February 25, 2014

By E-Mail Only to Rose.Caterini@hamilton.ca and clerk@hamilton.ca

Mayor and Members of Council
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4YK

Attention: Rose Caterini, Clerk

Dear Mayor and Members of Council:

Re: Council Agenda Item 6.2 - February 26, 2014
   General Issues Committee Report 14-004
   Elfrida Urban Boundary Expansion
   Background Studies (PED 14011) (City-Wide)

We are counsel to Carmen Chiaravalle, 1694408 Ontario Inc., Demik Brothers Hamilton Ltd., John Edward Demik, Peter Demik and Elaine Vyn on behalf of the Twenty Road East Landowners (collectively known as the “Twenty Road East Landowners”). Our clients own land in the south area of the City of Hamilton, in the Twenty Road area. The lands are centered around the intersection of Twenty Road and Miles Road, located immediately adjacent to the south central urban area of the City of Hamilton, east of the Hamilton International Airport, west of the Glanbrook area business park, and north of Dickenson Road.

We are writing further to our letter dated February 18, 2014 (a copy of which is attached) in connection with the above noted matter to be considered by Council tomorrow. As noted in our letter to the General Committee, we object to the staff recommendation to remove the Elfrida Urban Boundary Expansion studies from “parked” status, and to approve the allocation of $500,000 in the 2014 Capital Budget for the completion of various studies regarding this matter.

It remains our opinion that no allocation for these studies should be made while the question of the urban boundary expansion and the designation of the Elfrida Lands as Special Policy Area is under appeal and before the Ontario Municipal Board (the “Board”). In our view, such an allocation is premature and a disrespect of the Board’s process. It is the Board that now has the mandate to determine the
question of whether a special policy area or urban boundary expansion should be approved, and if so where. In our view, it is an improper and irresponsible use of public funds given the uncertainty of whether these studies can ever be implemented should the Board determine that Elfrida is not the next, or only, growth area.

We understand that despite this, the General Committee has recommended that the funds be allocated for studies for the Elfrida Lands. As such, it is our respectful submission that, notwithstanding our view that such funds should remain parked at this time, if Council is inclined to agree with the recommendation of the General Committee and support the allocation of the monies to proceed with the above-mentioned studies, staff should be directed to include our clients' lands in the study area for future growth for which the funds are to be allocated. This will ensure that the studies cover other areas under consideration by the Board for urban boundary expansion.

Please feel free to contact the undersigned to discuss this matter further.

Yours sincerely,

SUSAN ROSenthal
Professional Corporation
SR:mm

encl.

G. Paparella, Director of Growth and Planning, City of Hamilton
M. Minkowski and M. Kovacevic, Counsel, City of Hamilton
M. Gatziros, Gatzios Planning + Development Consultants Inc.
Clients
February 18, 2014

By E-Mail Only to clerk@hamilton.ca

Chair and Members of General Issues Committee
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4YK

Dear Chair and Members of General Issues Committee:

Re: Elfrida Urban Boundary Expansion
Background Studies (PED 14011) (City-Wide)

We are counsel to Carmen Chiaravalle, 1694408 Ontario Inc., Demik Brothers Hamilton Ltd., John Edward Demik, Peter Demik and Elaine Vyn on behalf of the Twenty Road East Landowners (collectively known as the "Twenty Road East Landowners"). Our clients own land in the south area of the City of Hamilton, in the Twenty Road area. The lands are centered around the intersection of Twenty Road and Miles Road, located immediately adjacent to the south central urban area of the City of Hamilton, east of the Hamilton International Airport, west of the Glanbrook area business park, and north of Dickenson Road.

We are writing to provide our comments regarding the report submitted by Ms. Joe-Anne Priel to the General Issues Committee, for their meeting on February 19, 2014. In brief, we object to the staff recommendation to remove the Elfrida Urban Boundary Expansion from "parked" status, and to approve the allocation of $500,000 in the 2014 Capital Budget for the completion of various studies regarding this matter. No allocation for these studies should be made while the question of the urban boundary expansion and the designation of the Elfrida Lands as Special Policy Area is under appeal.

Importantly, both the Rural and Urban Hamilton Official Plans have been appealed to the Ontario Municipal Board (the "Board"), following the Province's deletion of any references to the Elfrida area therein. The appeals of the Rural and Urban Hamilton Official Plan by, among others, my clients, the Twenty Road East Landowners, will include consideration by the Board, of the following matters:

(a) Which areas within the City, if any, should be identified as the next residential or mixed use growth area(s);
(b) the appropriateness of applying a Special Policy Area to the Elfrida Lands;
(c) whether my clients’ lands should be shown as the/a priority area for growth; and
(d) which lands, if any, including the Twenty Road East Lands and the Elfrida Lands, should be considered for urban expansion.

Until such time as the Board considers the above noted appeals, it cannot be concluded that Elfrida is the next major mixed-use growth area, as set out in the report. Depending on the Board’s determination of the appeals, there is the potential that these lands will not be designated as the next growth area or Special Policy Area. There is also the potential that other lands will be so designated or that more than one area will be so identified. Depending on the Board’s disposition, a different allocation of funds than proposed in the report may be appropriate. To date, a hearing of these issues has not been scheduled.

As such, we respectfully submit that it is premature, an improper use of public funds and disrespectful of the Board process to undertake any studies in relation to an urban boundary expansion in the Elfrida area, at this time. This matter is properly before the Board, and said process will ultimately determine the appropriateness and/or necessity of proceeding with any studies.

Please feel free to contact the undersigned to discuss this matter further.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

Susan Rosenthal
Professional Corporation

SR:MD

copy: Mayor and Members of Council
Guy Paparella, Director of Growth and Planning
Michal Minkowski and Michael Kovacevic
Clients
Maria Gatzios