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File No. H1333363

Ms. Christine Muccilli
Municipal Standards Officer
Toronto and East York District
866 Eglinton Avenue West
Toronto, Ontario
MSN 1S9

Dear Ms. Muccilli:

Re: **25 Burnside Drive**
Notice of Violation
Folder #: 06 101923 SIN 00 IV

We are the solicitors for Viacom Outdoor, a division of Viacom Canada Inc., a successor to Mediacom Inc., in respect of the captioned Notice.

Our clients are endeavouring to locate the building permit for the sign in question, which was erected on the property when the property was purchased. This will require some considerable investigative work including title searches, corporate searches and witness interviews.

The building permit would have been issued for this sign, my client's believe, more than fifty (50) years ago. Our clients have a file on this sign that dates back to the early '50s; they leased the sign for many years before purchasing the property about five years ago.

Inquiries are being made of City staff as to their records but, as Councillor Mihevc points out in his September 2, 2005 letter to our client, copy attached, the City's current record keeping system is horribly out of date and has many holes in it". Our clients are concerned that the City's records of fifty year old building permits for signs may not be complete; in fact, City staff have themselves confirmed as much to us in response to direct enquiries we have made on behalf of our clients.

Further, if no building permit can be found, it is our clients' belief that the sign in question is one that would have been in compliance with the City's by-laws at the time of construction, which, you will appreciate, would make the sign legal non-confirming and bring it within the ambit of the statutory protection described in Rogers, Canadian Law of Planning and Zoning, the following passage from which was quoted with approval in the decision of the Ontario Superior Court in *Bancroft v. Therrien* [2002] O.J. No. 5257:

"All provincial statutes except those of Quebec, Prince Edward Island and Newfoundland, confer statutory immunity on owners of land being used for a purpose subsequently prohibited by by-law. They expressly prohibit the retroactivity of the enabling provisions and the zoning by-laws enacted pursuant to the authority conferred, by permitting the continuance of what are called non-conforming uses provided that the property or building continues to be used for the purpose for which it was used on the date of enactment of the by-law prohibiting such use.

A non-conforming use is a use for which a building or land is lawfully occupied at the time a restricted area by-law becomes effective but which does not comply with the zoning regulations of the by-law applying to the district in which it is located. The nature of a non-conforming use is not defined by reference to the definitions in a by-law, but must be determined by reference to the use to which the property was put at the time the by-law was passed. "Non-complying" was defined in the by-law to mean a permitted use, building or structure existing at the date of the passing of the by-law and which is not required to comply with the zone requirement of the zone within which it is located.

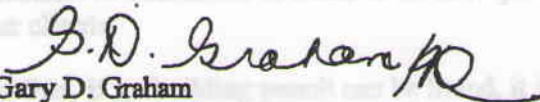
The basis for legislative protection of existing contravening uses is preservation of property rights and the reluctance to forfeit them without compensation. The natural justice concept prevents the violation of such rights and permits an owner to retain the value which he or his predecessor in title created in his property at a time when the law permitted him to do so. The community has an interest in the continuation of such value notwithstanding that the property it protects would not be considered a desirable development of such land in the light of good planning principles, although it is not necessarily detrimental to the rest of the conforming community."

May we please have your assurances that you will not remove our clients' property, despite the passage of 14 days from the date of your notice, without further, reasonable notice, to our clients and to my office. Our clients require this indulgence while their investigation continues.

I look forward to receipt of your confirmation.

Yours very truly,

GOWLING LAFLEUR HENDERSON LLP


Gary D. Graham

Attach.

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