

AIRD & BERLIS LLP

Barristers and Solicitors

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November 15, 2010

BY COURIER

Ministry of Municipal Affairs and Housing
Municipal Services Office – Central Ontario
777 Bay Street, 2nd Floor
Toronto ON M5G 2E5

Attention: Sybelle von Kursell
Team Lead

Re: Appeal of Decision of the Minister of Municipal Affairs and Housing
Pursuant to Section 17(36) of the Planning Act, R.S.O. 1990 c. P.13
Regional Official Plan Amendment No. 128 (“ROPA 128”)
File No.: 18-OP-0012-128
Municipality: Regional Municipality of Durham

We are the solicitors for HDP Canada Industrial Fund I GP, Inc. (“HDP”) with respect to the above-noted matter. HDP owns approximately 64.5 acres of land, of which approximately 49.4 acres are developable, located at the southeast corner of Rossland Road East and Harwood Avenue North in the Town of Ajax (“HDP Lands”). HDP has submitted local official plan amendment and zoning amendment applications which seek to permit a mixed use development consisting of retail, commercial and office on approximately 12.6 acres of developable land.

HDP, through its planning consultant, R.G. Richards & Associates, participated in the Durham Region Official Plan Review by making oral submissions at the Public Meeting held before the Durham Region Planning Committee on March 24, 2009. The submission requested, among other things, that retail commercial uses be permitted on the HDP Lands.

The HDP Lands are located at the intersection of two arterial roads and are appropriate for retail commercial purposes.

HDP continues to have concerns regarding the implications of ROPA 128 on the HDP Lands and hereby appeals, pursuant to Section 17(36) of the Planning Act R.S.O. 1990 c. P. 13, as amended, the following portions of ROPA 128:

1. ROPA 128 in its entirety as it applies to the HDP Lands;
2. The following sections of ROPA 128 and the associated Ministerial modification as they apply on a Region wide basis:

Minister's Modification	Item	ROPA 128 Old Section	ROPA 128 New Section
48	137	8C.1.3	8C.1.3
51	141	8C.2.1	8C.2.1
52	142		8C.2.2
59	156		8C.2.14
	157	8C.2.7	8C.2.15
60	159	8C.2.18	8C.2.16
	228	15A	15A

In support of this appeal we enclose herewith the following material:

1. a cheque in the amount of \$125.00 representing the Ontario Municipal Board's appeal fee; and
2. a completed Appellant Form (A1) Planning Act – Bill 51.

If you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP


Steven A. Zakem

SAZ/smn

Encl.

- c. HDP Canada Industrial Fund I, GP Inc.
R.G. Richards & Associates

7461569.2



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
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 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

Southeast corner of Rossland Road East and Harwood Avenue North – Part of lot 7, Concession 2

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: Region of Durham

Part 3: Appellant Information

First Name: _____ Last Name: _____

HDP Canada Industrial Fund I, GP Inc.

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): c/o Paul McGuigan

E-mail Address: _____

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-282-1414 Alternate Telephone #: _____

Fax #: 905-625-5864

Mailing Address: 2810 Matheson Boulevard East 200 Mississauga
 Street Address Apt/Suite/Unit# City/Town
 Ontario L4W 4X7
 Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
 (Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Steven Last Name: Zakem

Company Name: Aird & Berlis LLP

Professional Title: Solicitor


E-mail Address: szakem@airdberlis.com

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416.865.3440 Alternate Telephone #: _____

Fax #: 416.863.1515

Mailing Address: Brookfield Place, 181 Bay Street Suite 1800, Box 754 Toronto
 Street Address Apt/Suite/Unit# City/Town
 Ontario M5J 2T9
 Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: November 15, 2010

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

Durham Region Official Plan Amendment No. 128
Ministry of Municipal Affairs File No.: 18-OP-0012-128
Durham Region File No. D-12-05

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

Please see appeal letter.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

[Empty box for explanatory note]

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

OPA09-A2 and Z1/09 (Town of Ajax)

THIS DOCUMENT CONTAINS SECURITY FEATURES - SEE REVERSE

25691

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TD CANADA TRUST
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TORONTO, ONTARIO M5K 1A2

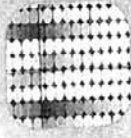
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AMOUNT
****\$125.00

PAY*THE*SUM*OF*****\$125.00

Minister of Finance

AIRD & BERLIS LLP
GENERAL ACCOUNT



PER

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PER