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December 5, 2022

Our File No.: 171939

**Via Email (clerks@vaughan.ca)**

City of Vaughan  
Office of the City Clerk  
2141 Major Mackenzie Drive  
Vaughan, ON L6A 1T1

**Communication : C 3  
Committee of the Whole (1)  
December 6, 2022  
Agenda Item # 1**

**Attention: City Council Members**

Dear Sirs/Mesdames:

**Re: Zoning By-law Amendment Application By 1529749 Ontario Inc. (the Torgan Group), Phase 1, 7700 Bathurst Street, City File No. Z.20.019  
Comments by Promenade Limited Partnership**

We are solicitors for Promenade Limited Partnership (“PLP”), the owner of the Promenade Shopping Centre, municipally known as 1 and 180 Promenade Circle. Torgan’s lands at 7700 Bathurst Street are immediately adjacent to the Promenade Shopping Centre. Both PLP and Torgan’s lands are subject to the Promenade Centre Secondary Plan that was adopted by City Council and recently approved by York Region.

We previously wrote to the Committee of the Whole about Torgan’s planning applications for its phase 1 lands (the “**Phase 1 Lands**”) on March 21, 2022, February 27, 2022 and October 2, 2020. By way of this letter, we are writing to comment on the City staff report dated December 6, 2022 seeking endorsement of Torgan’s zoning by-law amendment application for the Phase 1 Lands, which Torgan has appealed to the Ontario Land Tribunal. PLP is a party to that proceeding. Copies of the aforementioned letters are attached to this correspondence.

In their report, City staff recommend that before Torgan can proceed with its proposed redevelopment of the Phase 1 Lands a number of conditions, secured through a Holding Symbol, must be satisfied. Many of the conditions for removing the Holding Symbol require PLP’s cooperation and permission to fulfill. For example, Torgan must enter into a cost sharing agreement with benefitting landowners in the Promenade Centre Secondary Plan area, including PLP, and obtain easements over PLP’s lands for overland flow drainage and storm sewer discharge. In addition, the conditions require Torgan to obtain confirmation from PLP’s solicitor that Torgan’s proposed redevelopment has certain access rights over Promenade Circle, which are lands owned by PLP, and if those rights are not sufficient, that Torgan obtain suitable rights from

PLP. Ultimate access to the Torgan Phase 1 Lands is dependent on the construction of a new north-south street, a portion of which is to be on lands owned by PLP.

While PLP supports City staff's recommendation that these conditions, and others, must be satisfied before Torgan can proceed with the redevelopment of the Phase 1 Lands, PLP is of the view that these conditions should be secured through a different mechanism. In particular, rather than securing the conditions through a Holding Symbol in the zoning by-law amendment, the appropriate approach in this instance is to withhold Torgan's zoning by-law amendment until the conditions identified by City staff (and possibly other conditions requested by PLP) are addressed. This position is not substantively different than what City staff are recommending. Both PLP and City staff are recommending that certain conditions must be satisfied before the Phase 1 redevelopment can proceed. PLP's concern, however, with a Holding Symbol is that it is inviting the resolution of issues to be pushed off to another day when it is important to have these issues resolved now. Further, many of the conditions identified by City staff directly affect PLP and require PLP's agreement to fulfill. It is appropriate for these conditions to be satisfied through the Ontario Land Tribunal process, which PLP is a party to, and not a future process where the Holding Symbol would be removed, and where PLP may have more limited rights to determine the outcome of that process.

PLP is therefore asking the Committee of the Whole to instruct the City solicitor to request from the Ontario Land Tribunal that Torgan's zoning by-law amendment be withheld until the conditions identified by City staff in their report are satisfied.

In addition, PLP provides the following comments on the City staff report:

- Torgan's development for the Phase 1 Lands proposes interim vehicular access off of the existing Promenade Circle. This is an interim condition because the Promenade Centre Secondary Plan shows this portion of Promenade Circle shifting south. The ultimate vehicular condition for the Phase 1 Lands will require the construction of a new north-south street, immediately east of Torgan's Phase 1 Lands, when Promenade Circle is relocated. The new north-south street is to be on lands owned by Torgan and PLP. Given that the Phase 1 Lands propose to rely on an interim vehicular condition, it is necessary to secure now, as part of the approvals of the Phase 1 Lands, the delivery of the ultimate vehicular condition being the conveyance and construction of the new north-south street that the Phase 1 Lands will require for access when Promenade Circle is relocated in the future. Securing this ultimate condition is especially important given that the City staff report notes Torgan's intention to sever the Phase 1 Lands from the remainder of the lot. A severance would allow for the possibility that the remainder of Torgan's lands, including the lands where the new north-south street is proposed to be located, could be separately sold to a third party. This adds to the concern that the new north-south street may never be realized if it is not secured now through the planning approvals of the Phase 1 Lands. We note that the City staff report recommends that a Development Agreement is to be entered into to secure, among other matters, the provision of "roads". PLP is of the view that any

Development Agreement entered into now as part of the approval of the Phase 1 Lands must secure the delivery of the new north-south road in the future so that access from the Phase 1 Lands will connect to the new Promenade Circle once it is reconstructed south of its current location in accordance with the approved Promenade Centre Secondary Plan.

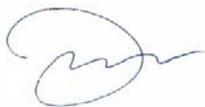
- Recommendation 2(d) of the City staff report provides that “the owner shall enter into a cost sharing agreement to the satisfaction of the City with the benefitting landowners in the Promenade Centre Secondary Plan Area.” For clarity, any cost sharing agreement should include, but not be limited to, all cost sharing for the provision of roads and municipal services within the Promenade Secondary Plan area. This is the language found in Torgan’s Official Plan Amendment for its Phase 1 Lands endorsed by City Council and should equally apply to any requirement for a cost sharing agreement imposed as part of any approval of Torgan’s zoning by-law amendment for its Phase 1 Lands. We believe this is City staff’s intention.
- Pages 23 and 26 of the City staff report suggest that any easements required over PLP’s lands in favour of Torgan shall be established through a Consent Application to the Committee of Adjustment and the decision of the Committee of Adjustment shall be “final and binding.” For clarity, we note that the Committee cannot establish an easement in its own right. While approval from the Committee may be required for PLP to grant the easements contemplated in the City staff report, PLP, as owner of the lands proposed to be subject to easements, must consent to the granting of those easements for those easements to be established.

PLP is committed and looks forward to working with the City and Torgan to ensure that new development within the Promenade Centre Secondary Plan area, including Torgan’s development of the Phase 1 Lands, proceeds in a coordinated manner, and that the required commitments of funds, lands and services needed to realize the vision of the Promenade Centre Secondary Plan are shared equitably among benefitting landowners.

We thank the Committee for its consideration of this letter.

Yours very truly,

**Goodmans LLP**



Joe Hoffman

JBH

7327038

March 21, 2022

Our File No.: 171939

**Via Email (clerks@vaughan.ca)**

City of Vaughan  
Office of the City Clerk  
2141 Major Mackenzie Drive  
Vaughan, ON L6A 1T1

**Attention: Council Members**

Dear Sirs/Mesdames:

**Re: Official Plan Amendment Application By 1529749 Ontario Inc. (the Torgan Group),  
7700 Bathurst Street; City File No. OP.16.006; Comments by Promenade Limited  
Partnership**

We are solicitors for Promenade Limited Partnership (“PLP”), the owner of the Promenade Shopping Centre lands, municipally known as 1 and 180 Promenade Circle.

**Request to City Council and Reasons in Support**

We previously wrote to the Committee of the Whole on February 27, 2022 and October 2, 2020 about Torgan Group’s official plan amendment application for phase 1 of its lands known municipally known as 7700 Bathurst Street. In the most recent letter, which the Committee considered on March 1, 2022, PLP requested that any official plan amendment that would permit the redevelopment of Torgan’s lands contain a cost sharing policy similar to that set forth in Policy 11.7.3 of the draft Promenade Centre Secondary Plan. Through this letter, PLP continues to assert this request that should the Committee endorse Torgan’s phase 1 official plan amendment it does so on the condition that the following language be included:

As condition of approval of development in the Promenade Centre, the City shall require the implementation of appropriate development agreements and other measures which may include front ending agreements and/or cost sharing agreements, to ensure that the new development in Promenade Centre is coordinated and that the required commitments of funds, lands and services are secured and/or in place. These agreements and other measures shall ensure that the reasonable costs of the municipal and community infrastructure, land and/or facilities are fairly and equitably shared without adverse impact on the City’s financial capability. The agreements and measures permitted by this policy shall be

only those permitted by law and otherwise agreed to by the landowner(s) and the City.

Applying cost sharing policies to realize the full build out of Promenade Centre, including a cost sharing policy in respect of Torgan's phase 1 official plan amendment, is a matter of good planning. For example, Torgan's phase 1 development proposes interim vehicular access off of Promenade Circle, on lands owned by PLP. The ultimate vehicular condition for Torgan's phase 1 development requires the construction of a new north-south street, immediately east of Torgan's phase 1 lands, that would connect to the transportation network envisioned by the draft Promenade Centre Secondary Plan. Before Torgan proceeds with its redevelopment plans, it is necessary to secure an agreement with PLP that would permit increase traffic on PLP's lands and secure mechanisms to convert Torgan's interim access arrangement to the proposed permanent access arrangement. Access arrangements must include, among other things, Torgan securing access over the portion of the new-south street over PLP's lands to connect to Promenade Circle once it is relocated south. Any connection to North Promenade from Torgan's phase 1 development must be provided on Torgan's property, and not on PLP's lands.

With this context it is clear that cost sharing between landowners for converting Torgan's interim access arrangement to the proposed permanent access arrangements, as well as for the future buildout of the public road network within Promenade Centre that will benefit both PLP's and Torgan's lands, and any other infrastructure improvements benefitting both owners' lands, is appropriate and should be required. This would allow for, among other things, certainty and fairness for both PLP and Torgan when redeveloping their lands, including future phases of their lands.

### **Response to Comments Made at the March 1, 2022 Committee of the Whole Meeting**

At the March 1, 2022 Committee meeting it was suggested by Torgan representatives that because the City is permitting Torgan to proceed with its phase 1 redevelopment in advance of the Promenade Centre Secondary Plan, the City cannot seek to include cost sharing policies in Torgan's phase 1 official plan amendment. Respectfully, PLP disagrees. To be clear, PLP is not taking any issue with Torgan's phase 1 development proceeding before the Promenade Centre Secondary Plan is finalized nor is PLP taking the position that Torgan's Phase 1 official plan amendment should be subject to the draft Promenade Centre Secondary Plan. Rather, PLP is simply seeking to include a cost sharing policy in Torgan's phase 1 official plan amendment as a matter of good planning. This is consistent with City staff's recommendation in their report to the Committee that cost sharing agreements be considered among landowners to deliver the future public roads, shared use paths and other active transportation facilities.

It was also suggested at the March 1, 2022 Committee meeting that it was not appropriate for Torgan's phase 1 official plan amendment to include a cost sharing policy, and that this language would be more appropriately found in the Promenade Centre Secondary Plan. Respectfully, PLP disagrees. It is important to ensure that new development in Promenade Centre, including Torgan's

phase 1 development, proceeds in a coordinated manner and that the required commitments of funds, lands and services needed to realize the redevelopment of both PLP and Torgan's lands are in place and shared equitably among benefitting landowners. It is not good planning to proceed with approvals for the Torgan phase 1 development based on interim access condition only, without securing the necessary arrangements for ultimate access. Failing to secure such arrangements as a condition of Torgan's phase 1 approvals would place the City, the landowners and future condominium purchasers in a tenuous position in the future when ultimate access via the new north-south street to the east of Torgan's phase 1 lands is required.

Further, we note that including policy language about cost sharing agreements (or other development agreements) outside of a Secondary Plan is common. For example, the area specific policy for Thornhill Town Centre, immediately north of the Promenade Shopping Centre, includes language about cost sharing among benefitting landowners (Policy 12.11), and so does the area specific policy for the Northwest Quadrant of Major Mackenzie Drive and Weston Road (Policy 12.6). The site-specific policy for Eagleview Heights contains similar language as well (Policy 13.22).

## **Conclusion**

PLP has had discussions with Torgan about entering into cost sharing arrangements dating back to 2020. Recently, City staff initiated a meeting between the parties at the direction received from the Committee at its meeting on March 1, 2022. PLP is committed to continuing those discussions with Torgan and is hopeful that cost sharing arrangements can be secured in short order.

In the meantime, it would be appropriate for the official plan amendment permitting Torgan's phase 1 development to include a cost sharing policy as set out above.

A copy of our February 27, 2022 and October 2, 2020 letters to the Committee is attached for ease of reference.

Yours very truly,

**Goodmans LLP**



Joe Hoffman

JBH

7256107

February 27, 2022

Our File No.: 171939

**Via Email (clerks@vaughan.ca)**

City of Vaughan  
Office of the City Clerk  
2141 Major Mackenzie Drive  
Vaughan, ON L6A 1T1

**Attention: Council Members**

Dear Sirs/Mesdames:

**Re: Official Plan Amendment Application By 1529749 Ontario Inc. (the Torgan Group),  
7700 Bathurst Street; City File Nos. OP.16.006; Comments by Promenade Limited  
Partnership**

We are solicitors for Promenade Limited Partnership (“PLP”), the owner of the Promenade Shopping Centre, municipally known as 1 and 180 Promenade Circle. We are writing in respect of Torgan Group’s official plan amendment application for the lands municipally known as 7700 Bathurst Street, which has been appealed to the Ontario Land Tribunal, and, if approved, would permit Torgan Group’s Phase 1 development consisting of a 30-storey mixed-use building and a 28-storey residential apartment building (the “**Torgan Phase 1 Development**”). Torgan’s lands are immediately adjacent to the Promenade Shopping Centre, within the block bounded by Centre Street to the north, Bathurst street to the east, Clark Avenue West to the south, and New Westminster Drive to the west, which block is subject to the City’s ongoing Promenade Centre Secondary Plan process.

As set forth in more detail, PLP has no general objection to the Torgan Phase 1 Development, but it is anticipating and requesting that any official plan amendment that would permit such development contain cost sharing policies similar to those set forth in Policy 11.7.3 of the draft Promenade Centre Secondary Plan, an excerpt of which is set out below.

PLP has been participating in the public process respecting Torgan Group’s official plan amendment application and on October 2, 2020 wrote to this Committee of the Whole with PLP’s comments for the Torgan Phase 1 Development. A copy of that letter is attached for reference. As noted in the letter, PLP has no immediate concerns with the proposed density, height and uses of the Torgan Phase 1 Development, but at that time raised concerns with the proposed servicing for the Torgan Phase 1 Development that proposed to utilize private services within the Promenade

Shopping Centre lands. Torgan's use of such private services would affect PLP's future development plans for the Promenade Shopping Centre. The Torgan Phase 1 Development proposal continues to rely on private infrastructure within the Promenade Shopping Centre to support the development and, in particular, proposes to connect to the existing private storm sewer within Promenade Circle, despite having no easement right that would permit such connection, and as an interim condition use Promenade Circle for primary vehicular access to its lands.

As part of redeveloping Torgan's lands, City staff note in their report the need for various development agreements relating to infrastructure. City staff acknowledge that Torgan Group will require an easement agreement with PLP to implement the proposed storm connection, and until such time as the pending stormwater management and other servicing concerns are resolved, City staff suggest that a Holding Symbol ('H') for the Torgan Phase 1 Development may be appropriate. PLP supports City staff's recommendation that an 'H' be implemented pending an agreement being reached between PLP and Torgan.

City staff also acknowledge in their report that there may be necessary infrastructure improvements, requiring cost sharing agreements or measures, to accommodate the redevelopment of Torgan's lands, and PLP recognizes that many of these cost sharing requirements for infrastructure improvements may equally apply to its future development plans for the Promenade Shopping Centre. These improvements are being envisioned in conjunction with the City's processing of the Promenade Centre Secondary Plan, and include infrastructure works for the Promenade Secondary Plan service area, and improvements to the transportation network, including the delivery of future roads, shared use paths, and other active transportation facilities. PLP supports City staff's recommendation that development agreements, including cost sharing agreements, be entered into among the landowners within the Promenade Centre Secondary Plan area, and the official plan amendment for the Torgan Phase 1 Development should reflect this understanding.

The City requirement for cost sharing is consistent with the City's processing of the first phase of development of the Promenade Shopping Centre, where PLP was required to provide a letter of credit as security for a financial contribution towards the ultimate servicing strategy for the Promenade Secondary Plan service area, even though it was determined that downstream sanitary sewer improvements were not required for this phase of development. It is also consistent with the draft Promenade Centre Secondary Plan, which anticipates that development agreements, front-ending agreements, cost sharing agreements and/or other measures may be required as a condition of development in the Promenade Centre for future works. In particular, Policy 11.7.3 provides:

As condition of approval of development in the Promenade Centre, the City shall require the implementation of appropriate development agreements and other measures which may include front ending agreements and/or cost sharing agreements, to ensure that the new development in Promenade Centre is coordinated and that the required commitments of funds, lands and services are secured and/or in place. These agreements and other measures shall ensure that the

reasonable costs of the municipal and community infrastructure, land and/or facilities are fairly and equitably shared without adverse impact on the City's financial capability. The agreements and measures permitted by this policy shall be only those permitted by law and otherwise agreed to by the landowner(s) and the City.

It would be appropriate for the official plan amendment permitting the Torgan Phase 1 Development to include the same language to that of Policy 11.7.3 of the draft Promenade Centre Secondary Plan. This would better ensure that while the official plan amendment for the Torgan Phase 1 Development is advancing prior to the approval of the Promenade Centre Secondary Plan, it will do so with an official plan amendment that reflects City staff's recommendations in their report and the anticipated policy framework for the Promenade Centre Secondary Plan.

A draft copy of the proposed official plan amendment for the Torgan Phase 1 Development is not publicly available. If the proposed official plan amendment does not already carry forward the same language of Policy 11.7.3 of the draft Promenade Centre Secondary Plan, we request that the official plan amendment for the Torgan Phase 1 Development include such language as a condition of the Committee's endorsement.

Yours very truly,

**Goodmans LLP**



Joe Hoffman

JBH

7249705

October 2, 2020

Our File No.: 171939

**Via Email (clerks@vaughan.ca)**

City of Vaughan  
Office of the City Clerk  
2141 Major Mackenzie Drive  
Vaughan, ON L6A 1T1

**COMMUNICATION – C21  
ITEM 4  
Committee of the Whole (Public Meeting)  
October 6, 2020**

**Attention: Council Members**

Dear Sirs/Mesdames:

**Re: Official Plan Amendment and Rezoning Applications By 1529749 Ontario Inc. (the Torgan Group), 7700 Bathurst Street; City File Nos. OP.16.006 and Z.20.019; Preliminary Comments by Promenade Limited Partnership**

We are solicitors for Promenade Limited Partnership (“PLP”), the owner of the Promenade Shopping Centre site, municipally known as 1 and 180 Promenade Circle. PLP is hereby providing comments on the above-noted applications by The Torgan Group (the “Applicant”).

**Background re: Promenade Phase 1 Development**

On June 12, 2019, City of Vaughan Council adopted Official Plan Amendment No. 46 and enacted By-Law No. 105-2019 to permit the Phase 1 redevelopment of the Promenade Shopping Centre site, with 30 and 35-storey residential apartment buildings connected by a 7-storey podium with at-grade retail and a 26-storey mixed-use building comprised of office, hotel and retail uses (the “Promenade Phase 1 Development”).

On September 29, 2020, Vaughan Council enacted By-Law No. 125-2020, to remove the Holding Symbol (“H”) for the Promenade Phase 1 Development lands. As part of this H removal process, it was determined that downstream sanitary sewer improvements are not required for the Promenade Phase 1 Development. PLP was nonetheless required to provide a letter of credit in the amount of \$455,000 as security for a financial contribution towards the ultimate servicing strategy for the Promenade Secondary Plan service area, which may include the Applicant’s lands.

**Comments on The Torgan Applications for 7700 Bathurst Street**

Official plan amendment and rezoning applications have been submitted by 1529749 Ontario Inc. (The Torgan Group) for 7700 Bathurst Street, at the southwest corner of Centre Street and Bathurst

Street, and adjacent to and abutting the Promenade Shopping Centre site. The applications seek permission for a Phase 1 development consisting of a 30-storey mixed-use building and a 28-storey residential apartment building connected by a 1-storey lobby and a 2-storey medical office and commercial building (the “Torgan Phase 1 Development”).

At this time, PLP has no immediate concerns with the proposed density, height and uses of the Torgan Phase 1 Development. However, PLP does have concerns with the proposed servicing for the Torgan Phase 1 Development. The Applicant’s lands currently have limited sanitary capacity and the proposal to utilize private services within PLP’s lands would dramatically affect PLP’s future development plans.

The Functional Servicing Report (FSR) for the development indicates that sanitary servicing is proposed to be accommodated by the existing 250mm sanitary pipe on Promenade Circle. The report also notes that there are “known sanitary sewer capacity issues in the downstream sanitary sewer network”.

The existing 250mm sanitary sewer within Promenade Circle is a private sewer owned by PLP. There is no registered easement or cost-sharing arrangement in place that entitles The Torgan Group to utilize this existing sewer for its Phase 1 development, or for its current use for that matter.

Before approving the Torgan Phase 1 applications, the City should ensure that there is a servicing approach for the development that does not rely on private services owned by PLP, or alternatively confirm that The Torgan Group has secured the necessary easements and cost-sharing arrangements from PLP that could potentially enable it to utilize the private services and other infrastructure within Promenade Circle. The City should also secure an appropriate financial contribution from The Torgan Group towards the ultimate servicing strategy for the Promenade Secondary Plan service area.

Please provide us with copies of any future notices or decisions with respect to the Torgan Phase 1 applications.

Yours very truly,

**Goodmans LLP**



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