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**From:** Natalie Ast <nast@overlandllp.ca>  
**Sent:** Monday, September 14, 2020 1:47 PM  
**To:** Roach, Rebecca <Rebecca.Roach@vaughan.ca>; Messere, Clement <Clement.Messere@vaughan.ca>; Clerks@vaughan.ca  
**Cc:** Christopher Tanzola <ctanzola@overlandllp.ca>; 'Tony D'Aversa' <wwwbigpaper@yahoo.ca>  
**Subject:** [External] 19CDM-20V001 - 5309 Highway 7 - Committee of the Whole Report September 15, 2020

Good afternoon,

We are the solicitors for Liberata D'Aversa, the owner of the property municipally known as 5317 Highway 7. We are in receipt of the Committee of the Whole Report dated September 15, 2020 regarding the above-noted Draft Plan of Condominium Application for the lands located at 5279, 5289, 5299, 5309 Highway 7 and 18, 26, 32, 48, 52 and 56 Coles Avenue (the "**Subject Property**").

We are currently reviewing the Committee of the Whole Report, and note that conditions of draft approval have been recommended, including conditions regarding the provision of an access easement for pedestrian and vehicular access from the Subject Property to our client's property to the west. On behalf of our client, we are reiterating the importance of the imposition of these draft plan conditions (outlined in Draft Plan Condition #7 of the Report) relating to the access easement. Consistent with our correspondence to the City of Vaughan, dated July 17, 2019, the provision of the access easement is required to ensure for future access to and from our client's lands at Highway 7.

Please find attached our correspondence dated July 17, 2019 requesting notice and the inclusion of the conditions relating to the access easement in favour of 5317 Highway 7 be required as conditions of draft plan of condominium approval, and that this condition be fulfilled prior to the registration of any plan of condominium on the Subject Property.

We ask that you please include this email and the attachment in the materials that will be before the Committee of the Whole on September 15. We also ask that you provide notice of any decision or changes to any conditions with respect to the Draft Plan of Condo Application for the Subject Property. Please do not hesitate to contact us should you have any questions.

Thank you,  
Natalie Ast

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July 17, 2019

**VIA EMAIL**

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

**Attention: Clement Messere**

Dear : Mr. Messere:

**RE: City of Vaughan File DA.14.046  
OMB Case No. PL121343  
Condominium Application – Request for Notice  
Request for Imposition of a Condition Regarding Easement/Access**

We are the lawyers for Liberata D'Aversa, the owner of the lands municipally known as 5317 Highway 7 on the south side of Highway 7, west of Kipling Avenue (the "**D'Aversa Lands**"), located immediately west of 5289 & 5309 Highway 7 (the "**Duca Lands**").

We are writing to request that the City of Vaughan (the "**City**") impose a condition on the approval of a condominium or condominiums on the Duca Lands to ensure that an easement is provided in favour of the D'Aversa Lands. This easement is anticipated by the planning approvals on the Duca Lands and as a requirement of the Site Plan Agreement for the Duca Lands.

On February 28, 2014, the Ontario Municipal Board (as it then was) issued a decision in respect of the proposed Official Plan Amendment and Zoning By-law Amendment for the Duca Lands in Case No. PL121343. The Board held that the final site plan would provide for a future interconnection to the D'Aversa Lands:

"[100] The Board also finds that protecting for a future interconnection for that time when the lands to the west may redevelop would further reduce access to Highway 7, enable greater efficiency of Highway 7, and thus continue to implement the provisions of the Regional Official Plan.

[101] Thus the Board finds that the final site plan shall protect for a future interconnection for the property to the west ...."

Further, on August 26, 2015 the Board issued a decision in respect of the site plan for the Duca Lands. The Board approved in principle the revised site plan which implemented the Board's

February 28, 2014 Decision, which was revised to protect for a future interconnection. As noted in the Board's site plan decision:

[11] "Mr. Fordyce provided a detailed review of the changes to the site plan to implement the Board's decision .... He demonstrated to the Board how the site plan had been revised to protect for a future interconnection ...."

The owner of the Duca Lands entered into a Site Plan Agreement with the City on September 8, 2017, registered as Instrument No. YR-2730903, which contains provisions requiring an easement in favour of our client to provide pedestrian and vehicular access:

"19. The Owner/Condominium Corporation shall agree to grant an access easement, if required, over the proposed private driveway in favour of the property to the west (municipally known as 5317 Highway 7, Vaughan) for the purpose of providing pedestrian and vehicular access from the property to the west over the Subject Lands and to the public road network, in the event that the property to the west redevelops, to the satisfaction of the Vaughan Development Planning Department in conjunction with the Vaughan Development Engineering and Infrastructure Planning Department and the Region; and that the future Condominium Corporation and the land owner to the west (5317 Highway 7, Vaughan) shall enter into an agreement on terms satisfactory to each of them acting reasonably with respect to the costs associated with such a road interconnection, which shall include, if required, any work to remediate the boulevard of Highway 7 if the access to Highway 7 is to be closed. A condition to this effect shall be included in the Condominium Agreement, Condominium Declaration, and all Agreements of Purchase and Sale or Lease, to ensure all future purchasers and lessees and the future Condominium Corporation are aware of this requirement.

20. The Owner/Condominium Corporation shall acknowledge and agree that if and when the lands to the west (municipally known as 5317 Highway 7, Vaughan) develop, that the works related to the proposed road interconnection of the Subject Lands and the adjacent property to the west as shown on Schedule "A1" may require a site plan revision for the Subject Lands, which may include, but is not limited to:

- a) Removal of the trees, landscape areas, and the temporary solid waste management facilities on the western portion of the proposed private road;
- b) Design and construction of the private road connection between the two properties;
- c) Construction of a new solid waste facilities with associated landscape features, north of the site at the existing access on Highway 7;
- d) Closure of the existing access on Highway 7; and
- e) The requirement to provide the City with a Letter of Credit as security to ensure the closure of the existing access onto Highway 7 if required.

A condition to this effect shall be included in the Condominium Agreement, Condominium Declaration, and all Agreements of Purchase and Sale or Lease, to ensure all future purchasers and lessees and the future Condominium Corporation are aware of this requirement.

21. The Owner shall not install any permanent structure within the area between Blocks A and C identified as "Possible Future Interconnection" other than what is reflected in Schedules "A" and "A1", without the written consent of the Region and Vaughan."

Pursuant to Section 19 of the Site Plan Agreement referenced above, our client is requesting that the provision of the easement and agreements referred to in the site plan conditions be required as a condition of draft plan of condominium approval pursuant to Section 51(24) of the *Planning Act*, with a requirement that this condition be fulfilled prior to the registration of any plan of condominium on the Duca Lands, in order to ensure the planned-for interconnection and future access to and from the D'Aversa Lands at Highway 7.

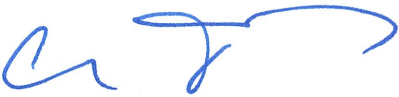
We note that our client is currently working with the City of Vaughan to settle its appeal of the Vaughan Official Plan 2010, in hopes of moving forward with the proposed development of the D'Aversa Lands.

We will be attempting to contact the neighbouring landowner to discuss the provision of the easement and terms of the required agreement. We would also be pleased to meet with City Staff to work toward a resolution of this request.

Furthermore, we are requesting notice of the condominium application for the Duca Lands, and any reports, meetings, Public Meetings, and decisions in respect condominium application and any further planning applications in respect of the lands. Should you require any further information, our contact information is provided herein.

Yours truly,

**Overland LLP**



Per: Christopher J. Tanzola  
Partner  
c. Client  
City Clerk