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File No. 702988

December 1, 2015

By E-Mail Only to clerks@vaughan.ca

Committee of the Whole
City of Vaughan
City Hall
2141 Major Mackenzie Drive, Level 100
Vaughan, Ontario L6A 1T1

Dear Committee Members:

**Re: Toronto Jewish Academy Ohr Menachem (known as the Jewish
Russian Community Centre, the "JRCC")
Sign Variance Application No. SV-15-012
7608 Yonge St.**

c <u>6</u>
Communication
CW: <u>Dec 1/15</u>
Item: <u>17</u>

We are counsel to the York Region Standard Condominium Corporation #1268 (the "YRSCC 1268") at 7608 Yonge Street. We write regarding the sign variance application made by the commercial unit owners of 7608 Yonge Street (the "Lands"), specifically as it pertains to the JRCC.

The Application and Concerns

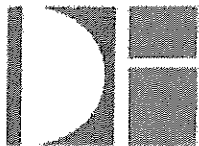
The JRCC signage displayed across the street frontage for a portion of the Lands reads as follows:

**JRCC JEWISH RUSSIAN COMMUNITY CENTRE EAST
THORNHILL JrccEastThornhill.org**

The JRCC seeks a sign variance for signage that refers to a use which is not permitted by the Site Specific By-law. A community centre is not a permitted use on the property.

Furthermore, the JRCC advertises on its website, that the JRCC East Thornhill operates as a synagogue – this use is also not permitted by the Site Specific By-law.

If the Committee of the Whole recommends approval of the sign variance to City Council the result would legitimize a use that is not permitted.



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Approval of this application will result in a successful thwarting of the Parent By-law, the Site Specific By-law, the Sign By-law as well as the opinion of the Zoning Plans Examiner, the Chief Building Official and the decision of the Committee of Adjustment.

Land Use Designations and History

The Lands are zoned RA3, Apartment Residential Zone and are subject to site specific exception 9(1150) under By-law 1-88 as amended (the "Parent By-law"). The Site Specific By-law permits a Club use. The definition of "Club" in the Parent By-law is as follows:

Means a non-profit, non-commercial organization, which carries on social, cultural and welfare programs for the common betterment of the community and may contain a maximum of (2) arcade machines or two (2) billiard tables and shall not include any commercial use as defined in this By-law.

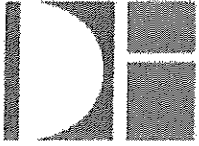
On July 29, 2010 the Ontario Municipal Board (the "Board") approved the Site Specific By-law, which states at s.1(b)(hiii) that notwithstanding the provisions of the Parent By-law:

Only the following commercial uses shall be permitted on the ground floor only of Building "A" and "B" and shall not exceed 50% of the total gross floor area of the ground floor of Building "A" and "B" as shown on Schedule "E-1272"; [Emphasis Added]

- i) One (1) Day Nursery;
- ii) Banking or Financial Institution;
- iii) Retail Store, including a Pharmacy;
- iv) Business or Professional Office;
- v) Personal Service Shop;
- vi) Eating Establishment, Convenience;
- vii) Eating Establishment; and
- viii) Club or Health Centre

On October 2, 2014, in response to building permit application, Ms. Marie Kennedy, City of Vaughan Zoning Plans Examiner, stated that a church was not a permitted use on the Lands (attached here for reference):

Deficiency: *The proposed use of a "community centre" is not a permitted use ... Please note a "Club" does not include any commercial uses such as*



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a banquet hall and/or eating establishment. Also a Church as defined "Means a building used for religious worship and includes a church or synagogue hall; a church or synagogue auditorium; a religious worship school; a convent and/or a monastery" is not permitted at this location.

Action Required: The current zoning does not permit the proposed use.

[Emphasis Added]

The JRCC applied to the Committee of Adjustment (the "Committee") for a minor variance to expand the definition of Club to include "some religious and educational activities". The Committee refused the variance application. The JRCC appealed the Committee's refusal to the Board but continued to operate its centre, including synagogue services.

On December 2, 2014, Rabbi Mendel Zaltzman, wrote on behalf of the JRCC, to Mr. Leo Grellette, City of Vaughan Chief Building Official (attached here for reference);

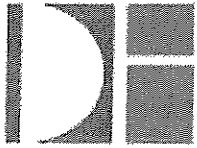
Leo,

As per your request to put this in writing, I hereby acknowledge that the I'm aware of the fact that a CLUB use (as per the city definition of it) doesn't not allow for an official synagogue or school. (even a day nursery that is allowed in the site specific zoning would need its own permit and regulations).

Again, despite the JRCC's own acknowledgement that a synagogue is not a permitted use on the Lands, the JRCC continued to operate as such, in blatant disregard for the opinions of City staff and the Committee's Decision.

Despite being prepared to argue the June 2, 2015 Board Hearing, upon request by counsel for JRCC in late May 2015, YRSCC 1268 agreed to Board Mediation. The Hearing was adjourned *sine die* and the JRCC did not pursue scheduling the Board Hearing. Rather, months later and with no notice to YRSCC 1268, the JRCC withdrew its appeal from the Committee's refusal to the Board.

We are now advised by Ms. Dawne Jubb that "the contemplated uses of Club, Church and/or religious school would likely be seen by a court as being permitted under the applicable zoning provisions". The City has refused our continued requests for any explanation regarding the rationale for this opinion. Counsel for the JRCC has not responded to our requests for a copy of the opinion.



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Site Plan Amendment

Additionally, we are advised by City staff that the current signage details showing one sign *per* each of the seven proposed commercial units were included within Drawing A08 of site plan application DA.08.024.

The City of Vaughan Sign By-law 203-92 (the "Sign By-law") states at section 6.2(a) that:

A variance to a sign regulated by an approved site plan shall be considered as an amendment to the site plan and the appropriate application shall be made to the Planning Department.

We asked City staff to confirm whether, or not, the proponent of the sign variance application SV-15-012 has accordingly applied for a site plan amendment with the Planning Department. To date, City staff has not responded to our request.

A sign variance application *via* the sign variance committee is not the appropriate forum to consider this matter. An application for site plan amendment, pursuant to the Sign By-law, should be made to the Planning Department.

If the Committee deems that it should deal with the sign variance application, we submit that the application is inappropriate and should be refused.

We also ask City Council to enforce its Site-Specific By-law.

Yours truly,

DAVIES HOWE PARTNERS LLP

Katarzyna Sliwa

KS:AM

copy: Client
Mr. Mark Yarranton, KLM Planning
Mr. Richard Pernicky, NexTrans Engineering

Encl.



The City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
Canada L6A 1T1
Tel (905) 832-8510
Fax(905) 832-8558

October 17, 2014

TRCC
5987 Bathurst St
Unit 3
Toronto ON
M2R 1Z3

RE: Permit No: 14-002904 000 00 C
CONC 1 Lot 29-30
7608 Yonge Street

In order to allow us to complete our zoning examination of your permit application, we request that upon review of the following, you take the appropriate action(s):

- 1.0) **Deficiency:** The proposed use of a "'community centre" is not a permitted use. A Club is a permitted use as defined "Means a non-profit, non-commercial organization, which carries on social, cultural and welfare programs for the common betterment of the community and may contain a maximum of two (2) arcade machines or two (2) billiard tables and shall not include any commercial use as defined in this By-law". Please note a "Club" does not include any commercial uses such as a banquet hall and/or eating establishment. Also a Church as defined "Means a building used for religious worship and includes a church or synagogue hall; a church or synagogue auditorium; a religious worship school; a convent and/or a monastery" is not permitted at this location.

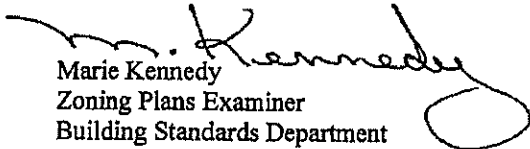
Action Required: The current zoning does not permit the proposed use. Please contact the Development Planning Department to discuss which type of application(s) is recommended in order to permit the proposed use(s).

Permit application / drawing review is undertaken by various specialist examination sections in the department. A delay in providing the information requested above will result in a delay of the review process. It is therefore in your best interest to ensure that the above information is submitted without delay, in order to expedite your permit issuance.

The above request pertains only to zoning matters.

Where an application remains incomplete or inactive for 6 months after it is made, the application may be deemed to be abandoned. By-Law 241-93 Section 4. (10).

Yours Truly,


Marie Kennedy
Zoning Plans Examiner
Building Standards Department
(905) 832-8510 Ext. 8655

Grellette, Leo

From: Rabbi Mendel Zaltzman <mendelzaltzman@jrcc.org>
Sent: Tuesday, December 02, 2014 3:41 PM
To: Grellette, Leo
Cc: Di Biase, Michael
Subject: Letter

Leo,

As per your request to put this in writing, I hereby acknowledge that the I'm aware of the fact that a CLUB use (as per the city definition of it) doesn't not allow for an official synagogue or school. (even a day nursery that is allowed in the site specific zoning would need its own permit and regulations).

Thank you,

Moshiach Now

Rabbi Mendel Zaltzman

Jewish Russian Community Centre of Ontario

5987 Bathurst St. Unit 3

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