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By E-Mail Only to *clerks@springwater.ca*

Township of Springwater
Administration Centre
2231 Nursery Road
Minesing, ON L9X 1A8

Attention: Jennifer Marshall, Clerk

Dear Mayor Coughlin and Members of Council:

Re: Barrie Annexation Proposal
Use of Strong Mayor Powers

We are counsel to the Midhurst Landowner's Group which is comprised of ten respected community builders, being: Sundance Homes, Countrywide Homes, Brookfield Residential, Geranium, Sarjeant Company Ltd., Rose Corporation, Ballymore Homes, Rosehaven Homes, Paradise Developments, and Silvercore Group (the "**MLG**").

The purpose of this letter is to clarify the limits of the use of Strong Mayor Powers as set out in Part IV.1 of the *Municipal Act* (the "***Act***") and provided to Springwater through *O. Reg 530/22*, Schedule 1 in the context of Barrie's Annexation Proposal.

As explained below, Strong Mayor Powers cannot be used to facilitate Barrie's Annexation Proposal.

The Law on Strong Mayor Powers

The focus of this letter is on three interrelated Strong Mayor Powers pertaining to by-laws, being:

1) The by-law veto power in s. 284.11 of the *Act*;

2) The by-law consideration power in power in s. 284.11.1 of the *Act*; and,

3) The related power to direct municipal employees as found in s. 284.3 of the *Act*.

These powers allow a Mayor to:

1. veto a by-law, provided reasons are given in writing, within two days of a by-law's enactment, and provided the veto is not subsequently overridden by a two-thirds majority of Council;

2. require a Council to consider a by-law, upon the provision of reasons for doing so, and if so introduced, allows that by-law to pass on a mere one-third of votes in favour; and,

3. require staff to assist the Mayor in these efforts by undertaking research and providing advice or implementing decisions arising from the veto or passage of a by-law under the Strong Mayors Powers.

The powers above only exist if provincial priorities are prescribed. The relevant regulation is *O. Reg. 580/22: Provincial Priorities* (the "**Priorities Regulation**"). The entirety of the Priorities Regulation reads:

> *1. The following are provincial priorities prescribed for the purposes of sections 284.10, 284.11 and 284.11.1 of the Act:*
>
> 1. *Building 1.5 million new residential units by December 31, 2031.*
>
> 2. *Constructing and maintaining infrastructure to support housing, including,*
>
> i. *transit,*
>
> ii. *roads,*
>
> iii. *utilities, and*
>
> iv. *servicing.*

There are two aspects of the Priorities Regulation that are crucial to correctly understanding them. First, they only relate to the constructing of new residences; there is nothing about non-residential development. Second, the time window is limited to December 31, 2031.

The Annexation Proposal is About More than New Residences

As it stands, Barrie's Annexation Proposal includes 300 hectares of employment land that, based on certain assumptions, might be required by 2061. Though Barrie could change the intended use of the lands once control by Springwater has been lost, notionally the employment land component would be used for non-residential purposes.

As mentioned, the Priorities Regulation only enables Strong Mayor Powers to be used to advance new residences. Since Barrie's Annexation Proposal contains employment land the Strong Mayor Powers are not available.

Annexation Does not Help Springwater Build Homes

Setting aside the employment land component, if the Barrie Annexation were to proceed only over the residential lands (though this too could change later), it is not Springwater, but Barrie, that would gain new lands for housing.

Logically then, use of the Strong Mayors Powers by Springwater's Mayor to facilitate Barrie's Annexation Proposal is not rationally connected to building more homes in Springwater. Rather, it is about permanently transferring jurisdiction and control over land to a third-party in exchange for payment. This calls into question the jurisdiction of Springwater's Mayor to use Strong Mayors Powers in this context, even if the Barrie Annexation Proposal were only for residential land.

To explain further through a contrasting example, expanding the Midhurst Secondary Plan Area to provide housing would assist Springwater in meeting the housing priority as those lands would be within Springwater. Accordingly, the use of Strong Mayors Powers to expand Midhurst for housing would not suffer from the same jurisdictional issue as the Barrie Annexation Proposal.

Annexation is Outside the Province's Priority Period

The housing component of the Land Needs Analysis completed in support of Barrie's Annexation Proposal appears to project residential land needs to the horizon year of 2051. The employment land need analysis assumes a horizon year of 2061.

The 2051 and 2061 time periods stand in contrast to the time period of up to 2031 during which time the use of Strong Mayors Powers may, under the right circumstances, be available.

Given the disconnect between the timelines in the Land Needs Analysis and the timeline in the Priorities Regulation, there is no relationship between Barrie's Annexation Proposal and the stated Provincial Priorities which must be present for the Strong Mayor Powers to be available. Accordingly, the Strong Mayors Powers are simply not available in this context.

Directing Staff is not Permissible

In light of the foregoing, there is no authority to use Strong Mayor Powers to direct Staff to conduct research, provide advice, or implement a by-law arising from the use of either the veto or consideration powers related to the Barrie Annexation Proposal.

Efforts to direct Springwater employees to engage in the Barrie Annexation Process should cease immediately. Additionally, Mayoral Direction MDIR-2025-001, which directs Staff to facilitate discussions on Barrie's Annexation Proposal, should be repealed.

Strong Mayors Powers Cannot Veto or Table Annexation By-laws

Similarly, the veto and consideration powers are not available in the context of Barrie's Annexation Proposal for the reasons explained above. While it is true that use of these powers is insulated from judicial review for unreasonableness pursuant to s. 284.14 of the *Act*, their use would not be immune from challenge on other grounds, for example, illegality.

We strongly recommend the repeal of By-law 2025-042, purporting to authorize the Mayor of Springwater to engage in discussions about Barrie's Annexation Proposal, and By-law 2025-068, relating to cross-border servicing in the context of those negotiations.

Concluding Remarks

We hope these comments have been helpful in framing the constraints that apply to the use of Strong Mayor Powers generally, and to Barrie's Annexation Proposal in particular.

Yours sincerely,
DAVIES HOWE LLP

[redacted]

Alex Lusty (he/him)

copy: Martha Greenberg, Deputy Minister, MMAH
Sean Fraser, Assistant Deputy Minister, MMAH
Tanzeel Merchant, Regional Director, MMAH
Hon. Doug Downey, MPP, Barrie-Springwater-Oro-Medonte
Andrea Khanjin, MPP, Barrie-Innisfil
Brian Saunderson, Member of Provincial Parliament, Simcoe-Grey
Jill Dunlop, Member of Provincial Parliament, Simcoe North
Dan Matheson, Chair, OPLDF
Jeffrey Schelling, OPLDF
Warden, Deputy Warden and Members of County Council
Clerk's Office, County of Simcoe
Mark Aitken, CAO, Simcoe County
Rob Elliott, General Manager, Engineering, Planning & Environment

Nathan Westendorp, Director of Planning/Chief Planner
Nancy Huether, Director of Economic Development and Airport Services
Mayor, Deputy Mayor and Members of Springwater Council
Clerk's Office, Springwater
Renee Ainsworth, CAO, Springwater
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Trevor Harvey, Director of Engineering, Springwater
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Joe Mullan, Ainley Group, Springwater Peer Review Engineer
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Brent Spagnol, Director of Planning, Oro-Medonte
Clare Riepma, Chair, Lake Simcoe Region Conservation Authority
Rob Baldwin, CAO, Lake Simcoe Region Conservation Authority
Jonathan Scott, Chair, Nottawasaga Valley Conservation Authority
Jennifer Vincent, CAO, Nottawasaga Valley Conservation Authority
Midhurst Landowners Group, c/o Daniel Steinberg, Trustee
Brookfield Residential
Countrywide Homes
Sundance Homes
Geranium
Sarjeant Company Ltd.
Rose Corporation
Ballymore Homes
Rosehaven Homes
Paradise Developments
Silvercore Group