

CORRECTED

On August 31, 2011, the Ontario Municipal Board provided to the City Solicitor's Office copies of letters dated July 13, 2011 and July 27, 2011 from Patton Cormier & Associates on behalf of Ayerswood Development Corporation requesting the Ontario Municipal Board to issue an Order approving the proposed Site Plan, copies of which are attached at Appendix "B". The City Solicitor's Office has been further advised that Ayerswood Development Corporation has not filed an appeal to the Ontario Municipal Board for inaction or delay by the Approval Authority pursuant to section 41(12) of the *Planning Act*.

On September 1, 2011, the City Solicitor's Office received a letter from Patton Cormier & Associates a copy of which is attached at Appendix "C".


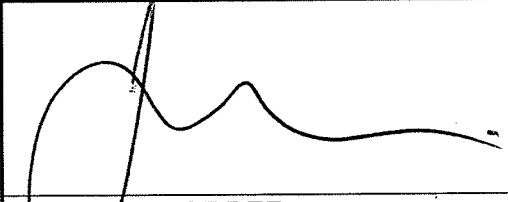
The relevant paragraph of the Court of Appeal decision in *London (City) v. Ayerswood Development Corp.*, [2002] O.J. No. 4859 is:

18 Finally, we note that the City and the adjoining neighbours will have an opportunity to comment on the revised site plan showing one apartment building. Instead of issuing a final order, the Board directed that the respondents prepare a new site plan and present it to the City for approval. In doing so, the Board specifically directed that the neighbours be involved in the site plan approval process. This process should provide the City and the neighbours with an opportunity to be heard on specific issues emerging from the new site plan, subject, of course, to the Board's decision that the construction of one twelve-storey building on the site has been approved.

It appears that the advice from the O.M.B.'s solicitor to Ayerswood's solicitor is that a final decision by the City Council to approve the site plan is consistent with Board Member Rosenberg's initial decision and in the opinion of the Ontario Municipal Board's solicitor, there is no need for any further hearing by the Ontario Municipal Board.

In the words of the Court of Appeal's decision, the City has conducted a public site plan meeting in which the neighbours were involved and had an opportunity to be heard on specific issues emerging from the new site plan. If the site plan is approved by the municipality, the neighbours cannot appeal the site plan to the Ontario Municipal Board pursuant to section 41 of the *Planning Act*.

Based upon the advice from the Ontario Municipal Board's solicitor to the solicitor for Ayerswood, it is recommended that, if the site plan is otherwise satisfactory to the City having regard to the representations of the residents, City Council may wish to give serious consideration to reconsidering the resolution set out above on the basis that the City is the final approval authority with respect to this site plan in the view of the solicitor for the Ontario Municipal Board and it appears open, based on that advice, to City Council to make a final decision to approve the site plan.

PREPARED BY:	RECOMMENDED BY:
	
JANICE L. PAGE SOLICITOR II	JAMES P. BARBER CITY SOLICITOR

August 31, 2011