

October 19, 2012

By Courier and Email

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Horizon / Hydro One Service Area Amendment
Board File EB-2012-0047**

We are counsel to Multi-Area Developments Inc., the real estate developer of the Summit Park Phase 7 project (the "Project"). Despite the fact that it is our client's Project that is at the centre of this proceeding and that it has been dealing with Horizon Utilities Corporation ("Horizon") for many years, including this year with respect to the Project, Horizon did not serve or otherwise give notice to our client of this Application.

Request to Intervene

This week our client became aware that this Application was proceeding and only yesterday learned that Horizon had made a motion for a stop work order among other things. Our client seeks to intervene in this proceeding since it has a direct interest in its outcome because (i) our client has entered into a binding contract with Hydro One Networks Inc. ("Hydro One") in the form of an Offer to Connect, (ii) at this point in time our client is of the view that only Hydro One can complete the electricity servicing work for the Project on the timeline required to meet the closing requirements for purchasers of homes at the Project (Hydro One has already started work) and (iii) our client determined that Hydro One's offer to connect was economically preferable to that provided by Horizon.

The Electricity Work is Time Sensitive

The Project is at the stage where electricity infrastructure servicing has already begun. The electricity servicing needs to be complete by *mid-December* (with full electricity supply to the model homes at the Project required next week) so that the homes can be built in time for *April 2013 closings*. Over 100 of these homes have already been sold. Delaying the closing as a result of this dispute between Hydro One and Horizon would not only prejudice our client, but also delay its home-buyers moving into their new homes.

It is not clear if the stop-work order sought by Horizon by way of motion, if granted by the Board, would have an impact on the Project. There is insufficient information in the notice of motion for our client to make that determination, though it notes that the work that it appears Horizon wants to stop is work planned by Hydro One years before the advent of the Project. Therefore, Horizon's motion should be addressed with the participation of our client and only after Horizon provides a fulsome record.

Procedure for the Matter

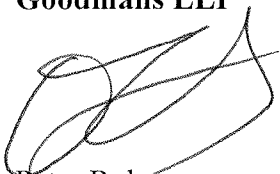
Our client requests that the Board structure this proceeding in a manner that allows the Project to be completed without delay and without prejudicing our client, while resolving the regulatory dispute between Hydro One and Horizon in the normal course. A multi-faceted battle of the monopolies between Hydro One and Horizon should not take place on the back of our client.

Moreover, as a threshold issue, our client submits that there is no reason to even consider the service area amendment and motion sought by Horizon with respect to the Project. Since our client is not seeking service from Horizon, Horizon has no customer outside its territory on which to found its Application. The current situation is not one where a customer's choice of a distributor outside the territory is not determinative. With respect to the Project, our client is seeking service from the *in-territory* distributor. No doubt a regime where a distributor can try to "poach" new developments without an invitation from the customer will lead to considerable uncertainty for developers and distributors, and an increased caseload for the Board.

Our client notes that Horizon has indicated that it does not want this proceeding to "cause any delay with respect to the Developer's plans" (Aird & Berlis letter to the Board of October 10, 2012) and that "[t]hese application come at a significant cost to... the developer..." (Horizon notice of motion, para. 19). Our client expects Horizon to act in this proceeding and on the project ground in this very spirit of timeliness and cost avoidance, and not take the Project hostage to a larger dispute with Hydro One.

Yours truly,

Goodmans LLP



Peter Ruby
PDR/umr

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