



September 24, 2019

SENT VIA COURIER AND EMAIL (neil.garbe@richmondhill.ca)

City of Richmond Hill
Attn: Neil Garbe, Chief Administrative Officer
225 East Beaver Creek Road
Richmond Hill, Ontario
L4B 3P4

Dear Mr. Garbe,

RE: Toronto Real Estate Board ("TREB") concerns over potential breach of the Charter of Rights and Freedoms created by 'Generic-Sign' By-law Amendment of the City of Richmond Hill

We are writing to you as legal counsel to the TREB in respect of the recently-passed by-law amendment that forces real estate brokers to use 'generic' open-house signs within the City of Richmond Hill (the "**By-law Amendment**"). In addition to creating confusion and raising serious safety concerns for Richmond Hill residents and prospective residents alike, the obligations imposed by the By-law Amendment restrict a broker's ability to comply with the rules of the Real Estate Council of Ontario ("**RECO**") governed by the *Real Estate and Business Brokers Act* ("**REBBA**"). Specifically, **Section 36** of Ontario Regulation 580/05 requiring all brokers or salespeople to "clearly and prominently" disclose their name and the name of their brokerage on any and all advertising.

Were the members of TREB to comply with the By-law Amendment, brokers and agents will not be able to carry out an integral part of their business within the City of Richmond Hill without violating Section 36 of Ontario Regulation 580/05. Section 18.1 of By-law No. 52-09 provides that "Where a provision of this By-law conflicts with a provision of any applicable government legislation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail." TREB asserts that its members will continue to adhere to REBBA and its regulations, which create a higher legal standard than the By-law Amendment and will rely on the above-noted conflict provision to the extent such compliance with REBBA and its regulations by TREB members conflicts with the By-law Amendment.

Additionally, the By-law Amendment is likely in violation of s. 2(b) – Freedom of Expression under the *Canadian Charter of Rights and Freedoms*. In the Supreme Court of Canada's decision *Guignard c. St-Hyacinthe (Ville)* (2002), a municipal by-law was found to violate the appellant's *Charter* rights by prohibiting signs with the trade name of commercial enterprises from being erected in residential areas. The Court stated that the appellant's freedom of expression outweighed any objective of preventing visual pollution within the municipality. The prohibition of the clear and prominent display and disclosure of the name of real estate brokers on signs by the By-law Amendment requirements creates a similar violation of the *Charter*.

On behalf of our client, we request a formal discussion regarding this matter at your earliest convenience.

Gardiner Roberts LLP

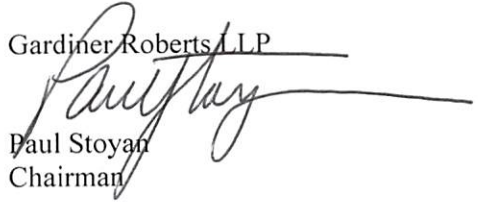
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Yours truly,

Gardiner Roberts LLP


Paul Stoyan
Chairman

cc: City of Richmond Hill Council
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