



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

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Halifax Regional Council
June 13, 2006

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: M.E. Donovan
M.E. Donovan, Director of Legal Services

DATE: May 17, 2006

SUBJECT: Case 00709: Development Agreement - Former Tex-Park Site, Halifax

INFORMATION REPORT

ORIGIN

- Application by United Gulf Developments Limited for a development agreement to construct a mixed use development on former Tex-Park site.
- Approval by Regional Council on March 21, 2006 of the development agreement included as Attachment "A" of the staff report dated December 16, 2005.

BACKGROUND

On March 21, 2006, Regional Council approved the entering into of a development agreement with United Gulf for a mixed use development on the former Tex-Park site.

On April 6, 2006 notices of appeal were filed at the Utility and Review Board (the "UARB") on behalf of Heritage Trust of Nova Scotia, Federation of Nova Scotian Heritage and Heritage Canada Foundation. The UARB also received an appeal from Mr. H. F. H. Pullen, President of Peninsula South Community Association (collectively referred to as the "Appeal").

On May 2, 2006, Heritage Trust of Nova Scotia and Howard Esptein filed an Originating Notice in the Supreme Court of Nova Scotia for an order in the nature of Certiorari to quash the decision of Regional Council dated March 22, 2006 approving the development agreement (the "Supreme Court Application").

DISCUSSION

There are two separate legal matters underway with respect to the decision of Council to approve the development agreement for the former Tex-Park site. One involves the Appeal of the decision of Council pursuant to section 250 of the MGA to the UARB. The other is the Supreme Court Application to quash the decision of Council to approve the development agreement based on alleged procedural errors.

A preliminary hearing was held by the UARB on May 9, 2006 in relation to the Appeal. The UARB, at that time, decided that it preferred to have the decision of the Court of Appeal in reference to the Midtown case as well as the decision with respect to the Supreme Court application referenced above relating to the process prior to hearing the Appeal before the UARB.

The UARB did proceed to set tentative dates for the hearing of the Appeal. Those dates are the week of November 20th, 2006, the week of November 27th, 2006 and the week of December 11th, 2006. The Board has also set aside October 13, 2006 for the parties to return to the UARB at which time, if the two decisions referred to above have been rendered, then the Appeal is expected to proceed on the dates commencing November 20th, 2006. If those two decisions have not been received by October 13th, 2006, it is expected that the UARB will set new dates for the hearing of the Appeal.

With respect to the Supreme Court Application, there is a date assignment conference scheduled for May 30, 2006 at which time the Supreme Court will set dates for the filing of documents and the hearing of this application.

BUDGET IMPLICATIONS

N/A

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

N/A

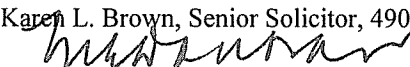
ATTACHMENTS

None

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Karen L. Brown, Senior Solicitor, 490-6477

Report Approved by:


M.E. Donovan, Director, Legal Services, 490-4226