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Borden Ladner Gervais

November 17, 2010

RECEIVED.
MUNICIPAL SERVICES OFFICE

DELIVERED BY COURIER

NOV 17 2010

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

CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

Attention: Ms. Sybelle von Kursell, Team Lead

Dear Ms. Kursell:

**Re: Notice of Appeal under Section 17(36) of the *Planning Act*, R.S.O. 1990,
c.P.13**

**Appeal of the Decision of the Minister of Municipal Affairs and Housing
on Region of Durham Official Plan Amendment No. 128**

Municipality: Region of Durham

Appellant: Murray Stroud, Leonard Stroud, Nelson Stroud

Property: 775 Kingston Road E, Town of Ajax

MMAH File No.: 18-OP-0012-128

Our Client/Matter No.: 025486/000002

As you may be aware from our letter of January 13, 2010 to Mr. Louis Bitonti, Ministry of Municipal Affairs and Housing Municipal Planning Advisor, we are the solicitors for the landowners who own 128 acres of lands located west of Lake Ridge Road between Kingston Road E (Hwy 2) and Hwy 401 in the Town of Ajax with the municipal address of 775 Kingston Road E. The property is within the Greenbelt Plan and designated as Major Open Space Areas in Schedule "A" – Map "A4" Regional Structure map ("Schedule A") in the Region of Durham Official Plan Amendment No. 128 ("ROPA 128") as approved by the Minister of Municipal Affairs and Housing ("Minister").

As stated in our letter of January 13, 2010, we believe that our clients' property has been inappropriately designated to fall within the Greenbelt boundary and should be reconsidered from an access and transportation stand point, being that the lands are strategically located in close proximity to two significant 400 series highways: Hwy 407 extension and Hwy 401. The property also has access to Kingston Road which is an arterial road. In terms of land use, directly east of the property, lands are designated Living Areas in Schedule A-Map 'A4' in ROPA 128. These lands to the east currently form Almond Village which is a built up area. Based on these physical characteristics of the surrounding road network and land uses, it would be appropriate and desirable to include our clients' property within the urban expansion area.

Alternatively, at the very least, our clients' property should be identified for future Employment Area. The Region appears to support this concept, as they state in their June 8, 2010 staff report (report 2010-P-42) to Council that the Province does not agree with Schedule "F" – Specific Policy Area D, Potential Future Growth Areas, however, after the Region having discussions with the Province, both parties agree to delete Schedule "F" from ROPA 128 and in lieu of that, a policy can be included that identifies the Region's intent to protect strategic lands for future Employment Areas in strategic locations with access to transportation facilities. The policy is as such:

"Protecting Future Employment Areas

The Region recognizes the long-term economic importance of designating Employment Areas in proximity to and with access to highway infrastructure. Subject to Policy 7.3.12 and a comprehensive review of this Plan, the Region intends to designate and protect new strategic Employment Areas, currently beyond the 2031 time frame of this Plan, in the vicinity of highway infrastructure, including Highways 401, 407 and the freeway connections."

This policy was included in the June 8, 2010 draft ROPA 128 and approved by Council on June 23, 2010.

The Region further noted in their June 8, 2010 staff report, that a key element of the Growing Durham Study was to identify and protect key areas, particularly Employment Areas, along existing and future 400 series highways, beyond 2031.

In reviewing the Minister's final decision for ROPA 128, it does not appear to provide this policy. Accordingly, we write to you on behalf of our clients to file an appeal, pursuant to section 17(36) of the *Planning Act*, of the Minister's decision on the Region of Durham Official Plan Amendment 128.

CONCLUSION

For the foregoing reasons, as well as others that may become evident before the hearing of this appeal, we hereby appeal the decision of the Minister of Municipal Affairs and Housing on Regional Official Plan Amendment 128, to the Ontario Municipal Board on behalf of our clients.

We enclose a cheque made payable to the Minister of Finance in the amount of \$125.00 for the required filing fee, as well as the completed A1 form.

If you have any questions or require any additional information, please do not hesitate to contact the undersigned or May Luong, Land Use Planner, at 416-367-6251.

Sincerely,
BORDEN LADNER GERVAIS LLP



Stephen Waqué

cc: P.M. Madill, Regional Clerk
A.L. Georgieff, Regional Planning Commissioner
Mark Christie, Manager, Municipal Services Office – Central Region
Murray Stroud

encl:
A copy of OMB Appellant Form (A1)
A cheque for the Board's fee of \$125.00 payable to the Minister of Finance

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Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elt.o.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

775 Kingston Road East, Town of Ajax (west of Lake Ridge Road between Kingston Road E (Hwy 2) and Hwy 401)
 Address and/or Legal Description of property subject to the appeal:
 Municipality/Upper tier: Regional Municipality of Durham

Part 3: Appellant InformationFirst Name: Murray Last Name: Stroud

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

Professional Title (if applicable): _____

E-mail Address: mstroud@stroudlaw.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.Daytime Telephone #: (905) 509-1353 Alternate Telephone #: _____Fax #: 905-509-2370

Mailing Address:	<u>356 Kingston Road</u>	<u>City of Pickering</u>
	Street Address	City/Town
	<u>Ontario</u>	<u>L1V 1A2</u>
	Province	Postal Code
	<u>Country (if not Canada)</u>	

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: Stephen Last Name: WaqueCompany Name: Borden Ladner Gervais LLPProfessional Title: LawyerE-mail Address: swaque@blg.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.Daytime Telephone #: (416) 367-6275 Alternate Telephone #: _____Fax #: (416) 361-2708

Mailing Address:	<u>Scotia Plaza, 40 King Street West</u>	<u>Suite 4600</u>	<u>Toronto</u>
	Street Address	Apt/Suite/Unit#	City/Town
	<u>Ontario</u>		<u>M5H 3Y4</u>
	Province	Country (if not Canada)	Postal Code

Signature of Appellant: _____ Date: November 17, 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 128

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)

See attached 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)

[Empty box for OMB Reference Number(s) and/or Municipal File Number(s)]

HEAT SENSITIVE INK - RED IMAGE DISAPPEARS WITH HEAT. ADDITIONAL SECURITY FEATURES LISTED ON REVERSE.

47696-237790

Borden Ladner Gervais LLP

An Ontario Limited Liability Partnership

Scotia Plaza, 40 King St W
Toronto, ON, Canada M5H 3Y4

The Bank of Nova Scotia

Scotia Plaza
44 King Street West
Toronto, ON, Canada M5H 1H1

CHEQUE NUMBER 384212

CHEQUE DATE Nov 17/10

REGISTERED 2500

NOV 17 2010
44 KING STREET WEST
TORONTO, ON
80002-002

GEN \$***125.00***

Borden Ladner Gervais LLP

PAY TO THE ORDER OF:

Minister of Finance

CAUTION

CERTIFIED CHEQUE

RETURN TO BANK

IF NOT USED

A. Stuchlik

AUTHORIZED SIGNATURE

⑈ 384212⑈ ⑆80002⑈002⑈ 14221⑈