, that "local residents are concerned that trees ... may be removed from the site while the application is in abeyance and prior to the completion of the current consultation with golf course and nursery operators ...". Similarly, we are also aware that various resident groups, including Keep Vaughan Green and The Friends of Keep Vaughan Green, have advocated that Council remove the exemption for golf courses from the requirement to obtain a tree removal permit.

However, such concerns clearly do not warrant Council passing a site-specific by-law to remove the exemption for the Lands, particularly where City staff recommended the continued exemption for golf courses; where City Council recently enacted the new Tree Protection By-law, which retains the exemption for golf courses; and where City Council recently directed City staff to initiate consultations with golf course owners, which is ongoing.

Accordingly, we request that the Committee of the Whole and City Council reconsider the resolution adopted at the Council meeting on May 23, 2018, and not proceed with any site-specific by-law amendment to the City's tree protection by-law(s) pending the completion of the ongoing City-initiated consultation process.

Kindly ensure that we are notified of any decision(s) made by the Committee of the Whole and/or City Council regarding this matter.

Yours truly,  
**DAVIES HOWE LLP**



Mark R. Flowers  
Professional Corporation

copy: Gus Michaels, Director & Chief Licensing Officer, City of Vaughan  
Claudia Storto, City Solicitor, City of Vaughan  
Client  
Brent Miller, Clublink Corporation ULC

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**Subject:** FW: The Country Club (formerly the Board of Trade Golf Course) - 20 Lloyd Street, Vaughan  
**Attachments:** Letter from M Flowers to Committee of the Whole - June 5 2018 (01129685xCDE1C).pdf

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**From:** Mark Flowers [<mailto:markf@davieshowe.com>]  
**Sent:** Tuesday, June 05, 2018 10:09 AM  
**To:** [Clerks@vaughan.ca](mailto:Clerks@vaughan.ca)  
**Cc:** Storto, Claudia <[Claudia.Storto@vaughan.ca](mailto:Claudia.Storto@vaughan.ca)>; Michaels, Gus <[Gus.Michaels@vaughan.ca](mailto:Gus.Michaels@vaughan.ca)>  
**Subject:** The Country Club (formerly the Board of Trade Golf Course) - 20 Lloyd Street, Vaughan

Please see the attached letter. Kindly ensure that this submission is brought to the attention of the Committee of the Whole in advance of today's meeting.

**Mark Flowers**  
Direct Line: 416.263.4513

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