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November 16, 2010

Please refer to: **Mark Flowers**
e-mail: markf@davieshowe.com

By Courier

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

Attention: Sybelle von Kursell, Team Lead

Dear Ms. von Kursell:

**Re: Notice of Appeal to the Ontario Municipal Board
Region of Durham Official Plan Amendment No. 128
MMAH File No. 18-OP-0012-128
West Whitby Landowners Group Inc.**

RECEIVED
MUNICIPAL SERVICES OFFICE
NOV 17 2010
CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

We are counsel to West Whitby Landowners Group Inc. ("WWLGI"). WWLGI is comprised of a number of landowners within the West Whitby Secondary Plan area, which is located between Lake Ridge Road on the west and existing development on the east, and from Highway No. 401 on the south to north of Taunton Road, within the Town of Whitby.

The Town of Whitby adopted the West Whitby Secondary Plan on June 22, 2010 (Amendment No. 91 to the Town of Whitby Official Plan), which was subsequently forwarded to the Region of Durham for approval. The purpose of the Secondary Plan is to facilitate future urban development within the West Whitby Secondary Plan area.

WWLGI actively participated in the planning process leading to Regional Council's adoption of Region of Durham Official Plan Amendment No. 128 ("ROPA 128"), which included the filing of several written submissions in respect of the proposed amendment.

We understand that on October 27, 2010, the Ministry modified and approved ROPA 128, in part (the "Ministry's Decision"). Among other things, the partial approval of ROPA 128, as modified, expands the Region's urban area boundary to include the West Whitby Secondary Plan area, which WWLGI fully supports.



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At the same time, Modification No. 22 of the Ministry's Decision modifies Policy 7.3.10 (now renumbered to Policy 7.3.9) to, among other things, add a new subsection d) concerning the phasing of "Greenfield development".

The wording of proposed Policy 7.3.9 d) of ROPA 128, as modified, is ambiguous, and the intent of this modification is unclear, especially when considered in the context of other policies within ROPA 128. Moreover, depending on how this policy might be interpreted and implemented, WWLGI is also concerned that it could serve as an inappropriate and unnecessarily restrictive impediment to the timely and orderly development of the Region's urban area, and specifically the West Whitby Secondary Plan area.

Further, to our knowledge, this proposed modification to ROPA 128 was not subject to any public consultation prior to the Ministry's Decision, nor has any sound planning rationale been identified by the Ministry to justify its inclusion.

For these reasons, WWLGI hereby appeals proposed Policy 7.3.9 d) of ROPA 128, as modified, to the Ontario Municipal Board.

Enclosed with this notice of appeal is a completed OMB Appellant Form (A1), together with our firm cheque in the amount of \$125.00, payable to the Minister of Finance, representing the prescribed filing fee for this appeal.

We trust that this is satisfactory. However, please do not hesitate to contact us if you have any questions or require anything further.

Yours truly,

DAVIES HOWE PARTNERS

per:

Mark R. Flowers

Enclosures

copy: Pat Madill, Regional Clerk, Regional Municipality of Durham (without enclosures)
West Whitby Landowners Group Inc. (without enclosures)



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.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

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

Municipality/Upper tier: Town of Whitby, Region of Durham _____

Part 3: Appellant Information

First Name: _____ Last Name: _____

West Whitby Landowners Group Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

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

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town
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: Mark _____ Last Name: Flowers _____

Company Name: Davies Howe Partners _____

Professional Title: Lawyer _____

E-mail Address: markf@davieshowe.com _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416-977-7088 _____ Alternate Telephone #: 416-843-4884 _____

Fax #: 416-977-8931 _____

Mailing Address: 99 Spadina Avenue _____ 5th Floor _____ Toronto _____
Street Address Apt/Suite/Unit# City/Town
Ontario _____ M5V 3P8 _____
Province Country (if not Canada) Postal Code

Signature of Appellant:  per: Mark Flowers _____ Date: November 16, 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):

Region of Durham Official Plan Amendment No. 128, Policy 7.3.9 d) (MMAH Modification No. 22)

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.

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.

Part 7: Related Matters (if known)

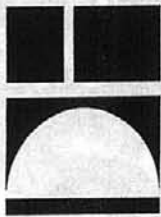
Are there other appeals not yet filed with the Municipality? YES NO

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)

Part 8: Scheduling Information



DAVIES HOWE PARTNERS
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 TORONTO, ONTARIO M5V 3P8

CANADIAN IMPERIAL BANK OF COMMERCE
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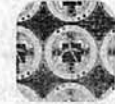
18934

*** One Hundred Twenty Five ***** DOLLARS 00/100

November 16, 2010 \$125.00

PAY
 TO THE
 ORDER OF

MINISTER OF FINANCE



DAVIES HOWE PARTNERS LAWYERS
 GENERAL ACCOUNT

[Handwritten Signature]

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