



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

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Reply To: Albert M. Engel
Direct Dial: 416.864.7602
E-mail: aengel@foglers.com
Our File No. 195651

**VIA REGULAR MAIL, ERO SUBMIT ONLINE AND EMAIL TO:
ENVIROPERMISSIONS@ONTARIO.CA**

Client Services and Permissions Branch
Ministry of the Environment, Conservation and Parks
1st Floor, 135 St. Clair Avenue West
Toronto, ON M4V 1P5

**Re: Municipal Comments on ERO No. 019-0901
Proposed amendment to Environmental Compliance Approval A210237,
GFL Environmental Inc., Waste Transfer and Processing Facility located at
3525 Mavis Road, Mississauga, Ontario, Ward 7**

We are counsel to the Corporation of the City of Mississauga ("City").

This letter contains the City's preliminary comments on the proposal by GFL Environmental Inc. ("GFL") to amend Condition 15.1 of Environmental Compliance Approval Number A210237 ("ECA") for GFL's waste transfer and processing facility located at 3525 Mavis Road, Mississauga, Ontario ("Facility"). GFL's proposal was posted on the Environmental Registry of Ontario ("ERO") as ERO Number 019-0901 ("Proposal"). The Proposal is for a 40% increase in operation by increasing the hours of operation of the Facility from 24 hours a day, Monday to Friday to 24 hours a day, seven days a week.

The City objects to the Proposal at this time.

The Proposal was posted on the ERO on November 22, 2019 for a 45 day comment period ending on January 6, 2020. On December 10, 2019, the City requested an extension to the comment period from January 6, 2020 to July 31, 2010 to provide the City with sufficient time to commission, conduct and review studies on the impact that the 40% increase in operation proposed for the Facility will have on the residents and businesses in the current and proposed surrounding community, in order to be in a position to provide informed comment on the Proposal, due to the known high level of public interest in the Facility. Other than an email indicating that Mr. Craig Fowler, P.Eng., Senior Review Engineer has been assigned to review GFL's application, the City's comment period extension request has, to date, been ignored.

A copy of GFL's ECA amendment application was obtained and reviewed by City staff. The application submission package did not include any impact assessment studies to determine if the

increase in operational hours may cause a negative disturbance to area residents that may result from the increase in truck traffic, noise and odour at the facility.

On December 23, 2019, the City submitted a Freedom of Information request to the Ministry of the Environment, Conservation and Parks ("Ministry") for records pertaining to the Facility. The request remains outstanding.

Mississauga Official Plan

It was noted on GFL's ECA application under section 4.2, where it asks, "*Does the official plan designation support the proposed facility?*" the applicant checked "Yes". This can be misleading without the appropriate planning context provided.

The City has been opposed to, and continues to oppose, any expansion of GFL's waste transfer facility operations since at least 1998, when Council adopted Amendment 9 to the Official Plan, which designated the lands as "Mixed Commercial". The Official Plan noted the presence of established industrial and commercial uses for the site and the surrounding properties, but stated that the redevelopment of these properties to residential and commercial uses is encouraged. This policy approach continues in the City's 2003 Official Plan, which through various subsequent amendments provided additional policy support for the eventual transitioning of these lands to retail and service commercial uses.

In the planning policies for the Mixed Use designation at 3525 Mavis Road, while these currently allow an exception that pre-existing industrial operations are permitted, it further states that "*when the existing industrial cease operation, the lands will be developed in accordance with the Mixed Use designation of this Plan*". The lands in the Mixed Use area are immediately adjacent to the City's Downtown Core and are intended to be consistent with the Province's Growth Plan to intensify population density as an urban centre. The existing facility at 3525 Mavis Road is incompatible with the future planning policies of both the City's Official Plan and the Province's Growth Plan. It is the City's intent that the existing industrial properties be transitioned into mixed residential and commercial uses and not continue to allow industrial uses indefinitely at this location.

Zoning By-law 376/94

In 1994, the City adopted Zoning By-law amendments that imposed an 800 metre (m) separation distance between waste processing/transfer stations and residential areas in an attempt to prevent negative impacts from such operations, such as waste odours and large truck traffic noise, to residents.

However, since the waste transfer facility at 3525 Mavis Road had already been established (since 1990) prior to the passing of the Zoning By-law amendment (By-law 376/94), the facility is considered to be a "legal non-conforming use". Since that time, there have been additional residential developments established within 800m of the Facility, with the closest residences located approximately 192m from the Facility.

The term “legal non-conforming use” can also be misleading without context. While this status does permit the existing industrial use, the applicable zoning by-law does not allow any new industrial uses to become established or allow existing industrial uses to expand.

Increasing Residential Population within 800m

The estimated current population within 800m of the facility is 10,400 residents and 4,800 residents within 500m. The planned development known as “M-City” fronting along Burnhamthorpe Road will be located entirely within 800m of the facility and is estimated to have 6,000 residential units with projections of up to approximately 11,900 occupants. The total future estimated residential population within 800m of the GFL facility is projected to be approximately **22,300** upon completion of the M-City development, which represents an increase in the local population of 53% over the next 3 years (first two towers to be completed by 2021 and third tower to be completed by 2023).

This means that many more thousands of residents may become subjected to negative impacts from the operations of the Facility. The new mixed use towers will be located downwind of the Facility. It is likely that more noise and odour complaints will arise.

City and Public Opposition to GFL’s 2013 Proposed ECA Amendment

In 2013, GFL applied to the Ministry requesting an amendment to its ECA to permit the following:

- increase in the maximum incoming waste amount, waste storage limit and maximum residual daily amount of waste from 510 tonnes to 800 tonnes;
- lift restrictions to receive domestic waste between May 1st and September 30th of each year;

The City submitted comments to this proposal within the public comment period raising a number of concerns and sent notices of this proposal to all residents within 800m of the GFL facility. In 2014, GFL provided responses to address some of the concerns raised, however, these were not fully to the City’s satisfaction. In January 2015, the City held an open house where approximately 300 constituents attended and expressed their concerns regarding GFL’s proposed increases to their operations and signed a petition in opposition to the amendment application, which were forwarded to the Ministry. Throughout the remainder of 2015 through to 2016, the City submitted technical comments on GFL’s supporting documents. The last communication from the Ministry to the City was on February 4, 2016. Without any further consultation with the City, in October 2017, the Ministry issued a notice of its decision to approve GFL’s ECA amendments.

On November 8, 2017, at the request of former Councillor Iannica and with endorsement from Council, the City brought an Application for a Leave to Appeal to the Environmental Review Tribunal (ERT). The Leave to Appeal was in respect of the Director’s (MECP) decision to

amend GFL's existing ECA that approved GFL's requested changes and that there was no requirement to increase the financial assurance amount that had been required since 2004.

In January 2018, the ERT dismissed the City's request for Leave to Appeal the ECA approval, because the ERT held that the City was unable to establish the Director's decision to amend the ECA would lead to significant harm to the environment (the second part of the two part test). However, the ERT did find that the City did establish that GFL had not provided sufficient financial assurance.

Concluding Remarks

The City's official position is that it does not support the current operation of the Facility at the 3525 Mavis Road location and contends that any further expansion of GFL's operations at this location may result in significant harm to the environment or cause an adverse effect, as defined under the *Environmental Protection Act*, R.S.O. 1990.

Negative impacts may result from an increased amount of traffic, noise and fugitive odour emissions, such that local residents (both current and future residents) may experience material discomfort (EPA, s. 1(1)(c)) and/or lose enjoyment of the normal use of their properties (EPA, s. 1(1)(g)). Given that GFL has not prepared any impact assessment studies to accompany their ECA amendment application, the City requests that the Ministry delay making a decision on this proposal until the following can be accomplished:

1. Technical impact assessment studies are prepared by qualified professionals;
2. An open house is conducted by the City to allow the opportunity to fully inform all potentially affected residents within 800 m of the facility of the proposal and gather their comments; and
3. The City provides written detailed comments to MECP based on the findings of the impact assessment studies and local public feedback.

The City is prepared to retain its own consultants to prepare the impact assessment studies if the Ministry does not require GFL to do so. An air quality impact assessment study capable of modeling impacts to future residents of the planned M-City development and existing residential areas will take approximately six months, according to a qualified consulting company recently contacted by City staff. Additional time will be needed to review the report and host a public information session for local residents.

Therefore, the City requests that either:

- (a) The Ministry deny the Proposal, or
- (b) The Ministry extend the public comment period to July 31, 2020 to allow sufficient time for the City to conduct its own studies and consult with residents

located within 800 m of the Facility prior to the Ministry making a decision in respect of the Proposal, for the following reasons:

- (i) The impact that the additional 48 hours of operation of the waste transfer and processing facility will have is a complex matter that requires sufficient time to carry out proper study of;
- (ii) Based on the City's involvement with GFL's previous ECA amendment application from 2013 to 2017, there will be a high level of public interest in the Proposal;
- (iii) The City requires until July 31, 2020 to commission, conduct and review its studies of the Proposal in order to make informed comment on the Proposal;
- (iv) The City presumes that GFL has an interest in resolving any issues that the City or others may have with the Proposal in a timely manner. Permitting the City to commission, conduct and review the studies required for informed comment on the Proposal should serve to ensure that a defensible decision on the Proposal is ultimately made and
- (v) The City's Freedom of Information request for records pertaining to the Facility remains outstanding

Yours truly,

FOGLER, RUBINOFF LLP

Albert M. Engel

AME/sz

cc: **Heather Malcolmson**, Director (Acting), Environmental Permissions via email to

heather.malcolmson@ontario.ca

Eugene Macchione, Director (Acting), Client Services and Permissions Branch via email to eugene.macchione@ontario.ca

Craig Fowler, Senior Review Engineer via email to craig.fowler2@ontario.ca

Hon. Jeff Yurek, Minister via email to minister.mecp@ontario.ca

Hon. Doug Ford, Premier via regular mail to Office of the Premier, Legislative Bldg Rm 281, Queen's Park, Toronto, ON M7A 1A1