

**COMMUNICATIONS**

**Distributed February 11, 2011**

- C1 Email from Mr. Alan Peng, dated February 2, 2011.**  
*(Refer to Item 2, Report No. 9 of the Committee of the Whole (Public Hearing))*
- C2 Memorandum from the Commissioner of Legal and Administrative Services and City Solicitor, dated February 4, 2011.**  
*(Refer to Item 18, Report No. 7 of the Committee of the Whole)*
- C3 Memorandum from Jose Tamariz, President and CEO, 407 ETR Concession Company Limited, dated February 7, 2011.**  
*(Refer to Item 19, Report No. 7 of the Committee of the Whole)*
- C4 Letter from Stephen J. D'Agostino, Thomson Rogers, 390 Bay Street, Suite 3100, Toronto, M5H 1W2, dated February 9, 2011.**  
*(Refer to Items 4, 5, 6 & 7, Report No. 7 of the Committee of the Whole)*
- C5 Memorandum from the Solicitor, dated February 15, 2011.**  
*(Refer to Items 4, 5, 6 & 7, Report No. 7 of the Committee of the Whole)*
- C6 Memorandum from Councillor Racco, dated February 10, 2011.**  
*(Refer to Item 21, Report No. 7 of the Committee of the Whole)*

**Distributed February 15, 2011**

- C7 Memorandum from the City Clerk, dated February 15, 2011.**  
*(Refer to Item 2, Report No. 10 of the Committee of the Whole (Working Session))*
- C8 Memorandum from the City Clerk, dated February 15, 2011.**  
*(Refer to Item 1, Report No. 2 of the Finance and Administration Committee)*
- C9 Email from Dr. P. Correa, dated February 13, 2011.**  
*(Refer to Item 21, Report No. 7 of the Committee of the Whole)*
- C10 CONFIDENTIAL Email from the City Manager, dated February 15, 2011.**  
*(Refer to Item 3, Report No. 8 of the Committee of the Whole (Closed Session)  
(for Mayor and Members of Council ONLY)*
- C11 Letter from Ms. Josie Fedele, The West Woodbridge Homeowners Association Inc., dated February 15, 2011.**  
*(Refer to items 4, 5, 6 & 7, Report No. 7 of the Committee of the Whole)*
- C12 Email from Mr. Stephen D'Agostino, Thomson Rogers, dated February 15, 2011.**  
*(Refer to items 4, 5, 6 & 7, Report No. 7 of the Committee of the Whole)*

**Provided during the Meeting, February 15, 2011**

- C13 Toronto Star article titled "Landfill Monitoring Fund Drained by City", submitted by Regional Councillor Di Biase, dated February 14, 2011**  
*(Refer to Item 1, Report No. 10, CW (WS) )*

**Hardychuk, Gloria**

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**Subject:** Public hearing Feb 1/11 - comment on zoning amendment File Z.11.001

**C1**

**Item # 2, Report No. 9 CW(PH)**

**COUNCIL – FEB. 15, 2011**

**From:** Alan Peng [mailto:alan.peng@alumni.utoronto.ca]

**Sent:** Wednesday, February 02, 2011 3:08 PM

**To:** Racco, Sandra

**Cc:** alan.peng@osfi-bsif.gc.ca

**Subject:** Public hearing Feb 1/11 - comment on zoning amendment File Z.11.001

Dear Ms. Racco,

It was very nice talking with you last night over the public hearing session. I am impressed by your care of my community matters.

The below is my inputs to the zoning amendment File z.11.001.

As a resident in the Upper Thornhill Estate community, I strongly oppose against the proposed cancellation of the open space park zone, and I request the city council to ensure that there will be a trail built to directly connect the mentioned open space with the park and schools over the other side of the ravine. My main concerns include:

1. The population density is very high on the area of the mentioned park zone, and therefore it is necessary for the residents to be able to easily access to the park and school facilities on the other side of the ravine. To my knowledge, this was part of the original community development plan.
2. With the trail being built, kids can go to the schools on the other side by walking through the trail, because the real distance should be within walking distance. Therefore, the school board does not have to schedule school bus to pick up kids and save money. Also, this will help to reduce traffic along the extremely busy Bathurst street.
3. The proposed cancellation was based on a technical assumption of steep grades on the land. I don't believe this is true. The open space area is big enough to develop a trail. If the rezoning were approved, the opportunity and feasibility to better develop my community including the suggested trail would be lost forever. This is not affordable to every resident in my community.
4. Right next to the mentioned area, on the Richmond Hill side of the Bathurst street, there is an excellent comparable model in trail development. The green area there is much smaller than the mentioned area in our community, but the trails developed on the Richmond Hill side are excellent. Personally, I want to be proud of my own city and I have the same expectation on the development of my own community, which requires you and your colleagues to help us, including not to cancel the originally planned open space and trail.
5. Financially, if the open space disappears without a trail to connect to the facilities on the other side, as originally planned, the property value of my area will be significantly and negatively impacted. This will be a significant financial loss to all of us and it is very unfair to us.

Once again, I appreciate for your support and strongly recommend the city council to veto the proposed cancellation and instead continue to build a trail to directly connect the open space with the school and park facilities on the other side of the ravine. The beautiful green area deserves a well design and development to make our city more attractive.

2/3/2011

Please forward my inputs to the relevant stakeholders.

Thank you,

Alan

Resident on the Balsamo Street of the Upper Thornhill Estate community

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Q. Alan PENG, PhD, CFA

[alan.peng@alumni.utoronto.ca](mailto:alan.peng@alumni.utoronto.ca)

Toronto, Canada



## memorandum

C2

Item # 18 Report No. 7 CW

COUNCIL – FEB. 15, 2011

**DATE:** February 4, 2011  
**TO:** MAYOR AND MEMBERS OF COUNCIL  
**FROM:** JANICE ATWOOD-PETKOVSKI  
**RE:** **PROVISIONAL CERTIFICATE OF APPROVAL AMENDMENT  
10525 KEELE STREET  
COMMITTEE OF THE WHOLE ITEM #18  
WARD 1**

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As noted at the Committee of the Whole meeting OF February 1, 2011, not only is \$427,095.00 still owed to the City of Vaughan to clear the earlier debt, but in addition, property taxes have continued to remain unpaid throughout the course of the past several years, so that the current amount outstanding totals **\$793,827.00**.

Staff have advised the Ministry of the Environment that, as the Receiver's lawyer has indicated that his client is prepared to commit to paying the outstanding debt upon closing, we expect them to consent to the Ministry imposing as a condition of the amended Certificate of Approval being transferred to the new owner, payment of the full outstanding debt of \$793,827.00 to the City of Vaughan.

In forwarding to the Ministry of the Environment a copy of Council's objection to the transfer of the Certificate of Approval, staff will reiterate that in the event the Ministry determines to transfer the Certificate of Approval, a requirement of full payment of the \$793,827.00 to the City of Vaughan should be imposed as a condition of the amended Certificate of Approval.

Janice Atwood-Petkovski  
Commissioner of Legal and Administrative Services and  
City Solicitor

c Clayton D. Harris, City Manager  
Jeffrey A. Abrams, City Clerk

Monday, February 7, 2011

To: His Worship, The Honourable Mayor Maurizio Bevilacqua  
Members of Vaughan City Council

Fr: Jose Tamariz, President and CEO, 407 ETR Concession Company Limited

Re: **Member's Resolution, February 1, 2011: Committee of the Whole, Item 19  
"Vaughan Metropolitan Centre – Traffic Congestion"**

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We recently learned of the resolution noted above through media reports and I am writing to provide City Council with some additional background concerning 407 ETR.

Each workday, 407 ETR customers make approximately 380,000 trips on the highway.

Customers using 407 ETR continue to experience a fast, safe and reliable trip that saves them time and money. Many customers choose 407 ETR for a less stressful daily commute to work or school or to attend appointments and business matters across the Region. 407 ETR customers save time by using a highway that is free of congestion. Customers also save money on gasoline by using less fuel while travelling at safe constant speeds and also save on maintenance costs through reduced wear and tear on their vehicles while travelling along a safe and well maintained road. These are just some of the reasons customers cite for having made a good choice when using the highway.

We do recognize that tolls must remain affordable to our customers. At the same time, we also know that we must use tolls as a way of managing traffic congestion along the highway. It is for this reason that 407 ETR has introduced a tolling structure that has differing rates at different hours of the day and on different days of the week. Tolling is linked to managing traffic on the highway and maintaining traffic at levels that permit customers a congestion-free drive.

As traffic on 407 ETR continues to grow at well-managed levels, and we continue to anticipate and meet customer needs by expanding the highway; we do not believe that recently announced changes to the tolling structure will cause major traffic congestion to the Vaughan Metropolitan Centre.

407 ETR runs from Burlington to Pickering and has been a magnet for growth in the corridor that it serves. Residential and business developments have flourished along the highway as the communities we serve are provided with a reliable transportation corridor from which to conduct business and enjoy a high quality of life.

over / 2

The mandate of 407 ETR is to provide an alternative that reduces congestion on area highways and roads and we deliver this alternative in a manner that is free of congestion itself. When the Lease on the highway was first signed in 1999 the highway was 68 km in length. Today, the highway is 108 kilometres long and lanes have been added in many areas to expand capacity and meet current and future demand. In all, over \$1.2 billion has been invested to expand the highway and provide excellent customer services that make the most of the best available technology. Tolls fund the investments that built and continue to expand the highway and also pay the costs of providing ongoing maintenance and services to customers. These investments have in turn created jobs during a difficult economic time and ensured there will be a first-rate transportation corridor for the future.

407 ETR offers customers a unique service and greatly respects the trust our customers place in us each day. We provide 24 hour a day/7 day a week patrols of the roadway to assist travelers in need of assistance and we provide around the clock monitoring of all aspects of the highway that could affect customers. 407 ETR maintains an exemplary safety and maintenance record which includes excellent snow clearing and regular cleaning of the highway.

Using a highway that is free of congestion (as opposed to idling in traffic) greatly reduces the environmental impact of driving and we thank our customers for their contribution to cleaner air in the Region as a result. In addition, we have provided customers with specific incentives as a way of thanking them for their continued patronage. Our 407 ETR Rewards program has offered more than \$45 million in gas savings and free kilometres to customers. In addition, 407 ETR regularly offers incentives to customers who sign-up for electronic billing and other services. In celebration of the issuance of our 1,000,000<sup>th</sup> transponder, we also recently selected 10 customers to receive free travel for all of 2011.

I wish to thank Council for bringing their concerns to our attention and we look forward to continuing to serve 407 ETR customers and the communities through which the highway travels.

Thank you.

Jose Tamariz  
President and CEO





C4  
Items #4, 5, 6 & 7  
Report No. 7 CW

COUNCIL – FEB. 15, 2011

*Stephen J. D'Agostino*  
416-868-3126  
*sdagostino@thomsonrogers.com*

February 9, 2011

**VIA E-MAIL ONLY**

Mayor & Members of Council  
City of Vaughan  
2141 Major Mackenzie Drive  
Vaughan, Ontario  
L6A 1T1

Dear Sirs/Mesdames:

**Rogers Wireless Telecommunications Sites**  
**Site Development File DA.10.061**  
**Site Development File DA.10.070**  
**Site Development File DA.10.080. 088**  
**Site Development File DA.10.089**  
**Council Agenda – February 15, 2011**  
**Our File No. 050682**

We are the solicitors for Rogers Communications Inc. ("Rogers") in connection with the above-captioned wireless telecommunication proposals. You will recall that these four Rogers wireless telecommunication facilities came before Committee of the Whole on February 1, 2011. At that time, Staff recommended that Council grant concurrence for the construction of these facilities in accordance with the City of Vaughan's wireless telecommunication protocol. As a result of misinformation presented by a deputant, the Committee of the Whole did not recommend concurrence. **To be clear, all of the proposed wireless facilities meet Industry Canada's requirements and will operate significantly below Health Canada's Safety Code 6.**

We are writing to Council to provide additional information with respect to matters raised during the discussion of these items at Committee of the Whole and to request that:

1. Council give its concurrence with respect to the four above-captioned proposals as contemplated by the City's protocol.
2. In the alternative, should Council require further information as a result of the discussion at Committee of the Whole, we request that Council defer this matter for two Council cycles so that additional material concerning the issues raised at Committee of the Whole can be placed before Council. Specifically, we request that:
  - (a) Council request the Region of York Medical Officer of Health to update his review of Safety Code 6 presented to the Town of Richmond Hill dated January 9, 2009; and
  - (b) Council request Rogers provide a seminar for Council and interested members of City Staff concerning the operation of a wireless network and the siting constraints facing the wireless companies.

It is our belief that this additional information will allow Council to grant its concurrence to the above-captioned wireless telecommunication facilities in accordance with the Staff recommendation.

1. Wireless Communications is Important to Vaughan

The success of Rogers wireless communication network is important to the citizens of Canada and the City of Vaughan. The ongoing revolution in telecommunications, marked by the rapid development of wireless technology, offers many benefits to Canadians. More than 24 million Canadians rely on wireless voice and data communications to enhance their personal security and safety, to access emergency road services, and to make more productive use of their personal and professional time.

Governments and public sector emergency response agencies such as police departments, fire and ambulance services also rely on wireless telecommunications to meet the critical response times they are mandated to achieve in the public interest. In our view, wireless telecommunications have become an essential service in cities such as Vaughan, and are an important contributor to Vaughan's economic success.



The wireless industry needs to and is mandated to build and provide the infrastructure necessary to satisfy the enormous demand for high quality, reliable wireless service. Rogers recognizes that government officials are trying to make policy decisions that protect the public interest in the provision of wireless services without undue land-use impacts, while balancing the need for technological innovation and economic growth. Ultimately, close co-operation among wireless service providers, government officials at all levels and the general public is needed to ensure that the benefits of wireless communications are fully realized.

Rogers is committed to meaningful consultation with the City, within the framework of Industry Canada's Safety Code 6 and Vaughan's Protocol.

## **2. The Regulation of Wireless Facilities**

Wireless telecommunication facilities are subject to the exclusive jurisdiction of the federal government. It is long established law that no municipality has jurisdiction to impose processes or requirements on wireless telecommunication facilities that rely on provincial land use planning legislation. Council may be aware, that recently the courts ruled, in relation to a site plan control by-law passed by the City of Toronto, that Toronto did not have jurisdiction to regulate wireless telecommunication facilities.

In recognition of its exclusive jurisdiction, and in an attempt to promote balance, Industry Canada requires that applicants for telecommunication facilities consult with land use authorities such as the City of Vaughan as part of their licensing process. The requirement to consult and Industry Canada's expectations can be found in CPC-2-0-03, Issue 4. We have attached for your convenience as Appendix 1 a brief summary of the law with respect to the federal government's exclusive jurisdiction. As well, we have attached as Appendix 2 a copy of CPC-2-0-03.

Note that it is a condition of Rogers' license that it comply with CPC-2-0-03. It is a requirement of CPC-2-0-03 that all of Rogers' facilities comply (on an ongoing basis) with Health Canada's Safety Code 6. This requirement includes cumulative effects.<sup>1</sup> In order to ensure that its sites are working in compliance with all relevant requirements, Rogers dedicates a specific technician to each of its sites to perform regular and ongoing preventative maintenance.

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<sup>1</sup> CPC-2-0-03, page 10, Section 7.1

It is our view that municipal governments lack the jurisdiction to impose electro magnetic emission standards on wireless carriers. That responsibility falls exclusively on the federal government.

### **3. Ms. Catalano's Deputation**

We have reviewed the written submission given to the Committee of the Whole by Ms. Catalano which urges Council to ban all new radio antennas within 500 metres of any residence or other place where people spend a large amount of their time and that antennas be required to adhere to a power level well below that permitted by Safety Code 6. Based on our review, we note that the submission makes several important errors and omissions and as a result, we urge Council not to adopt the request.

Canada is a participant in the World Health Organization's ongoing study concerning the possible effects related to cell phones and the wireless base stations [the generic name for wireless facilities such as those proposed by Rogers in this instance] which power their networks. The World Health Organization concluded in its study concerning base station and wireless technologies issued in May of 2006, that "from all evidence accumulated so far, no adverse short-or long term health effects have been shown to occur from RF signals produced by base stations". Similarly, in its Fact Sheet published in May of 2006 titled "Electromagnetic Fields and Public Health – Base Stations and Wireless Technologies", the World Health Organization reports that "there is no convincing scientific evidence that the weak RF signals from base stations and wireless networks cause adverse health effects." A copy of the World Health Organization Fact Sheet is attached as Appendix 3.

Safety Code 6 has been the subject of several recent independent reviews including two studies by the Royal Society of Canada in 1999 and 2003. The Royal Society of Canada is an independent national body composed of scholars and scientists selected by their peers for outstanding contributions to the sciences. Neither of these studies took issue with Safety Code 6's standards. Furthermore and contrary to Ms. Catalano's deputation, Safety Code 6 was the subject of a complete review and update by Health Canada just two years ago and as such, represents a modern health standard.

The foregoing is consistent with advice given by many Medical Officers of Health. York Region's Medical Officer of Health has considered the appropriateness of Safety Code 6. In a letter to the Commissioner of Planning for the Town of Richmond Hill dated January 4, 2009, Dr. Kurji reported that "the weight of evidence has not identified that Safety Code 6 is inappropriate, in protecting the public from exposure to RF fields". A copy of Dr. Kurji's letter is attached as Appendix 4. This opinion is consistent with the opinions of the

Medical Officers of Health in Vancouver and Hamilton. Their opinions have been attached behind Dr. Kurji's letter for your convenience. Should Council have concerns with the appropriateness of Safety Code 6, we request that it consult with the Region of York's Medical Officer of Health to determine whether or not the opinion expressed to Richmond Hill remains valid today. To be clear, we are not aware of any circumstance that would change the Medical Officer of Health's opinion.

In recognition of the low outputs associated with wireless telecommunication facilities and the requirement that a wireless carrier comply with Safety Code 6 on an ongoing basis, CPC-2-0-03 states that concerns with the appropriateness of Safety Code 6 are not relevant to a wireless carrier's obligation to consult. As a result, in correspondence directed to the City of Toronto, Industry Canada recently wrote, "Industry Canada will continue to utilize Safety Code 6 as part of its licensing process, and where issues are raised and it can be confirmed that Safety Code 6 is being met, then Industry Canada will consider the requirement to have been fully satisfied and will not withhold any radio authorizations". A copy of Industry Canada's correspondence to the City of Toronto is attached as Appendix 5. In separate correspondence directed to the City of Toronto, Industry Canada stated that radio frequency exposure limits should not vary based on the opinions of local land use authorities. A copy of this correspondence is attached as Appendix 6.

#### **4. Summary of the Wireless Telecommunication Proposals**

There were four proposals before the Committee of the Whole last week. As discussed above, the City does not have jurisdiction to approve or prohibit these facilities. However, Industry Canada requires the proponents of wireless towers to consult with municipal governments and if possible, obtain their concurrence. All of the proposals were reviewed by City Staff and are recommended for concurrence. All of the proposals will operate well below Health Canada's Safety Code 6. The proposals can be summarized as follows.

##### **(A) Site Development File DA.10.070 Replacement Tower At Palladini Community Centre, 9201 Islington Avenue**

For the past 20 years, Rogers has maintained a 46 metre tower at this location without complaint or incident. As a result of negotiations with City Staff related to a further term, Rogers agreed to reduce the height of the tower to 40 metres and relocate it away from existing residential development. As a result, the separation distance from the rear lots of the adjacent residential properties will be increased from 22.5 metres to 150 metres. The existing tower satisfies Health Canada's Safety Code 6 requirements. **At the new location**

compared to the closest residential lot the facility will operate hundreds of times below the level allowable under Safety Code 6.

We note that City Staff recommended approval of the proposal.

**(B) Site Development File DA.10.061  
7500 Keele Street**

Rogers proposes to construct a 40 metre tall monopole at this location. The proposed monopole is located between the existing industrial building and the Highway 407 road allowance. The monopole is more than 380 metres away from the closest residential property line. **At that distance, compared to the closest residential use, the facilities will operate at a level hundreds of times below that allowable under Safety Code 6.**

City Staff recommended approval of the facility subject to a condition requiring permission from MTO given its proximity to Highway 407.

**(C) Site Development File DA.10.088  
60 & 80 Innovation Drive**

Rogers proposes to construct a 30 metre monopole at the rear of an industrial building. The area between the proposed monopole and the nearest residential uses to the east are industrial and commercial uses and Regional Road 27. As proposed, the monopole is located approximately 230 metres from the closest residential property. **At this distance, compared to the closest residential, the facility will operate at a level hundreds of times below that allowable under Safety Code 6.**

City Staff recommended approval of the proposal on this site.

**(D) Site Development File DA.10.089  
221 Racco Parkway**

Rogers proposes to construct a 35 metre monopole at the rear of the existing industrial building. The area between the proposed monopole and the nearest residential uses to the south is a major hydro utility corridor. The proposed monopole is located approximately 260 metres from the closest residential property line. **At this distance, compared to the closest residential use, the facility will operate hundreds of times below that allowable under Safety Code 6.**

**City Staff recommended approval of the proposal on this site.**

**5. Conclusions**

Based on the foregoing, it is clear that Rogers' facilities meet the spirit and requirements of Vaughan's Council approved wireless telecommunication protocol with respect to location and process. The proposals meet with all of Industry Canada's technical requirements including compliance with Health Canada's Safety Code 6. Vaughan's planning staff have recommended each of these proposals to Council for its concurrence. Even though Industry Canada permits facilities to operate at the limit of Safety Code 6, these particular sites produce energy levels well below (hundreds of times) those authorized by Safety Code 6 at the closest residential property. Planning Staff have reported that proposed new protocol policies will not have an effect on the sites. We therefore respectfully request that Council give its concurrence to the development of these sites to avoid Industry Canada's intervention in this matter.

Accordingly, we request that Council give its concurrence with respect to the four proposals as contemplated by the City's protocol. In the alternative, should Council require further information as a result of its recent discussions at the Committee of the Whole, we request that the matter be adjourned for two Council cycles so that additional material can be placed before Council. Specifically, we request that:

- (a) Council request the Region of York Medical Officer of Health to update his review of Safety Code 6 presented to the Town of Richmond Hill dated January 9, 2009; and,
- (b) Council request Rogers to prepare a seminar for Council and interested members of City Staff concerning the operation of a wireless network and the siting constraints facing the wireless companies.

Rogers was an active participant in the development of the Region of York Protocol in 2002 and the City of Vaughan's Protocol in 2003. I have been instructed by Rogers to give you every assurance of their co-operation and assistance in the development of a new protocol. However, there is no reason why these sites need to wait for the new protocol's approval.



We would be pleased to discuss this matter with your staff or answer any questions that may arise.

Yours very truly,

A handwritten signature in black ink, appearing to read "S. J. D'Agostino".

Stephen J. D'Agostino

SJD/pgf  
Enclosures

- c. Mr. Clayton Harris, City Manager
- c. Mr. Jeffrey A. Abrams, City Clerk
- c. Mr. John Zipay, Commissioner of Planning
- c. Mr. Micahel Lang, Industry Canada

**Appendix 1**

**Summary of Law Re: Federal Government's Exclusive Jurisdiction**

## Appendix I

### Jurisdictional Framework

The Federal Government's exclusive jurisdiction in radiocommunications goes back to 1932. At that time, the Privy Council determined in *Re Regulation and Control of Radiocommunications in Canada*<sup>1</sup> that the Parliament of Canada has exclusive jurisdiction to regulate and control radiocommunications.

Since then and notwithstanding section 92(13) of the *Constitution Act, 1867* which grants the provinces power over civil and property rights (which is the basis for the land use controls delegated to municipal governments), the Courts have been clear that affected Federal undertakings, such as telecommunication towers, are immune from otherwise valid provincial land-use legislation. As a result, municipal land use planning controls such as Zoning By-laws and Development Permits<sup>2</sup> are rendered inoperative to the extent that they affect the siting, physical location, design, construction and operation of the federal undertaking. In other words, these cases suggest that requiring zoning compliance or development permits for a wireless telecommunication facility would be *ultra vires* the authority of a land-use authority because of their potential impact on the operation of the Wireless Carriers' network.

This is a similar result to the law affecting airports. As a result of the Federal Government's exclusive jurisdiction in aviation matters which has the same basis as radiocommunications, the latest redevelopment of Toronto's Pearson Airport including the parking garages and infrastructure, were constructed without the need for a building permit, development permit or the payment of development levies by order of Ontario's Court of Appeal. In the case of rooftop landing areas for helicopters, the Federal government has assumed jurisdiction. The National Building Code of Canada sets out in Division B, Section 4.1.5.14 that helicopter landing areas are to be constructed in

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<sup>1</sup> *Re Regulation and Control of Radiocommunications of Canada* [1932] A.C. 304 (Privy Council)



conformance with the requirements of the Canadian Aviation Regulations rather than local codes. Similar federal requirements exist for wireless communications facilities.

The Courts in Ontario have recently confirmed our analysis in a case involving TELUS and the City of Toronto. That case ruled that Toronto's development permit process may not be used to regulate wireless facilities. We note that the Court ruling contemplates roof top installations. As well, the Court continues earlier rulings to the effect that the municipal requirement need not prohibit wireless telecommunications in order to be constitutionally offensive, they must merely have the potential to affect the Federal aspect<sup>3</sup>.

The Toronto decision is consistent with the 1981 Decision of The Supreme Court of Ontario involving a Rogers' broadcast tower in the Town of Grimsby. In that case the Court ruled that broadcast towers did not have to comply with municipal zoning by-laws because of the Federal government's exclusive jurisdiction in radiocommunications matters.

As well, the Toronto decision is consistent with the City of Calgary's and City of Winnipeg's position set out on their website where it states that cell towers do not require development permits as a result of their federal status. Similarly, it is consistent with the position of the City of Surrey in a settlement reached between Surrey and Bell Mobility in 2006 wherein it was agreed that Development Variance Permits were being submitted

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<sup>2</sup> The Province of Ontario has issued a legal opinion to the effect that the Ontario Building Code does not apply to towers. [http://www.obc.mah.gov.on.ca/userfiles/HTML/nts\\_4\\_9079\\_1.html](http://www.obc.mah.gov.on.ca/userfiles/HTML/nts_4_9079_1.html)

<sup>3</sup> *Canadian Western Bank v Alberta* [2007] S.C.J. No. 22 and *British Columbia (Attorney General) v Lafarge Canada Inc.* [2007] S.C.J. No.23 deal with the issues of interjurisdictional immunity and federal paramountcy. These cases post-date TELUS v Toronto, however, in our view, the law has not changed since the Court continues to recognize the appropriateness of the interjurisdictional immunity test for matters falling under exclusive heads of federal authority such as aviation and communications. The Privy Council's reasons in *RE: Regulation and Control of Radiocommunications in Canada*, rely explicitly on the same analysis as the aviation cases.

solely for the purpose of consultation and did not represent acquiescence to the City's jurisdiction. Many other municipalities have come to a similar conclusion.

It is clear that a Provincial land use regime and the municipal regulatory powers which rely on them are inapplicable to wireless telecommunication facilities<sup>4</sup> that have the potential to impair their telecommunications activities through restrictions on siting, physical location, height, design, construction and operation and as a result the proponents of antennae support structures are not required to comply with them.

The law we have summarized is also consistent with the Federal government's regulations issued under the Canada Labour Code (Canada Occupational Health and Safety Regulations – SOR/86-304) which requires that the design and construction of every tower, antenna and supporting structure meet the requirements of CSA standard, CAN/CSA-S37-94 rather than local building codes. Both the Building Code of British Columbia, and the Electrical Safety Regulation clearly exempt wireless towers from the need to obtain building permits in recognition of their federal status. The Ontario Government has issued a Building Code Opinion to the same effect.

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<sup>4</sup>Mississauga (City) v Greater Toronto Airports Authority, [2000] O.J. No. 4086 at paragraph 52, the Court stated:

"The recent *Home Builders'* case in the Supreme Court of Canada confirms that the subject matter of the *Building Code Act* and the *Development Charges Act* is land development: *Ontario Home Builders' Assn. v York Region Board of Education*, [1996] 2 S.C.R. 929, 137 D.L.R. (4<sup>th</sup>) 449. Iacobucci J. wrote at p. 966 that the *Planning Act*, including the scheme of education development charges imposed under the *Development Charges Act*, "is one component of a comprehensive regulatory scheme governing land development in Ontario, comprised of at least nine different statutes". One of these statutes is the *Building Code Act*. Therefore, the *Building Code Act* and the *Development Charges Act* stand on the same constitutional footing as provincial planning and zoning legislation. None of this legislation applies to the construction of airport buildings."

-10-

**Appendix 2**

**CPC-2-0-03**



Industry  
Canada

Industrie  
Canada

CPC-2-0-03  
Issue 4  
June 2007

Spectrum Management and Telecommunications

Client Procedures Circular

# **Radiocommunication and Broadcasting Antenna Systems**

(Formerly CPC-2-0-03 - Environmental Process, Radiofrequency Fields and  
Land-Use Consultation)

Comments and suggestions may be directed to the following address:

Industry Canada  
Radiocommunications and  
Broadcasting Regulatory Branch  
300 Slater Street  
Ottawa, Ontario  
K1A 0C8

Attention: DOSP

Via e-mail: [spectrum\\_pubs@ic.gc.ca](mailto:spectrum_pubs@ic.gc.ca)

All Spectrum Management and Telecommunications publications are available on the following website at: <http://strategis.gc.ca/spectrum>.

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## **1. Introduction**

Radiocommunication and broadcasting services are important for all Canadians and are used daily by the public, safety and security organizations, government, wireless service providers, broadcasters, utilities and businesses. In order for radiocommunication and broadcasting services to work, antenna systems including masts, towers, and other supporting structures are required. There is a certain measure of flexibility in the placement of antenna systems which is constrained to some degree by: the need to achieve acceptable coverage for the service area; the availability of sites; technical limitations; and safety. In exercising its mandate, Industry Canada believes that it is important that antenna systems be deployed in a manner that considers the local surroundings.

### **1.1 Mandate**

Section 5 of the *Radiocommunication Act* states that the Minister may, taking into account all matters the Minister considers relevant for ensuring the orderly development and efficient operation of radiocommunication in Canada, issue radio authorizations and approve each site on which radio apparatus, including antenna systems, may be located. Further, the Minister may approve the erection of all masts, towers and other antenna-supporting structures. Accordingly, proponents must follow the process outlined in this document when installing or modifying an antenna system. Also, the installation of an antenna system or the operation of a currently existing antenna system that is not in accordance with this process may result in its alteration or removal and other sanctions against the operator in accordance with the *Radiocommunication Act*.

### **1.2 Application**

The requirements of this document apply to anyone (referred to in this document as the proponent) who is planning to install or modify an antenna system regardless of the type of installation or service. This includes, amongst others, Personal Communications Services (PCS) and cellular, fixed wireless, broadcasting, land-mobile, licence-exempt and amateur radio operators. As well, parts of this process contain obligations that apply to existing antenna system operators.

### **1.3 Process Overview**

This document outlines the process that must be followed by proponents seeking to install or modify antenna systems. The broad elements of the process are as follows:

1. Investigating sharing or using existing infrastructure before proposing new antenna-supporting structures.
2. Contacting the land-use authority (LUA) to determine local requirements regarding antenna systems.
3. Undertaking public notification and addressing relevant concerns, whether by following local LUA requirements or Industry Canada's default process, as is required and appropriate.
4. Satisfying Industry Canada's general and technical requirements.

It is Industry Canada's expectation that steps (2) to (4) will normally be completed within *120 days*. Some proposals may be excluded from certain elements of the process (see Section 6). It is Industry Canada's expectation that all parties will carry out their roles and responsibilities in good faith and in a manner that respects the spirit of this document.

## **2. Industry Canada Engagement**

There are a number of points in the processes outlined in this document where parties must contact Industry Canada to proceed. Further, anyone with any question regarding the process may contact the local Industry Canada office<sup>1</sup> for guidance. Based on a query by an interested party, Industry Canada may request parties to provide relevant records and/or may provide direction to one or more parties to undertake certain actions to help move the process forward.

## **3. Use of Existing Infrastructure (Sharing)**

This section outlines the roles of proponents and owners/operators of existing antenna systems. In all cases, parties should retain records (such as analyses, correspondence and engineering reports) relating to this section.

Before building a new antenna-supporting structure, Industry Canada requires that proponents first explore the following options:

- consider sharing an existing antenna system, modifying or replacing a structure if necessary;
- locate, analyze and attempt to use any feasible existing infrastructure such as rooftops, water towers etc.

Proponents are not normally expected to build new antenna-supporting structures where it is feasible to locate their antenna on an existing structure, unless a new structure is preferred by land-use authorities.

Owners and operators of existing antenna systems are to respond to a request to share in a timely fashion and to negotiate in good faith to facilitate sharing where feasible. It is anticipated that 30 days is reasonable time for existing antenna system owners/operators to reply to a request by a proponent in writing with either:

- a proposed set of reasonable terms to govern the sharing of the antenna system; or
- a detailed explanation of why sharing is not possible.

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<sup>1</sup> Please refer to Radiocommunication Information Circular 66 (RIC-66) for a list of addresses and telephone numbers for Industry Canada's regional and district offices. [RIC-66](http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01742e.html) is available via the Internet at: <http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01742e.html>.



#### **4. Land-use Authority and Public Consultation**

##### **Contacting the Land-use Authority**

Proponents must always contact the applicable land-use authorities to determine the local consultation requirements unless their proposal falls within the exclusion criteria outlined in Section 6. If the land-use authority has designated an official to deal with antenna systems, then proponents are to engage the authority through that person. If not, proponents must submit their plans directly to the council, elected local official or executive. Proponents are expected to establish initial formal contact with the land-use authority in writing in order to mark the official commencement of the *120-day* consultation process.

Proponents should note that there may be more than one land-use authority with an interest in the proposal. Where no established agreement exists between such land-use authorities, proponents must, as a minimum, contact the land-use authority(ies) and/or neighbouring land-use authorities located within a radius of three times the tower height, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater. As well, in cases where proponents are aware that a potential Aboriginal or treaty right or land claim may be affected by the proposed installation, they must contact Industry Canada in order to ensure that the requirements for consultation are met.

##### **Following the Land-use Authority Process**

Proponents must follow the land-use consultation process for the siting of antenna systems, established by the land-use authority, where one exists. In the event that a land-use authority's existing process has no public consultation requirement, proponents must then fulfill the public consultation requirements contained in Industry Canada's Default Public Consultation Process (see Section 4.2). Proponents are not required to follow this requirement if the LUA's established process explicitly excludes their type of proposal from consultation or it is excluded by Industry Canada's criteria. Where proponents believe the local consultation requirements are unreasonable, they may contact the local Industry Canada office in writing for guidance.

##### **Broadcasting Undertakings**

Applicants for broadcasting undertakings are subject to Canadian Radio-television and Telecommunications (CRTC) licensing processes in addition to Industry Canada requirements. Although Industry Canada encourages applicants to consult as early as practical in the application process, in some cases it may not be prudent for the applicants to initiate public and municipal/land-use consultation before receiving CRTC approval, as application denial by the CRTC would result in unnecessary work for all parties involved. Therefore, assuming that the proposal is not otherwise excluded, broadcasting applicants may opt to commence land-use consultation after having received CRTC approval. However, broadcasting applicants choosing this option are required, at the time of the CRTC application, to notify the land-use authority with a Letter of Intent outlining a commitment to conduct consultation after receiving CRTC approval. If the land-use authority raises concerns with the proposal as described in the Letter of Intent, applicants are encouraged to engage in discussions with the land-use authority regarding their concerns and attempt to resolve any issues. See Broadcasting Procedures and Rules, Part 1 (BPR-1), for further details.

#### 4.1 Land-use Authority Consultation

Industry Canada believes that any concerns or suggestions expressed by land-use authorities are important elements to be considered by proponents regarding proposals to install, or make changes to, antenna systems. As part of their community planning processes, land-use authorities should facilitate the implementation of local radiocommunication services by establishing consultation processes for the siting of antenna systems.

Unless the proposal meets the exclusion criteria outlined in Section 6, proponents must consult with the local land-use authority(ies) on any proposed antenna system prior to any construction with the aim of:

- discussing site options;
- ensuring that local processes related to antenna systems are respected;
- addressing reasonable and relevant concerns (see Section 4.2) from both the land-use authority and the community they represent; and
- obtaining land-use authority concurrence in writing.

Land-use authorities are encouraged to establish reasonable, relevant, and predictable consultation processes<sup>2</sup> specific to antenna systems that consider such things as:

- the designation of suitable contacts or responsible officials;
- proposal submission requirements;
- public consultation;
- documentation of the concurrence process; and
- the establishment of milestones to ensure consultation process completion within *120 days*.

Where they have specific concerns regarding a proposed antenna system, land-use authorities are expected to discuss reasonable alternatives and/or mitigation measures with proponents.

Under their processes, land-use authorities may exclude from consultation any antenna system installation in addition to those identified by Industry Canada's own consultation exclusion criteria (Section 6). For example, an authority may wish to exclude from public consultation those installations located within industrial areas removed from residential areas, low visual impact installations, or certain types of structures located within residential areas.

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<sup>2</sup> Industry Canada is available to assist land-use authorities in the development of local processes. In addition, land-use authorities may wish to consult Industry Canada's guide for the development of local consultation processes.

## 4.2 Industry Canada's Default Public Consultation Process

Proponents must follow Industry Canada's Default Public Consultation Process where the local land-use authority does not have an established and documented public consultation process applicable to antenna siting. Proponents are not required to follow Industry Canada's Default Public Consultation Process if the land-use authority's established process explicitly excludes their type of proposal from public consultation or it is excluded by Industry Canada's criteria (see Section 6). Industry Canada's default process has three steps whereby the proponent:

1. provides written notification to the public, the land-use authority and Industry Canada of the proposed antenna system installation or modification (*i.e. public notification*);
2. engages the public and the land-use authority in order to address relevant questions, comments and concerns regarding the proposal (*i.e. responding to the public*); and
3. provides an opportunity to the public and the land-use authority to formally respond in writing to the proponent regarding measures taken to address reasonable and relevant concerns (*i.e. public reply comment*).

### Public Notification

1. Proponents must ensure that the local public, the land-use authority and Industry Canada are notified of the proposed antenna system. As a minimum, proponents must provide a notification package (see Appendix 2) to the local public (including nearby residences, community gathering areas, public institutions, schools, etc.), neighbouring land-use authorities, businesses, and property owners, etc. located within a radius of three times the tower height, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater. For the purpose of this requirement, the outside perimeter begins at the furthest point of the supporting mechanism, be it the outermost guy line, building edge, face of the self-supporting tower, etc.
2. It is the proponent's responsibility to ensure that the notification provides at least *30 days* for written public comment.
3. In addition to the minimum notification distance noted above, in areas of seasonal residence, the proponent, in consultation with the land-use authority, is responsible for determining the best manner to notify such residents to ensure their engagement.
4. In addition to the public notification requirements noted above, proponents of antenna-supporting structures that are proposed to be 30 metres or more in height must place a notice in a local community newspaper circulating in the proposed area.<sup>3</sup>

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<sup>3</sup> The notice must be synchronized with the distribution of the public notification package. It must be legible and placed in the public notice section of the newspaper. The notice must include: a description of the proposed installation; its location and street address; proponent contact information and mailing address; and an invitation to provide public comments to the proponent within *30 days* of the notice. In areas without a local newspaper, other effective means of public notification must be implemented. Proponents may contact the local Industry Canada office for guidance.

### **Responding to the Public**

Proponents are to address all reasonable and relevant concerns, make all reasonable efforts to resolve them in a mutually acceptable manner and must keep a record of all associated communications. If the local public or land-use authority raises a question, comment or concern relating to the antenna system as a result of the public notification process, then the proponent is required to:

1. respond to the party in writing within *14 days* acknowledging receipt of the question, comment or concern and keep a record of the communication;
2. address in writing all reasonable and relevant concerns within *60 days* of receipt or explain why the question, comment or concern is not, in the view of the proponent, reasonable or relevant; and
3. in the written communication referred to in the preceding point, clearly indicate that the party has *21 days* from the date of the correspondence to reply to the proponent's response. The proponent must provide a copy of all public reply comments to the local Industry Canada office.

Responding to reasonable and relevant concerns may include contacting a party by telephone, engaging in a community meeting or having an informal, personal discussion. Between steps 1 and 2 above, the proponent is expected to engage the public in a manner it deems most appropriate. Therefore, the letter at step 2 above may be a record of how the proponent and the other party addressed the concern at hand.

### **Public Reply Comments**

As indicated in step 3 above, the proponent must clearly indicate that the party has *21 days* from the date of the correspondence to reply to the response. The proponent must also keep a record of all correspondence/discussions that occurred within the *21-day* public reply comment period. This includes records of any agreements that may have been reached and/or any concerns that remain outstanding.

The factors that will determine whether a concern is reasonable or relevant according to this process will vary but will generally be considered if they relate to the requirements of this document and to the particular amenities or important characteristics of the area surrounding the proposed antenna system. Examples of concerns that proponents are to address may include:

- Why is the use of an existing antenna system or structure not possible?
- Why is an alternate site not possible?
- What is the proponent doing to ensure that the antenna system is not accessible to the general public?
- How is the proponent trying to integrate the antenna into the local surroundings?
- What options are available to satisfy aeronautical obstruction marking requirements at this site?
- What are the steps the proponent took to ensure compliance with the general requirements of this document including the *Canadian Environmental Assessment Act (CEAA)*, Safety Code 6, etc.?

Concerns that are not relevant include:

- disputes with members of the public relating to the proponent's service, but unrelated to antenna installations;
- potential effects that a proposed antenna system will have on property values or municipal taxes;
- questions whether the *Radiocommunication Act*, this document, Safety Code 6, locally established by-laws, other legislation, procedures or processes are valid or should be reformed in some manner.

#### **4.3 Concluding Consultation**

The proponent may only commence installation/modification of an antenna system after the consultation process has been completed by the land-use authority, or Industry Canada confirms concurrence with the consultation portion of this process, and after all other requirements under this process have been met. Consultation responsibilities will normally be considered complete when the proponent has:

1. concluded consultation requirements (Section 4.1) with the land-use authority;
2. carried out public consultation either through the process established by the land-use authority or the Industry Canada's Default Public Consultation Process where required; and
3. addressed all reasonable and relevant concerns.

#### **Concluding Land-use Authority Consultation**

Industry Canada expects that land-use consultation will be completed within *120 days* from the proponent's initial formal contact with the local land-use authority. Where unavoidable delays may be encountered, the land-use authority is expected to indicate when the proponent can expect a response to the proposal. If the authority is not responsive, the proponent may contact Industry Canada. Depending on individual circumstances, Industry Canada may support additional time or consider the land-use authority consultation process concluded.

Depending on the land-use authority's own process, conclusion of local consultation may include such steps as obtaining final concurrence for the proposal via the relevant committee, a letter or report acknowledging that the relevant municipal process or other requirements have been satisfied, or other valid indication, such as the minutes of a town council meeting indicating LUA approval. Compliance with informal city staff procedures, or grants of approval strictly related to zoning, construction, etc. will not normally be sufficient.

Industry Canada recognizes that approvals for construction (e.g. building permits) are used by some land-use authorities as evidence of consultation being concluded. Proponents should note that Industry Canada does not consider the fact a permit was issued as confirmation of concurrence, as different land-use authorities have different approaches. As such, Industry Canada will only consider such approvals as valid when the proponent can demonstrate that the LUA's process was followed and that the LUA's preferred method of concluding LUA consultation is through such an approval.

### **Concluding Industry Canada's Default Public Consultation Process**

Industry Canada's Default Public Consultation Process will be considered concluded when the proponent has either:

- received no written questions, comments or concerns to the formal notification within the *30-day* public comment period; or
- if written questions, comments or concerns were received, the proponent has addressed and resolved all reasonable and relevant concerns and the public has not provided further comment within the *21-day* reply comment period.

In the case where the public responds within the *21-day* reply comment period, the proponent has the option of making further attempts to address the concern on its own, or can request Industry Canada engagement. If a request for engagement is made at this stage, Industry Canada will review the relevant material, request any further information it deems pertinent from any party and may then decide that:

- the proponent has met the consultation requirements of this process and that Industry Canada concurs that installation or modification may proceed; or
- the parties should participate in further attempts to mitigate or resolve any outstanding concern.

### **5. Dispute Resolution Process**

The dispute resolution process is a formal process intended to bring about the timely resolution where the parties have reached an impasse.

Upon receipt of a written request, from a stakeholder other than the general public, asking for Departmental intervention concerning a reasonable and relevant concern, the Department may request that all involved parties provide and share all relevant information. The Department may also gather or obtain other relevant information and request that parties provide any further submissions if applicable. The Department will, based on the information provided, either:

- make a final decision on the issue(s) in question, and advise the parties of its decision; or
- suggest the parties enter into an alternate dispute resolution process in order to come to a final decision. Should the parties be unable to reach a mutually agreeable solution, either party may request that the Department make a final decision.

Upon resolution of the issue under dispute, the proponent is to continue with the process contained within this document as required.

## 6. Exclusions

For the following types of installations, proponents are excluded from the requirement to consult with the LUA and the public, but must still fulfill the General Requirements outlined in Section 7:

- maintenance of existing radio apparatus including the antenna system, transmission line, mast, tower or other antenna-supporting structure;
- addition or modification of an antenna system (including improving the structural integrity of its integral mast to facilitate sharing), the transmission line, antenna-supporting structure or other radio apparatus to existing infrastructure, a building, water tower, etc. provided the addition or modification does not result in an overall height increase above the existing structure of 25% of the original structure's height;
- maintenance of an antenna system's painting or lighting in order to comply with Transport Canada's requirements;
- installation, for a limited duration (typically not more than 3 months), of an antenna system that is used for a special event, or one that is used to support local, provincial, territorial or national emergency operations during the emergency, and is removed within 3 months after the emergency or special event; and
- new antenna systems, including masts, towers or other antenna-supporting structure, with a height of less than 15 metres above ground level.

Individual circumstances vary with each antenna system installation and modification, and the exclusion criteria above should be applied in consideration of local circumstances. Consequently, it may be prudent for the proponents to consult the LUA and the public even though the proposal meets an exclusion noted above. Therefore, when applying the criteria for exclusion, proponents should consider such things as:

- the antenna system's physical dimensions, including the antenna, mast, and tower, compared to the local surroundings;
- the location of the proposed antenna system on the property and its proximity to neighbouring residents;
- the likelihood of an area being a community-sensitive location; and
- Transport Canada marking and lighting requirements for the proposed structure.

Proponents who are not certain if their proposed structure is excluded, or whether consultation may still be prudent, are advised to contact the land-use authority and/or Industry Canada for guidance.

## 7. General Requirements

In addition to roles and responsibilities for site sharing, land-use consultation and public consultation, proponents must also fulfill other important obligations including: compliance with Health Canada's Safety Code 6 guideline for the protection of the general public; compliance with radio frequency immunity criteria; notification of nearby broadcasting stations; environmental considerations; and Transport Canada/NAV CANADA aeronautical safety responsibilities.

### 7.1 Radio Frequency Exposure Limits

Health Canada has established safety guidelines for exposure to radio frequency fields, in its Safety Code 6 publication, entitled: *Limits of Human Exposure to Radiofrequency Electromagnetic fields in the Frequency Range from 3 kHz to 300 GHz*.<sup>4</sup> While the responsibility for developing Safety Code 6 rests with Health Canada, Industry Canada has adopted this guideline for the purpose of protecting the general public. Current biomedical studies in Canada and other countries indicate that there is no scientific or medical evidence that a person will experience adverse health effects from exposure to radio frequency fields, provided that the installation complies with Safety Code 6.

It is the responsibility of proponents and operators of installations to ensure that all radiocommunication and broadcasting installations comply with Safety Code 6 at all times, including the consideration of combined effects of nearby installations within the local radio environment.

For all proponents following Industry Canada's Default Public Consultation Process, the proponent's notification package must provide a written attestation that there will be compliance with Safety Code 6 for the protection of the general public, including consideration of nearby radiocommunication systems. The notification package must also indicate any Safety Code 6 related signage and access control mechanisms that may be used.

Compliance with Safety Code 6 is an ongoing obligation. At any time, antenna system operators may be required, as directed by Industry Canada, to demonstrate compliance with Safety Code 6 by (i) providing detailed calculations, and/or (ii) conducting site surveys and, where necessary, by implementing corrective measures. Proponents and operators of existing antenna systems must retain copies of all information related to Safety Code 6 compliance such as analyses and measurements.

### 7.2 Radio Frequency Immunity

All radiocommunication and broadcasting proponents and existing spectrum users are to ensure that their installations are designed and operated in accordance with Industry Canada's immunity criteria as outlined in EMCAB-2<sup>5</sup> in order to minimize the malfunctioning of electronic equipment in the local surroundings. Broadcasting proponents and existing undertakings should refer to Broadcasting

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<sup>4</sup> Safety Code 6 can be found on Health Canada's website at:  
[http://www.hc-sc.gc.ca/cwh-semt/pubs/radiation/99ehd-dhm237/index\\_e.html](http://www.hc-sc.gc.ca/cwh-semt/pubs/radiation/99ehd-dhm237/index_e.html).

<sup>5</sup> For more information see EMCAB-2, entitled: *Criteria for Resolution of Immunity Complaints Involving Fundamental Emissions of Radiocommunications Transmitters* available on Industry Canada's Spectrum Management and Telecommunications website at: [www.strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01005e.html](http://www.strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01005e.html).



Procedures and Rules - Part 1, *General Rules* (BPR-1) for additional information and requirements<sup>6</sup> on this matter.

Proponents are advised to consider the potential effect that their proposal may have on nearby electronic equipment. In this way, they will be better prepared to respond to any questions that may arise during the public and land-use consultation processes, or after the system has been installed.

Land-use authorities should be prepared to advise proponents and owners of broadcasting undertakings of plans for the expansion or development of nearby residential and/or industrial areas. Such expansion or development generally results in the introduction of more electronic equipment in the area and therefore an increased potential for electronic equipment to malfunction. By keeping broadcasters aware of planned developments and changes to adjacent land-use, they will be better able to work with the community. Equally, land-use authorities have a responsibility to ensure that those moving into these areas, whether prospective residents or industry, are aware of the potential for their electronic equipment to malfunction when located in proximity to an existing broadcasting installation. For example, the LUA could ensure that clear notification be provided to future prospective purchasers.

### **7.3 Proximity of Proposed Structure to Broadcasting Undertakings**

Where the proposal would result in a structure that exceeds 30 metres above ground level, the proponent is to notify operators of AM, FM and TV undertakings within 2 kilometres, due to the potential impact the physical structure may have on these broadcasting undertakings. Metallic structures close to an AM directional antenna array may change the antenna pattern of the AM broadcasting undertaking. These proposed structures can also reflect nearby FM and TV signals, causing 'ghosting' interference to FM/TV receivers used by the general public.

### **7.4 Canadian Environmental Assessment Act**

Industry Canada requires that the installation and modification of antenna systems be done in a manner that complies with appropriate environmental legislation. This includes the CEAA and local environmental assessment requirements where required by the CEAA.

Proponents will ensure that the environmental assessment process is applied as early as is practical in the planning stages. This will enable proponents and other stakeholders to consider environmental factors in any decisions that may be made. As part of their environmental assessment, proponents are to give due consideration to potential environmental impacts including cumulative effects.

Proponents are advised to view the current CEAA exclusion list<sup>7</sup> to see if their proposed installation meets the requirements to be excluded from assessment under the CEAA.

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<sup>6</sup> BPR-1 - Part I: General Rules can be found on the Spectrum Management and Telecommunications website at: <http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01326e.html>.

<sup>7</sup> The CEAA exclusion list can be found at <http://laws.justice.gc.ca/en/C-15.2/SOR-94-639/index.html>.

If not excluded, the proponent must first notify the local Industry Canada office which will direct the proponent on how to proceed with an environmental assessment. At this point, the proponent must not proceed with any construction related to the proposal.

Where the proposal requires assessment under the CEAA, the proponent must either:

- abandon the proposal; or
- participate in the environmental assessment process as established under the CEAA.

Should the environmental assessment identify that there is the potential for an adverse environmental effect, the proponent will be required to describe the effect and propose mitigation measures. Through an environmental assessment, careful consideration may be given to potential adverse environmental effects during the planning stages. This makes it possible to introduce measures which permit the project to proceed while protecting the environment.

Should any significant adverse environmental effect become apparent at any time during the installation, all construction must be stopped, regardless of whether the installation was excluded from environmental assessment.

For all proponents following Industry Canada's Default Public Consultation Process, the proponent's notification package must provide written confirmation of the project's status under the *Canadian Environmental Assessment Act*.

In those situations where an environmental assessment is required, Industry Canada will post a notification of the commencement of the assessment on the Canadian Environmental Assessment Registry website.<sup>8</sup> This will help to ensure that all interested parties, including the general public, are aware of an assessment from the outset. The notification will include the name, location and a summary description of the project, and identify the project proponent(s) and federal department(s) directly involved in the assessment. Other pertinent documents will be placed on the Internet site as the assessment proceeds, including all public notices, decisions and information about follow-up programs. Should mitigation measures be identified further to the assessment, Industry Canada will ensure that the project does not proceed unless these measures are adequately addressed.

In addition, proponents are responsible to ensure that antenna systems are installed and operated in a manner that respects the local environment and complies with other statutory requirements such as the *Canadian Environmental Protection Act*, the *Migratory Birds Convention Act* and the *Species at Risk Act*, where applicable.

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<sup>8</sup> The Canadian Environmental Assessment Registry website can be found at: [http://www.ceaa-acee.gc.ca/050/index\\_e.cfm](http://www.ceaa-acee.gc.ca/050/index_e.cfm).

## 7.5 Aeronautical Safety

Proponents must ensure their proposals for any antenna system are first reviewed by Transport Canada and NAV CANADA.

Transport Canada will perform an assessment of the proposal with respect to the potential hazard to air navigation and will notify proponents of any painting and/or lighting requirements for the antenna system. NAV CANADA will comment on whether the proposal has an impact on the provision of their national air navigation system, facilities and other services located off-airport.

As required, the proponent must:

1. submit an Aeronautical Obstruction Clearance form to Transport Canada;
2. submit a Land-use Proposal Submission form to NAV CANADA;
3. include Transport Canada marking requirements in the public notification package;
4. install and maintain the antenna system in a manner that is not a hazard to aeronautical safety; and
5. retain all correspondence.

For those antenna systems subject to Industry Canada's Default Public Consultation Process, the proponent will inform the community of any marking requirements. Where options are possible, proponents are expected to work with the local community and Transport Canada to implement the best and safest marking options. Proponents should be aware that Transport Canada does not advise Industry Canada of marking requirements for proposed structures. Proponents are reminded that the addition of, or modification to, obstruction markings may result in community concern and so any change is to be done in consultation with the local public, land-use authority and/or Transport Canada, as appropriate.

### References and Details

Aeronautical Obstruction Clearance forms are available from any Transport Canada Aviation Group Office. Both the Aeronautical Obstruction Clearance form (#26-0427) and a list of Transport Canada Aviation Group regional offices are available on the Transport Canada website.<sup>9</sup> Completed forms are to be submitted directly to the nearest Transport Canada Aviation Group office. (Refer to Canadian Aviation Regulations, Standard 621.19, Standards Obstruction Markings).

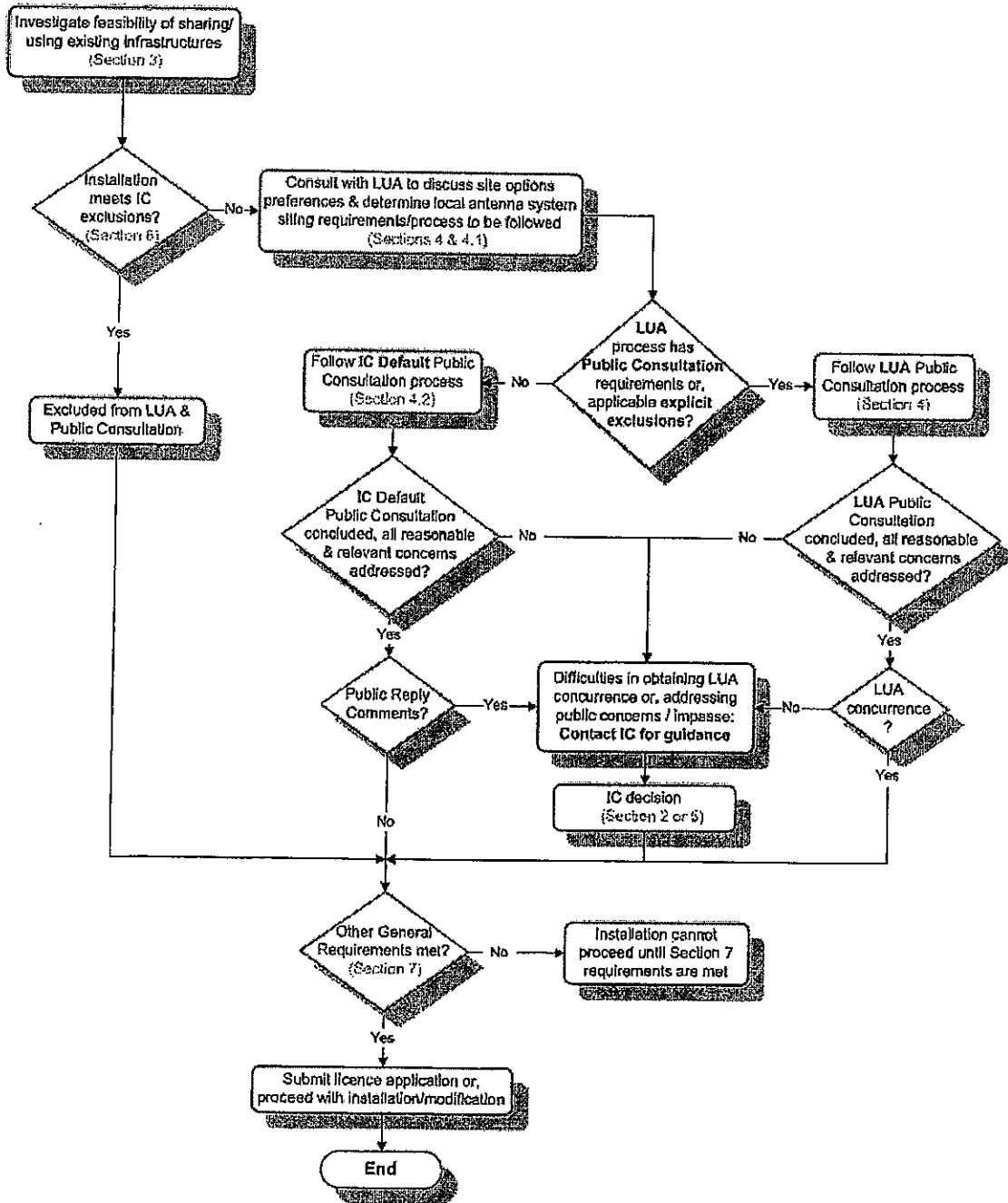
Land-use Proposal Submission forms are available from NAV CANADA<sup>10</sup> and completed forms are to be sent to the appropriate NAV CANADA General Manager Airport Operations (GMAO) office, East or West.

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<sup>9</sup> The Transport Canada website can be found at: <http://www.tc.gc.ca>.

<sup>10</sup> Search keywords "Land-use Proposal" on the NAV CANADA website at: <http://www.navcanada.ca>.

Appendix 1 - Consultation Flow Chart



## Appendix 2 - Industry Canada's Default Public Consultation Process - Public Notification Package (See Section 4.2)

The proponent must ensure that at least *30 days* are provided for public comment. Notification must provide all information on how to submit comments to the proponent in writing. The proponent must also provide a copy of the notification package to the land-use authority and the local Industry Canada office at the same time as the package is provided to the public.

Notification must include, but need not be limited to:

- (1) the proposed antenna system's purpose, the reasons why existing antenna systems or other infrastructure cannot be used, a list of other structures that were considered unsuitable and future sharing possibilities for the proposal;
- (2) the proposed location within the community, the geographic co-ordinates and the specific property or rooftop;
- (3) an attestation<sup>1</sup> that the general public will be protected in compliance with Health Canada's Safety Code 6 including combined effects within the local radio environment at all times;
- (4) identification of areas accessible to the general public and the access/demarcation measures to control public access;
- (5) the project's status under the *Canadian Environmental Assessment Act*<sup>2</sup>;
- (6) a description of the proposed antenna system including its height and dimensions, a description of any antenna that may be mounted on the supporting structure and simulated images of the proposal;
- (7) Transport Canada's aeronautical obstruction marking requirements (whether painting, lighting or both) if available; if not available, the proponent's expectation of Transport Canada's requirements together with an undertaking to provide Transport Canada's requirements once they become available;
- (8) an attestation that the installation will respect good engineering practices including structural adequacy;
- (9) reference to any applicable local land-use requirements such as local processes, protocols, etc.;

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<sup>1</sup> Example: I, (*name of individual or representative of company*) attest that the radio installation described in this notification package will be installed and operated on an ongoing basis so as to comply with Health Canada's Safety Code 6, as may be amended from time to time, for the protection of the general public including any combined effects of nearby installations within the local radio environment.

<sup>2</sup> Example: I, (*name of individual or representative of company*) attest that the radio antenna system described in this notification package is excluded from environmental assessment under the *Canadian Environmental Assessment Act*.

- (10) notice that general information relating to antenna systems is available on Industry Canada's Spectrum Management and Telecommunications website (<http://strategis.ic.gc.ca/antenna>);
- (11) contact information for the proponent, land-use authorities and the local Industry Canada office;  
and
- (12) closing date for submission of written public comments (not less than *30 days* from receipt of notification).

**Appendix 3**

**World Health Organization Fact Sheet**



## Media centre

### Electromagnetic fields and public health

#### Base stations and wireless technologies

Fact sheet N°304

May 2006

Mobile telephony is now commonplace around the world. This wireless technology relies upon an extensive network of fixed antennas, or base stations, relaying information with radiofrequency (RF) signals. Over 1.4 million base stations exist worldwide and the number is increasing significantly with the introduction of third generation technology.

Other wireless networks that allow high-speed internet access and services, such as wireless local area networks (WLANs), are also increasingly common in homes, offices, and many public areas (airports, schools, residential and urban areas). As the number of base stations and local wireless networks increases, so does the RF exposure of the population. Recent surveys have shown that the RF exposures from base stations range from 0.002% to 2% of the levels of international exposure guidelines, depending on a variety of factors such as the proximity to the antenna and the surrounding environment. This is lower or comparable to RF exposures from radio or television broadcast transmitters.

There has been concern about possible health consequences from exposure to the RF fields produced by wireless technologies. This fact sheet reviews the scientific evidence on the health effects from continuous low-level human exposure to base stations and other local wireless networks.

#### Health concerns

A common concern about base station and local wireless network antennas relates to the possible long-term health effects that whole-body exposure to the RF signals may have. To date, the only health effect from RF fields identified in scientific reviews has been related to an increase in body temperature ( $> 1\text{ }^{\circ}\text{C}$ ) from exposure at very high field intensity found only in certain industrial facilities, such as RF heaters. The levels of RF exposure from base stations and wireless networks are so low that the temperature increases are insignificant and do not affect human health.

The strength of RF fields is greatest at its source, and diminishes quickly with distance. Access near base station antennas is restricted where RF signals may exceed international exposure limits. Recent surveys have indicated that RF exposures from base stations and wireless technologies in publicly accessible areas (including schools and hospitals) are normally thousands of times below international standards.



In fact, due to their lower frequency, at similar RF exposure levels, the body absorbs up to five times more of the signal from FM radio and television than from base stations. This is because the frequencies used in FM radio (around 100 MHz) and in TV broadcasting (around 300 to 400 MHz) are lower than those employed in mobile telephony (900 MHz and 1800 MHz) and because a person's height makes the body an efficient receiving antenna. Further, radio and television broadcast stations have been in operation for the past 50 or more years without any adverse health consequence being established.

While most radio technologies have used analog signals, modern wireless telecommunications are using digital transmissions. Detailed reviews conducted so far have not revealed any hazard specific to different RF modulations.

*Cancer:* Media or anecdotal reports of cancer clusters around mobile phone base stations have heightened public concern. It should be noted that geographically, cancers are unevenly distributed among any population. Given the widespread presence of base stations in the environment, it is expected that possible cancer clusters will occur near base stations merely by chance. Moreover, the reported cancers in these clusters are often a collection of different types of cancer with no common characteristics and hence unlikely to have a common cause.

Scientific evidence on the distribution of cancer in the population can be obtained through carefully planned and executed epidemiological studies. Over the past 15 years, studies examining a potential relationship between RF transmitters and cancer have been published. These studies have not provided evidence that RF exposure from the transmitters increases the risk of cancer. Likewise, long-term animal studies have not established an increased risk of cancer from exposure to RF fields, even at levels that are much higher than produced by base stations and wireless networks.

*Other effects:* Few studies have investigated general health effects in individuals exposed to RF fields from base stations. This is because of the difficulty in distinguishing possible health effects from the very low signals emitted by base stations from other higher strength RF signals in the environment. Most studies have focused on the RF exposures of mobile phone users. Human and animal studies examining brain wave patterns, cognition and behaviour after exposure to RF fields, such as those generated by mobile phones, have not identified adverse effects. RF exposures used in these studies were about 1000 times higher than those associated with general public exposure from base stations or wireless networks. No consistent evidence of altered sleep or cardiovascular function has been reported.

Some individuals have reported that they experience non-specific symptoms upon exposure to RF fields emitted from base stations and other EMF devices. As recognized in a recent WHO fact sheet "Electromagnetic Hypersensitivity", EMF has not been shown to cause such symptoms. Nonetheless, it is important to recognize the plight of people suffering from these symptoms.

From all evidence accumulated so far, no adverse short- or long-term health effects have been shown to occur from the RF signals produced by base stations. Since wireless networks produce generally lower RF signals

than base stations, no adverse health effects are expected from exposure to them.

### Protection standards

International exposure guidelines have been developed to provide protection against established effects from RF fields by the International Commission on Non-Ionizing Radiation Protection (ICNIRP, 1998) and the Institute of Electrical and Electronic Engineers (IEEE, 2005).

National authorities should adopt international standards to protect their citizens against adverse levels of RF fields. They should restrict access to areas where exposure limits may be exceeded.

### Public perception of risk

Some people perceive risks from RF exposure as likely and even possibly severe. Several reasons for public fear include media announcements of new and unconfirmed scientific studies, leading to a feeling of uncertainty and a perception that there may be unknown or undiscovered hazards. Other factors are aesthetic concerns and a feeling of a lack of control or input to the process of determining the location of new base stations. Experience shows that education programmes as well as effective communications and involvement of the public and other stakeholders at appropriate stages of the decision process before installing RF sources can enhance public confidence and acceptability.

### Conclusions

Considering the very low exposure levels and research results collected to date, there is no convincing scientific evidence that the weak RF signals from base stations and wireless networks cause adverse health effects.

### WHO Initiatives

WHO, through the International EMF Project, has established a programme to monitor the EMF scientific literature, to evaluate the health effects from exposure to EMF in the range from 0 to 300 GHz, to provide advice about possible EMF hazards and to identify suitable mitigation measures. Following extensive international reviews, the International EMF Project has promoted research to fill gaps in knowledge. In response national governments and research institutes have funded over \$250 million on EMF research over the past 10 years.

While no health effects are expected from exposure to RF fields from base stations and wireless networks, research is still being promoted by WHO to determine whether there are any health consequences from the higher RF exposures from mobile phones.

The International Agency for Research on Cancer (IARC), a WHO specialized agency, is expected to conduct a review of cancer risk from RF fields in 2006-2007 and the International EMF Project will then undertake an overall health risk assessment for RF fields in 2007-2008.

### Further Reading

ICNIRP (1998) [www.icnirp.org/documents/emfgdl.pdf](http://www.icnirp.org/documents/emfgdl.pdf)

IEEE (2005) IEEE C95.4-2005 IEEE Standard for Safety Levels with

Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz"

**Related links**

Base stations & wireless networks: Exposures & health consequences

Fact sheet: Electromagnetic fields and public health: Electromagnetic Hypersensitivity

WHO handbook on "Establishing a Dialogue on Risks from Electromagnetic Fields"

2006 WHO Research Agenda for Radio Frequency Fields pdf, 100kb

**For more information contact:**

WHO Media centre

Telephone: +41 22 791 2222

E-mail: [mediainquiries@who.int](mailto:mediainquiries@who.int)

**Appendix 4**

**Correspondence from Dr. Kurji dated January 9, 2009**  
**City of Hamilton Information Report dated June 10, 2008**  
**Vancouver Coastal Health opinion dated June 20, 2005**



Health Services Department  
Public Health

January 9, 2009

Ms. Ana Bassios  
Commissioner of Planning and Development  
The Town of Richmond Hill  
P.O. Box 300, 225 East Beaver Creek Road  
Richmond Hill, ON L4C 4Y5

Dear Ms. Bassios:

**Re: Request for Comments from the Medical Officer of Health on Safety Code 6 - Radio Frequency Exposure Standard**

Thank you for your letter dated November 18, 2008 requesting a written response regarding the health impacts of cellular telecommunication facilities on the general public, and the federal exposure standard for radio frequency electromagnetic fields (RF EMFs).

As you are aware, the setting of standards and guidelines on RF EMFs as well as the regulation of siting and installation of cell towers are matters of federal jurisdiction:

- Health Canada is responsible for setting RF exposure guidelines, known as Safety Code 6, to protect exposed workers and the general public from short term, high exposure effects of RFs. Health Canada's Safety Code 6 is based on the International Commission for Non-Ionizing Radiation Protection guidelines for public exposure limits. These guidelines are based on the well understood heating effects of RFs – addressing the short-term, high exposure effects.
- Industry Canada has the regulatory authority for approving the siting and installation of telecommunication towers and antennas. Industry Canada requires that operators of cell towers and other RF emitting devices ensure that the RF fields produced by their installation do not exceed the maximum level contained in Health Canada's Safety Code 6. Industry Canada encourages cell phone carriers to consult with local land use authorities to determine the most suitable sites for installation.

RF EMF types of non-ionizing radiation have been researched extensively to identify potential health risks from exposure to these forms of radiation. As a local public health unit, we rely on the federal level jurisdiction with the necessary scientific and evaluative expertise – Health Canada, to provide direction and advice based on current science. Nevertheless, as part of our due diligence, York Region Public Health Branch staff have reviewed RF EMFs research from agencies such as the World Health Organization, Health Canada, Industry Canada and have also reviewed a number of recent, peer-reviewed, scientific journal articles.

The position and advice of Health Canada and the World Health Organization (WHO) relating to RF exposures suggests that typical levels of RF in the community are unlikely to cause adverse health effects:

- Research from Health Canada suggests that worst-case exposure levels of RFs are typically thousands of times below the recommended exposure limits in Health Canada's Safety Code 6 (Bradley, R., Director, Consumer and Radiation Protection, Health Canada, personal communication).
- The WHO reported that current scientific evidence indicates that exposure to RF fields, such as those emitted by mobile phones and their base stations, is unlikely to induce or promote cancers (WHO, 2000).
- The WHO released a report in 2006 stating that, "research on potential health effects from base station RF fields was deemed of low priority since studies of cancer risk related to such exposure are unlikely to be feasible and informative" (WHO, 2006).

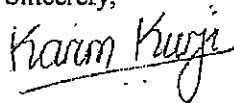
Although the Safety Code 6 was established in 1999, the guidelines have been subsequently evaluated by the Royal Society of Canada Expert Panel (Krewski 2001, Krewski et al 2007 and Prato, Personal Communications 2008). The Panel concluded that there is no clear evidence of adverse health effects associated with RF fields. Other research studies also acknowledge that the studies done to date give no consistent or convincing evidence of a causal relationship between RFs and any adverse health effects. However, the Royal Society of Canada Expert Panel, Toronto Public Health and other researchers have stated that further studies are warranted to clarify biological (i.e. non-thermal) and long term effects of exposure to RF fields on human health.

In conclusion, based on the review by the York Region Public Health Branch, the weight of evidence has not identified that Safety Code 6 is inappropriate, in protecting the public from exposure to RF fields. While my staff continue to communicate with Health Canada, and other agencies researching this issue, it is recommended that the Town of Richmond Hill continue to liaise with Industry Canada regarding the siting and installation of telecommunication towers and antennas within your jurisdiction.

Please do not hesitate to call me if you have any questions.

Thank you.

Sincerely,



Dr. Karim Kurji, MBBS, MSc, MRCP, FRCPC  
Medical Officer of Health

KK/pf

Copy to: Bryan Tuckey, Commissioner, Planning and Development Services  
Joann Shinnous, Commissioner, Community and Health Services



Hamilton

# INFORMATION REPORT

CITY WIDE  
IMPLICATIONS

<b>To:</b>	Mayor and Members Board of Health		
<b>From:</b>	Elizabeth Richardson, MD, MHSc, FRCPC Medical Officer of Health Public Health Services	<b>Telephone:</b> <b>Facsimile:</b> <b>E-mail:</b>	(905) 546-2424 x3501 (905) 546-4075 erichard@hamilton.ca
<b>Date:</b>	June 10, 2008		
<b>Re:</b>	Health Risk Associated with Cell Phone Towers - BOH08013 (City Wide)		

**Council Direction:**

That Public Health Services staff be directed to report back to the Board of Health on the potential health impacts that cell phone towers may pose to the public.

**Information:**

Wireless Communication Technology

Cell phones and personal communications service (PCS) devices, (eg. a Blackberry unit) rely on a network of fixed antennas, or cell towers, to relay information between users. The rapid proliferation of wireless communication technologies over the past decade has lead to questions being raised about the potential health impacts of ubiquitous energy fields associated with these technologies. There are approximately 8,000 cell towers in all of Canada, where 40% of towers are located on existing structures (eg. buildings) and 60% are located on purpose-built towers. There are approximately 140 locations with cell towers in the City of Hamilton. It is expected that as new generation technology becomes available, the demand for service coverage will only increase as public reliance on wireless communications increases.

Exposure to Radiofrequency Fields

Wireless communication devices use radio frequency (RF) energy to transmit data. RF energy is a form of non-ionizing energy, meaning that it is below visible light on the electromagnetic energy spectrum and is generally considered to be not harmful to humans. Ionizing forms of energy such as ultraviolet radiation and gamma and x-rays

are above visible light on the electromagnetic spectrum and are known to be harmful to humans.

It is important to recognize that in the City of Hamilton, the public is exposed to RF fields from a variety of sources. In addition to cellular communication towers, television, radio, emergency responders (police, fire, EMS), taxi companies, pager services, couriers, wireless local area networks (WLANs), all utilize RF energy to allow communication to occur. The World Health Organization points out that due to their lower frequency, at similar RF exposure levels, the body absorbs up to five times more of the signal from FM radio and television than from cell towers. Further, radio and television broadcast stations have been in operation for the past 50 or more years without any adverse health consequence being established.

RF energy is strongest at its source, and rapidly diminishes with distance. Recent surveys have indicated that RF exposures from cell towers and wireless technologies in publicly accessible areas (including schools and hospitals) are normally thousands of times below current safety standards. In 2002, Industry Canada conducted a study examining the level of RF energy in the City of Toronto, where the highest concentration of radio systems exists in Canada. The study took measurements at over 60 locations and found that on average, RF levels were 705 times less than Canadian federal safety standards (Safety Code 6) allow. The site with the highest radio frequency level was located between Metro Hall and Roy Thompson Hall and was still found to be 16 times less than the Safety Code 6 limit. Further analysis of the data determined that the ten sites classified as residential, were on average 7194 times less than the Safety Code 6 limit.

#### Health concerns

A common concern about cell towers relates to the possible long-term health effects that whole-body exposure to RF signals may have. The World Health Organization reports that to date, the only health effect from RF fields identified in scientific reviews has been related to an increase in body temperature from exposure at very high field intensity found only in certain industrial facilities. The levels of RF exposure from cell towers and wireless networks are so low that the temperature increases are insignificant and do not affect human health.

It is not disputed that electromagnetic fields above certain levels can trigger biological effects. A biological effect occurs when a change can be measured in a biological system after an introduction of some type of stimuli (e.g. RF energy). However, the observation of a biological effect does not necessarily suggest the existence of a health effect. A biological effect only becomes a health hazard when it causes detectable impairment of health. Experiments with healthy volunteers indicate that short-term exposure to electromagnetic fields at the levels present in the environment or in the home do not cause any apparent detrimental effects. Exposures to higher levels that might be harmful are restricted by national and international guidelines. The current debate is centred on whether long-term low level exposure can evoke biological responses and influence people's well being.



Media or anecdotal reports of cancer clusters around cell towers have at times heightened public concern. It should be noted that geographically, cancers are unevenly distributed among any population. Given the widespread presence of cell towers in the environment, it is expected that possible cancer clusters will occur near cell towers merely by chance. Moreover, the reported cancers in these clusters are often a collection of different types of cancer with no common characteristics and hence unlikely to have a common cause. Scientific evidence on the distribution of cancer in the population can be obtained through carefully planned and executed epidemiological studies. Over the past 15 years, studies examining a potential relationship between RF transmitters and cancer have been published. These studies have not provided evidence that RF exposure from the transmitters increases the risk of cancer. Likewise, long-term animal studies have not established an increased risk of cancer from exposure to RF fields, even at levels that are much higher than produced by cell towers and wireless networks.

Some individuals have reported experiencing non-specific symptoms upon exposure to RF fields emitted from cell towers and other electromagnetic field devices. The World Health Organization describes these individuals as possessing "Electromagnetic Hypersensitivity" (EHS). Electromagnetic hypersensitivity (EHS) is characterized by a variety of non-specific symptoms that differ among individuals. Symptoms most commonly experienced include dermatological symptoms (redness, tingling, and burning sensations) as well as fatigue, tiredness, concentration difficulties, dizziness, nausea, heart palpitation, and digestive disturbances. The collection of symptoms is not part of any recognized syndrome. Although electromagnetic fields have not been shown to cause such symptoms, the symptoms are certainly real and can vary widely in their severity. Whatever its cause, EHS can be a disabling problem for the affected individual. EHS has no clear diagnostic criteria and there is no scientific basis to link EHS symptoms to electromagnetic field exposure. Further, EHS is not a medical diagnosis, nor is it clear that it represents any medical problem.

From all evidence accumulated so far, no adverse short or long-term health effects have been shown to occur from the RF signals produced by cell towers. Since wireless networks (WLAN's) produce generally lower RF signals than cell towers, no adverse health effects are expected from exposure to them.

#### Canadian Safety Standards

The legislative authority to regulate the siting and installation of cell towers is a matter of federal jurisdiction. Industry Canada is the federal agency responsible for regulating radio communication in Canada, which includes authorizing the installation of cell towers. Health Canada has developed a series of standards and guidelines regarding the operation and use of devices that emit electromagnetic fields. The guideline that applies to mobile phones, cell towers and all other RF transmitters is Safety Code 6 - *Limits of Human Exposure to Radiofrequency Electromagnetic Fields in the Frequency Range from 3 KHZ to 300 GHZ.*

**SUBJECT: Health Risk Associated with Cell Phone Towers – BOH08013  
(City Wide) Page 4 of 6**

The limits specified in Safety Code 6 were established from the results of hundreds of studies over the past several decades where the effects of RF energy on biological organisms were examined, including peer-reviewed literature from reputable scientific journals, whose peer-review panels are experts in this subject area. Information published in non peer-reviewed journals or anecdotal reports posted on the internet carry much less weight because it is difficult to evaluate the quality of the work.

The limits established in Safety Code 6 are based on the lowest exposure level at which potential harmful effects to humans could occur. Safety factors were then incorporated to arrive at recommended exposure levels for protection of the general public and personnel working in the RF environment. These limits are similar to other national and international standards that are based on established effects, including the International Commission for Non-Ionizing Radiation Protection (ICNIRP).

Other Jurisdictions

In November 2007, Toronto Public Health recommended a "prudent avoidance policy that RF waves from telecommunication towers and antennas be 100 times below Safety Code 6 in areas where people normally spend time". The recommendation goes on to confirm that Industry Canada monitoring data shows that this safety level is readily met. Toronto Public Health cites concerns that current guidelines (Safety Code 6) may not be health protective for lifetime, continuous exposure, and that other jurisdictions, such as Italy and Switzerland, have adopted stricter limits than those defined by Safety Code 6.

Dr. Art Thansandote of Health Canada's Consumer and Clinical Radiation Protection Bureau informed Hamilton Public Health Services staff that with respect to cellular tower emissions, precautionary steps to limit one's exposure would appear to be unnecessary, given that worst case exposure levels are typically thousands of times below the Safety Code 6 limits as well as the common European standard (ICNIRP). These exposure levels would also be lower than a number of precautionary limits such as the one proposed by the Toronto Board of Health, Switzerland's Installation Limit Value and the Italian Attention and Quality Goals.

Not all standards throughout the world have the same recommended exposure limits; some are more stringent than others. The variation between recommended limits may be attributed to differences in the philosophy, the methodology and the interpretation of scientific data used for standard development. However, recognized exposure standards that are based on established effects should be distinguished from some municipal and/or regional guidelines that are based on socio-political considerations.

There is no scientific basis to support a conclusion that individuals living in communities with more stringent exposure standards, than those in Safety Code 6, receive a greater level of protection.

Future Research

Health Canada has been taking part in the International Electromagnetic Fields Project, coordinated by the World Health Organization. The goals of this project are to verify

reported biological effects from electromagnetic fields and to characterize any associated health risks to humans. The international EMF project recognizes the gaps in knowledge that exist surrounding health effects related to RF field exposure and has promoted research to fill these gaps. The International Agency for Research on Cancer (IARC) is expected to conduct a review of cancer risk from RF fields in 2006-2007 and the International EMF Project will then undertake an overall health risk assessment for RF fields in 2007-2008.

#### Planning and Economic Development Considerations

Radiocommunication facilities are exclusively governed by Federal legislation and administered by Industry Canada. Provincial legislation such as the Ontario Building Code Act and the Planning Act including zoning by-laws and site plan control do not apply to these facilities.

Since amalgamation, the City of Hamilton has relied on an informal protocol with the three major wireless telecommunication service providers namely Bell Mobility, Telus and Roger's whereby they have all voluntarily agreed to follow the City's site plan approvals process and to obtain Building Permits. While the site plan control process is not subject to public notification or consultation, copies of all applications are circulated to the respective Ward Councilor for their review and identification of potential controversial sites.

Until now, staff has historically evaluated these facilities from a land use compatibility perspective and to minimize the potential visual impacts these facilities will have on abutting and future developments. At the same time, staff recognizes the need to balance the land use compatibility issue with the increasing public demand for consistent, reliable service and uniform coverage within our community. Inevitably, an increased number of installations are required to ensure that there is sufficient capacity in the network to meet this demand.

Last June, Industry Canada released a new procedure for the siting and approval of new Radiocommunication and Broadcasting Antenna Systems. These procedures came into effect on January 1, 2008. The new procedures were aimed at ensuring greater public consultation in the determination of new telecommunication systems across Canada. The main change involves a clearer process for public notification and consultation which was not part of the licensing process under the previous procedures. While the inclusion of a public consultation process affords the City with an opportunity to influence the location of telecommunication facilities, it does not give the municipality the right to regulate these installations.

Before a license is issued, proponents must now contact the municipality unless their proposal is exempted under certain criteria. If not, the proponent must follow the municipality's public consultation process if one exists. If not, the proponent must follow the new process under Industry Canada's Default Public Consultation Process. Since the City of Hamilton does not have an established and documented public consultation process for telecommunication facilities, the default process would apply.

**SUBJECT: Health Risk Associated with Cell Phone Towers – BOH08013  
(City Wide) Page 6 of 6**

While Industry Canada's process incorporates some key elements of Hamilton's Public Participation Policy, it does not adequately ensure that the proponents adhere to our site plan process, including the payment of processing fees, obtaining Building Permits and specifically excludes matters related to public safety (Safety Code 6), impact on property taxes or questions concerning the validity of Industry Canada's Default Process. Beyond these concerns, Industry Canada also expects all land use consultation will be completed within 120 days from the proponent's initial formal contact with the municipality.

Regardless of which public consultation process is followed, all decisions may be appealed to Industry Canada and they will determine an appropriate course of action.

Staff from Planning and Economic Development has informed PHS staff that a detailed report regarding public consultation process options and the siting of radio-communication structures will be submitted to the Economic Development and Planning Committee in the future.

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Elizabeth Richardson, MD, MHSc, FRCPC  
Medical Officer of Health  
Public Health Services



#800 – 601 West Broadway  
Vancouver, B.C. Canada V5Z 4C2  
Telephone: 604-736-2866  
Facsimile: 604-736-8651

June 20, 2005

### Health Concerns With Respect to Cellular Phone Transmission Antennas

The Medical Health Officer is often asked to comment on concerns raised by citizens about potential health effects related to the installation and operation of cellular phone base stations (antennas) in the community. The Medical Health Officer relies on the expert advice of Radiation Protection Services of the BC Centre for Disease Control and Health Canada on issues related to electromagnetic radiation and health effects. The current respective positions of Health Canada and Radiation Protection Services are provided within this memo.

#### Background on Cellular Transmission Technology:

The original cellular (analog) technology utilizes the "radiofrequency" portion of the electromagnetic spectrum between 800-900 MHz (near the FM/TV, AM Radio bands and cordless telephone frequencies). The newer digital technology utilizes the frequency bands of 800-900 MHz and 1800-2200 MHz and relies on antennas of significantly less power than the analog system, which therefore emits significantly lower radiofrequency (RF) radiation.

#### Health Risks:

As with many other potential risks, the science of RF radiation and impacts on health is constantly being augmented. Recent studies (since 2000) include the Stewart Report from the UK, a major WHO report and the summary report from the National Radiological Protection Board of the UK. The general scientific consensus holds that the power from cellular base stations is far too low in the community to result in adverse health impacts. The current Canadian (Safety Code 6) and international standards such as ICNIRP provide significant safety margins for public exposure to RF.

Critics of Safety Code 6 have challenged the adequacy of the Canadian standard to protect the public from effects other than those resulting from the thermal heating of cells in the body. In 1999 an Expert Panel convened by the Royal Society of Canada concluded that:

*"Safety Code 6 protects both workers and the general public from adverse health effects associated with whole body thermal exposures to radiofrequency fields. It is clear to the panel that there are a number of observed biological effects of exposure of cells or animals to non-thermal levels of exposure to RF fields.... The panel found no evidence of documented health effects in animals or humans exposed to non-thermal levels of radiofrequency fields. The panel therefore does not recommend that Safety Code 6 be altered to include regulation at the non-thermal levels of RF which have been shown to produce these biological effects."*

Subsequently, the Independent Expert Group on Mobile Phones (2000) re-affirmed the conclusions reached by the Royal Society of Canada (1999). "All of the authoritative reviews completed within the last two years have concluded that there is no clear evidence of adverse health effects associated with RF fields from mobile phones."

In "A Summary of Recent Reports on Mobile Phones and Health (2000-2004)" the National Radiological Protection Bureau in the U.K. summarized the most up-to-date knowledge on base station emissions as follows: "Further, these reports stress that very low level exposures, typical of base stations, are extremely unlikely to cause any effects on biophysical grounds, whereas localized exposures, typical of those from mobile phones, may induce effects as a result of mild heating of superficial tissues close to the headset."

In B.C., the Radiation Protection Service of the BC Centre for Disease Control has recently responded to the question "Has scientific research shown that there is a health hazard near cellular transmitting sites?" "Most research studies conducted to date have not shown that electromagnetic fields surrounding a cellular transmitter site cause cancer or other adverse health effects in the population. This agrees with current exposure standards in that the levels of exposure where people are located are found both by measurement and calculation to be well below allowable exposure standards."

**Local Exposure Studies:**

In 1997 Health Canada conducted a survey of radiofrequency radiation from cellular base stations in and around 5 schools in Vancouver, in response to the health concerns raised by nearby residents earlier that year. The measurements revealed that:

- The **highest** level of electromagnetic radiation from a PCS antenna (across the street) was more than 6,000 times **below** the Safety Code levels.
- In three of the schools the levels of radiation from all PCS digital antenna were actually lower than the normal AM and FM radio signals that have been in the area for decades.

Since the cellular and PCS signals from transmitting towers that the general public is typically exposed to are known to be very low and since they have been measured in BC and found to be very low and since they are well below Health Canada's Safety Code 6 and other international allowable exposure levels, **they do not pose a health risk.**

**"Prudent Avoidance":**

The practice of "prudent avoidance" has been advocated by some in their opposition to specific siting of cellular antennas in the vicinity of schools, day-cares or residential buildings. In this instance prudent avoidance does not result in any increased level of protection as might be the case in requiring buffer zones next to high voltage transmission lines (where both magnetic and electric fields are present as opposed to RF fields). It would be difficult, if not impossible, to "prudently avoid" some level of exposure to RF fields in an urban setting, whether it be from AM, FM, TV or cellular phones. The Medical Health Officer concludes that there is no public health benefit in practicing prudent avoidance with respect to cellular phone transmission antennas. In fact, prudent avoidance may ignore the reality that the area immediately below the antennas has the lowest RF levels.

**Conclusion:**

The Medical Health Officer concludes, as has Health Canada and the Radiation Protection Service, that in light of the current scientific understanding of the risks of RF exposures to the general public, the installation of cellular antennas in the community do not pose an adverse health risk and Safety Code 6 provides an appropriate level of protection. He will continue to stay current on the scientific knowledge around this issue and provide updates to decision-maker and the community when necessary.



F.J. Blatherwick, CM, CD, MD, FRCP(C)  
Chief Medical Health Officer

Revised/Updated June 20, 2005

**Appendix 5**

**Correspondence from Industry Canada dated April 10, 2008**



Industry Canada  
Spectrum, Information Technologies,  
& Telecommunications

151 Yonge Street  
3rd Floor  
Toronto, Ontario  
M5C 2W7

April 10, 2008

Candy Davidovits  
Secretary,  
Board of Health  
City Hall, 10<sup>th</sup> Floor, West  
100 Queen Street West  
Toronto, Ontario  
M5H 2N2

Dear Candy Davidovits:

On behalf of the Honourable Jim Prentice, Minister of Industry, thank you for your letter of March 20, 2008 regarding motions adopted by Toronto City Council on March 3, 4 and 5, 2008 related to Toronto's Prudent Avoidance Policy which recommends a standard 100 times more stringent than the current Safety Code 6.

Industry Canada manages the radio frequency spectrum which includes authorizing radio systems, antennas and supporting structures. These are an important and integral part of radiocommunication systems. The Department has instituted antenna siting procedures as outlined in our document, Client Procedures Circular CPC-2-0-03, "*Environmental Process, Radio-frequency Fields and Land-Use Consultation*" which is available on Industry Canada's website: [http://strategis.ic.gc.ca/epic/site/smt-gst.nsf/en/h\\_sf01031e.html](http://strategis.ic.gc.ca/epic/site/smt-gst.nsf/en/h_sf01031e.html).

As part of its processes, Industry Canada requires that all radiocommunication installations respect Health Canada's Safety Code 6 Guideline, "*Limits of Human Exposure to Radiofrequency Electromagnetic Fields in the Frequency Range from 3 KHz to 300 GHz*".

I would like to confirm that Industry Canada will continue to utilize Safety Code 6 as part of its licensing process, and where issues are raised and it can be confirmed that Safety Code 6 is being met, then Industry Canada will consider that requirement to have been fully satisfied and will not be withholding any radio authorizations.

For more information on radio frequency fields and the protection of the general public, I have included below a web link that includes commonly asked questions and answers to these questions. This document can be found at:

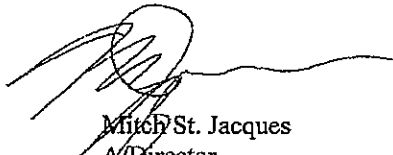
<http://www.ic.gc.ca/epic/site/smt-gst.nsf/en/sf08792e.html>



- 2 -

If you have any questions regarding this matter, please feel free to contact Joe Doria, Acting Director of the Toronto District office at (905) 713-2671 or by e-mail at [doria.joe@ic.gc.ca](mailto:doria.joe@ic.gc.ca)

Sincerely,

A handwritten signature in black ink, appearing to read "Mitch St. Jacques", with a long horizontal flourish extending to the right.

Mitch St. Jacques  
A/Director,  
Spectrum, Information Technologies &  
Telecomuncations  
Ontario Region

**Appendix 6**

**Correspondence from Industry Canada dated July 4, 2008**



**Industry Canada**  
**Spectrum, Information**  
**Technologies and Telecommunications**  
151 Yonge Street, 3<sup>rd</sup> Floor  
Toronto, ON M5C 2W7

**Industrie Canada**  
**Spectre, technologie de**  
**l'information et télécommunications**  
151 rue Yonge, 3<sup>e</sup> étage  
Toronto, ON M5C 2W7

July 4, 2008

Ms Ulli S. Watkiss  
City Clerk  
City of Toronto  
City Hall, 12<sup>th</sup> Floor West  
100 Queen Street West  
Toronto, ON M5H 2N2

I am responding to your letter of April 21, 2008 in which you provided Industry Canada with the City of Toronto's Telecommunication Tower and Antenna Protocol adopted by City Council - March 3, 4 and 5, 2008.

We have reviewed this document and wish to provide the City of Toronto with specific comments regarding sections of the protocol and their implications.

Industry Canada manages the radio frequency spectrum which includes authorizing radio systems, antennas and supporting structures. These are an important and integral part of radiocommunication systems. The Department has instituted antenna siting procedures outlined in Client Procedures Circular CPC-2-0-03 (Issue 4), "*Radiocommunication and Broadcasting Antenna Systems*" which is available on Industry Canada's website:

<http://www.ic.gc.ca/epic/site/smt-gst.nsf/en/sf08777e.html>

We have also produced a guide to assist the local land use authorities develop protocols which is available at:

<http://www.ic.gc.ca/epic/site/smt-gst.nsf/en/sf08839e.html>

As the City of Toronto developed its new protocol, Industry Canada staff worked closely with city staff to ensure that it followed the intent and spirit of CPC-2-0-03. The final protocol, as amended by City Council at its March 3, 4, and 5, 2008 meetings, included some significant amendments while providing no opportunity for comment from the various stakeholders and Industry Canada.

The following specific areas of the Toronto "protocol" are of interest to Industry Canada and will provide guidance in terms of their applicability as part of the local consultation process as intended in CPC-2-0-03.

### **Prudent Avoidance**

While Toronto's "protocol" itself does not contain a specific reference to the Toronto Prudent Avoidance Policy, Industry Canada is aware of Council's companion resolution where Council endorsed the Prudent Avoidance Policy (100 times less than Safety Code 6) and directed City staff to evaluate all cell tower applications based on this policy and to oppose all those which do not meet it.

The limits prescribed in Health Canada's Safety Code 6 are used by Industry Canada as a national standard to determine whether a proposal complies with CPC-2-0-03 radiofrequency exposure limits. Industry Canada is of the position that this standard should not vary based on the opinions of local land use authorities. Industry Canada will continue to approve proposals provided that they strictly comply with Safety Code 6.

### **Public Consultation - Notification distances**

The notification distances of Section 11.B of the "protocol" were also amended at the March 3, 4, and 5 Council meetings. While notification distances, especially those that are based on local historical, geographical or development considerations can be useful, the modifications seem to be blanket provisions that may have the effect of hindering the development of radiocommunications by not considering those radiocommunications installations that would be deemed insignificant.

The revised protocol requires that a notice be sent to all property owners "within 25 metres of a proposed antenna". Industry Canada would like to clarify that we require proponents to initiate public consultation and notification only where the proposal has not been exempted from land-use authorities or public consultation as contained in CPC 2-0-03 section 6 Exclusions. As such, Industry Canada is interpreting the above requirement to only apply to those stations not already meeting Industry Canada's Exclusions as per Section 6 of CPC 2-0-03.

With respect to the protocol's requirement that a notice be sent to all property owners within "400 metres of a proposed Telecommunication Tower", Industry Canada's view is that this requirement goes beyond the intent of the requirements set out in CPC 2-0-03.

In the protocol development guide for land-use authorities, the Department is recommending that the radius of consultation for non-exempted systems be proportional to the size of the proposed structure and its potential direct impact on the local surroundings. In the interim, Industry Canada will be advising the proponents that it will consider the intent of CPC 2-0-03 to have been met if the proponents provide notification to residents within a radius of three times the tower height.

We encourage the City of Toronto to prescribe a notification distance which balances the need for community involvement while also encouraging the proponents to install smaller and less obtrusive towers. One of the tools to achieve this is with a reasonable and proportional notification distance.

**Conclusion**

In closing, I trust this letter will provide specific guidance to the City of Toronto with respect to the new Toronto "protocol". Please note that Industry Canada staff are available at any time to facilitate a meeting between all stakeholders in this matter.

If you have any questions regarding this matter, please feel free to contact Joe Doria, Senior Engineer of the Toronto District office at (905) 713-2671 or by e-mail at [doria.joe@ic.gc.ca](mailto:doria.joe@ic.gc.ca)

Sincerely,

John Baggio  
Regional Director  
Spectrum, Information Technologies  
& Telecommunication  
Ontario Region

cc David Oikawa, Manager Community Planning  
TELUS Mobility, Rogers Wireless, Bell Mobility



**DATE:** February 15, 2011  
**TO:** Mayor and Members of Council  
**FROM:** Claudia Storto  
Solicitor  
**RE:** **Telecommunication Towers/Antenna Facilities**

**C5**  
**Items #4, 5, 6 & 7**  
**Report No. 7 CW**  
**COUNCIL – FEB. 15, 2011**

Pursuant to the request at the Committee of the Whole meeting on February 1, 2011, the following is provided to clarify the issue of jurisdiction relating to the installation of telecommunication towers/antenna facilities.

#### REGULATION

Antenna systems and telecommunication towers are within the sole jurisdiction of the federal government, specifically Industry Canada. The Ontario *Building Code Act* and the *Planning Act* (including zoning by-laws and site plan control) do not apply. Industry Canada provides oversight of matters such as siting, installation, modification, compliance with Health Canada safety guidelines, the *Canadian Environmental Assessment Act* and Transport Canada requirements (re: aeronautical safety responsibilities).

Proponents of an antenna system or telecommunication tower must follow a process set out in the *Radiocommunication Act*.

Requirements for the installation of antenna systems can be found in Industry Canada's circular entitled "Radiocommunication and Broadcasting Antenna Systems", CPC-2-0-03, Issue 4, January 1, 2008. The information provided below is based on this publication.

#### PROCESS OVERVIEW

Proponents seeking to install or modify an antenna system must follow a process, broadly outlined as follows:

1. Investigating sharing or using existing infrastructure before proposing new antenna-supporting structures.
2. Contacting the land-use authority to determine local requirements regarding antenna systems.
3. Undertaking public notification and addressing relevant concerns, whether by following local land-use authority requirements or Industry Canada's default process, as is required and appropriate.
4. Satisfying Industry Canada's general and technical requirements.

Industry Canada expects that steps 2 to 4, above, will normally be completed within 120 days.

#### USE OF EXISTING INFRASTRUCTURE (SHARING)

Before building a new antenna-supporting structure, Industry Canada requires that proponents first explore options that include sharing an existing antenna system or modifying or replacing a structure if necessary; or locating, analyzing and attempting to use any feasible existing infrastructure such as rooftops, water towers, etc.

Proponents are not normally expected to build new antenna-supporting structures where it is feasible to locate their antenna on an existing structure, unless a new structure is preferred by land-use authorities.

#### PUBLIC CONSULTATION REQUIRED BY FEDERAL GOVERNMENT

Industry Canada requires telecommunication companies to consult with local authorities and provide public notification in specific circumstances. Telecommunication companies have voluntarily submitted planning applications and related fees to local authorities as part of proceeding through the consultation process. Where a local authority does not have a public notification and consultation protocol, Industry Canada provides a Default Consultation Process that must be followed. The City of Vaughan established a protocol for telecommunication facilities, which includes requirements for public notification, on June 23, 2003. This protocol is currently being reviewed in light of Industry Canada's updated (2007) public notification and consultation process. Both Industry Canada's public notification process and the City's protocol provide for exemptions to the public notification process, such as antenna facilities/telecommunication towers that are below a specific height.

Industry Canada's consultation process allows local authorities to consider land use compatibility and discuss siting options, as well as raise questions, concerns or suggestions regarding proposals to install or make changes to antenna systems. The consultation process is intended to ensure that proponents address reasonable and relevant concerns of the community. This may include contacting a party by telephone, engaging in a community meeting or having an informal, personal discussion.

Where there are specific concerns regarding a proposed antenna system, local authorities are expected to discuss reasonable alternatives and/or mitigation measures with proponents.

Industry Canada's circular CPC-2-0-03 identifies examples of concerns that proponents may be required to address. They include:

- Why is the use of an existing antenna system or structure not possible?
- Why is an alternate site not possible?
- What is the proponent doing to ensure that the antenna system is not accessible to the general public?
- How is the proponent trying to integrate the antenna into the local surroundings?
- What options are available to satisfy aeronautical obstruction marking requirements at this site?
- What are the steps the proponent took to ensure compliance with the general requirements of CPC-2-0-03, including the *Canadian Environmental Assessment Act*, Safety Code 6, etc?

Examples of concerns that are not relevant include:

- Questions whether the *Radiocommunication Act*, CPC-2-0-03, Safety Code 6, locally established by-laws, other legislation, procedures or processes are valid or should be reformed in some manner;
- Disputes with members of the public relating to the proponent's service, but unrelated to antenna installations;
- Potential effects that a proposed antenna will have on property values or municipal taxes.

Once consultation requirements are concluded and all reasonable and relevant concerns are addressed, Industry Canada considers the consultation responsibilities complete.





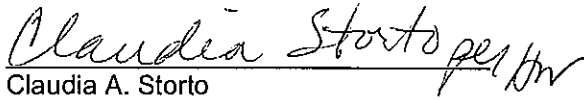
## memorandum

Industry Canada requires written concurrence from the local authority confirming that the relevant process has been satisfied. A letter or report acknowledging that the local authority's process has been satisfied, or Council meeting minutes is required. In many municipalities this is dealt with at the administrative level, however, this can only occur where site plan approval has been delegated to staff.

Industry Canada provides a formal dispute resolution process intended to bring about a timely resolution where the parties have reached an impasse. This process does not apply to the general public but to general stakeholders, such as the proponent or local authority. Where a mutually agreeable solution cannot be found, Industry Canada will make a final decision.

### NO MUNICIPAL AUTHORITY TO IMPOSE MORE STRINGENT REQUIREMENTS

In 2008, the City of Toronto adopted its own Policy purporting to establish more stringent health and safety requirements and more extensive public notification requirements on telecommunication tower proponents. Industry Canada advised that it would continue to approve proposals which met the federally imposed standards, refusing to defer to a more stringent locally imposed requirement.

  
Claudia A. Storto  
Solicitor

c.: Clayton Harris  
City Manager

Janice Atwood-Petkovski  
Commissioner of Legal & Administrative Services/City Solicitor

John Zipay  
Commissioner of Planning



## memorandum

**DATE:** February 10, 2011  
**TO:** Mayor and Members of Council  
**FROM:** Councillor Sandra Yeung Racco  
**RE:** **Additional Information – CW February 1, 2011 Item #21  
407 Transitway Environmental Project Report**

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**C6**  
**Item # 21 Report No. 7 CW**  
**COUNCIL – FEB. 15, 2011**

As a follow up to the Committee of the Whole February 1, 2011 Item #21, 407 Transitway Environmental Project Report and the Concord West Residents Ad Hoc Committee's email requesting a modified resolution, please find attached some additional correspondence for your information.

Included in the package is a letter dated February 1, 2011 from the 407 Transitway Project Manager, Mr. Robb Minnes, in response to my submission letter of January 24, 2011. In this letter, Mr. Minnes makes mention of a December 8, 2010 letter provided to the Concord West Community Association regarding a full assessment and evaluation of alternate locations for the transitway station. I have also included a copy of this letter and the full assessment for your information.

Finally, I have also included an excerpt from the 407 Transitway Environmental Project Report regarding additional comments received regarding the Concord West Station.

I trust this information will address some of the questions that arose during Committee of the Whole discussion on February 1, 2011.

Thank you.

A handwritten signature in black ink, appearing to read 'Sandra Yeung Racco', written over a horizontal line.

Sandra Yeung Racco

Councillor, Ward 4 (Concord/North Thornhill)

Ministry of  
Transportation



Phone: (416) 235-5481  
Fax: (416) 235-4002

Central Region  
Highway Engineering  
Toronto/Durham  
4th Floor, Building D  
1201 Wilson Avenue  
Downsview, Ontario  
M3M 1J8

February 1, 2011

Ms. Sandra Yeung Racco  
Councillor, Thornhill/Concord  
City of Vaughan  
2141 Major Mackenzie Drive,  
Vaughan, ON  
L6A 1T1

**RECEIVED**

**FEB 03 2011**

**WARD 4, COUNCIL OFFICE**

Dear Councillor Yeung Racco:

**RE: 407 Transitway from Highway 400 to Kennedy Road Environmental Project Report**

---

We are in receipt of your letters of October 28, 2010 and January 23, 2011. We hope that this letter will help alleviate the community as well as your concerns while allowing the project to embark on its strategic initiative in implementing regional transit for the benefit of all.

The Ministry of Transportation has been planning and protecting land for the 407 Transitway over the past two decades. The Planning/Preliminary Design Environmental Assessment study was initiated by the Ministry in March, 2007. The study has been carried out with the participation of City of Vaughan staff and has included presentations to Vaughan Committee of the Whole prior to the two sets of Public Open Houses. The Plans for the Concord Transitway station were presented at these occasions.

Following completion of this phase of the study which incorporated the extensive stakeholder and municipal input and discussion, MTO issued a notice on August 29, 2010 that the EA was being transitioned to the new Transit Project Assessment Process to begin the statutory six month process period. As required under the governing regulation, the notice of completion was issued on December 23, 2010 and the 30 day consultation period commenced, ending on January 24, 2011.

The technical advisory committee (called the Technical Resource Group for this project) included representatives from a number of agencies including the City of Vaughan, the Town of Richmond Hill, York Region and the Toronto and Region Conservation Authority. These agencies participated regularly in meetings and presentations (six to date). In addition, as

mentioned, Public Information Centers were held for the project nearing the end of both Planning and Preliminary Design phases. The final public information centre was held in June of 2010 and was attended by representatives of the City of Vaughan.

Prior to these Open Houses special presentations were made to the Committee of the Whole of the City of Vaughan. These presentations, in May of 2009 and June of 2010 had shown the 407 Transitway Concord Station as a preferred station location.

The current proposed station location was first identified in the 407 Transitway Overview Study, 1989. Accordingly, property for the station has been protected for since that time.

Concerns with regard to the 407 Transitway Concord Station were first raised by the Concord West Community Association in July 2010. Since then, we have been engaged with the association and have met and exchanged correspondence related to their concerns. We have reviewed its proposals, assessed them both from an environmental, social and technical perspective, provided alternatives that were more feasible, practical and indicative of the objectives and evaluated them. This full assessment and evaluation was concluded in December 2010 and submitted officially by letter (MTO letter dated December 8, 2010) to the association and included in full detail in the Environmental Project Report.

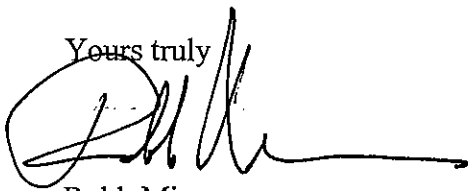
While the station could not be eliminated from its current location south of Highway 7, as requested by the association, as this would have compromised the objectives of this project, the Ministry of Transportation did commit to providing a safe and direct access through a grade separated pedestrian facility across the CN Railway to the valley lands and to improving access to the Marita Paine Park Trail via the new river crossing as requested in your letters.

A further meeting was held with the association on January 10, 2011 to review the design and address any additional concerns. It was evident at that meeting that the community maintains its interest in relocating the station to north of Highway 7. The review of this option was clearly evaluated in the EPR and found unacceptable as it does not fulfill the requirement of seamless passenger transfers between the Transitway, GO Barrie Rail line and York VIVA services identified in the Metrolinx regional transportation network.

We are aware that the City of Vaughan has embarked on an official plan process for this area. The Ministry of Transportation looks forward to working closely with the City on this plan to help meet its objectives.

I trust that this clarifies our position.

Yours truly

A handwritten signature in black ink, appearing to read 'Robb Minnes', with a long horizontal flourish extending to the right.

Robb Minnes  
Project Manager

Ministry of  
Transportation



Phone: (416) 235-5481  
Fax: (416) 235-3576

Central Region  
Highway Engineering  
Toronto/Durham  
4th Floor, Building D  
1201 Wilson Avenue  
Downsview, Ontario  
M3M 1J8

December 8, 2010



RE: Concord West Association Proposal for 407 Transitway Concord Station

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As indicated by George Ivanoff in his e-mail of November 26, 2010, MTO's consultants have completed their evaluation of your proposal for the 407 Transitway's Concord Station. The attached text and exhibit document describes the development and evaluation of four alternative configurations for the facilities necessary at the Concord intermodal node including yours.

In the course of this alternatives analysis, the study team has incorporated the Concord West community's alternative proposals where feasible, basically placing the Metrolinx/GO platform north of Highway 7 and the 407 Transitway station east of the river valley towards Centre Street as in the red alternative.

The suggestion to curve the GO tracks to the east with a station on the curve is not practical as it does not meet the Metrolinx/GO alignment and station placement standards. Also, placing a park-and-ride lot north of Centre Street between Highway's 7 and 407 is not feasible as this land is being protected for a potential future ramp to Highway 407 and any access to the lot would be unacceptably close to the existing Highway 7-Centre Street intersection. MTO has included an alternative lot location further west to overcome this shortcoming and make the proposal suitable for evaluation.

The evaluation matrix shows the response of each alternative in terms of the key indicators reflecting the project's basic objectives. The team's conclusion from the findings is summarized in the supporting text. While clearly optimizing the response to the seamless transportation

needs at this node, the preferred configuration (Black Alternative) allows opportunities to mitigate effects on the surrounding communities and improve access to the valley lands.

Specifically, in terms of natural features, most natural riverbank vegetation and the adjacent woodlot are preserved. In terms of improved access to the valley lands the project includes the construction of a safe pedestrian crossing of the rail line, which does not currently exist and continuous access through the facilities from the Concord West community to the valley lands. The estimated cost of this access to the project will be in the order of one million dollars.

One additional point I wish to raise is that this property has been retained by the Province solely for this planned future transportation infrastructure. If not required for this purpose the table land would be sold for other uses and community access to the valley at this location could be lost.

Should you wish any further clarification on the MTO's recommendation we would be pleased to discuss them with you.

Yours truly

Robb Minnes  
Project Manager

Cc Ms. Leslie Woo  
Mr. George Ivanoff  
Mr. Khaled El-Dalati

OBJECTIVE	INDICATORS	Black Alternative GO platform South of Highway 7 Transitway Station adjacent to GO Rail ROW	Red Alternative GO platform North of Highway 7 Transitway Station south of Centre Street Overpass	Brown Alternative GO platform straddling HWY 7 Transitway Station between West Don River bridges	Blue Alternative GO platform immediately N of Hwy 407; Transitway Station adjacent to GO Rail ROW
Improve Mobility	Transfer Walking Distances (m)	Transitway platform to GO platform: Centre-Centre Minimum 275 130 Park & Ride to GO platform: Centre-Centre Minimum 55 25 Park & Ride to Transitway platform: Centre-Is-Centre platform Minimum 275 130 Viva stops on Hwy 7 to end of GO platform Viva Hwy 7 stops to Transitway platform (Viva platforms at proposed intersection) Number of park-and-ride spaces available 100 Access to Park & Ride 650-700 35 m. long bridge over West Don R. tributary is required. Location very convenient Transfer platform adjacent to stations	560 505 460 300 465 320 215 75 350-400 Not technically feasible from Centre St. due to traffic signal proximity. Lot SW of transitway station on Hwy 7. Not feasible due to intersection proximity	415 380 360 29160 155 30 220 20 550-600 Least access time to and technically feasible but internal queuing may be problematic Feasible for Transitway; not feasible for GO Walk-in from on-street stops on Highway 7	75 30 320/520 119/330 320/520 275/480 465 340 600 Second P&R lot requires bridge over West Don River tributary Location very convenient for Transitway but more remote for GO Pick-up/drop-off in south parking lot removes from both stations 24% 180 metres alongside Northern half of platform opposite residential community No effects as station is south of Hwy 7
Minimize adverse effects on social environment	Area of publicly-owned vacant table land property occupied Proximity of GO platform to publicly- owned table land property Proximity of GO platform to residential land use south of Hwy 7 Effect of GO Station on planned mixed- use development north of Hwy 7 Effect on access to valley lands/trails	55% 260 metres alongside Full length adjacent to residential community. Mitigation of visual and sound effects required. No effects as station is south of Hwy 7 Walkway through station site to valley and existing trail will be provided in site layout access road.	24% 280 metres north Full length within new northern development remote from residential community Requires walkway through park and internal street and mitigation of interface along platform Access only possible if table lands remain vacant or easement is provided in future uses Flood plain generally preserved. Single new crossing combining transitway and access road.	24% 70 metres north Southern half of platform fairly close to residential community Minor effect at south end of development Access only possible if table lands remain vacant or easement is provided in future uses Flood plain generally preserved. Two new tributary crossings serving parking and for transitway Current profile; Station at grade. None	24% 180 metres alongside Northern half of platform opposite residential community No effects as station is south of Hwy 7 Access only possible if table lands remain vacant or easement is provided in future uses Flood plain generally preserved. Two new tributary crossings serving parking and for transitway Current profile; depressed Station with some retaining wall None
Minimize adverse effects on natural environment	Effect of Transitway station location on transitway profile Highway 7 pedestrian bridge requirements Effect on station area infrastructure costs	Current profile; depressed Station with some retaining wall Bridge over Highway for Viva to GO platform transfer requested by York Region Assumed as baseline infrastructure cost	Current profile; Station at grade. None	Current profile; depressed Station with some retaining wall None	Current profile; depressed Station with some retaining wall None
Offer a cost-effective way of moving people	Effect on station area infrastructure costs	Assumed as baseline infrastructure cost	Moderately higher than baseline cost due to park & ride property acquisition, raised transitway profile and walkway/bridge requirement.	Moderately higher than baseline cost due to park & ride property acquisition and a GO platform location requiring a new Hwy 7 rail bridge	Marginally higher than baseline cost due to park & ride property acquisition

### Alternative Station Layouts

#### Concord (GO-Barrie) Station

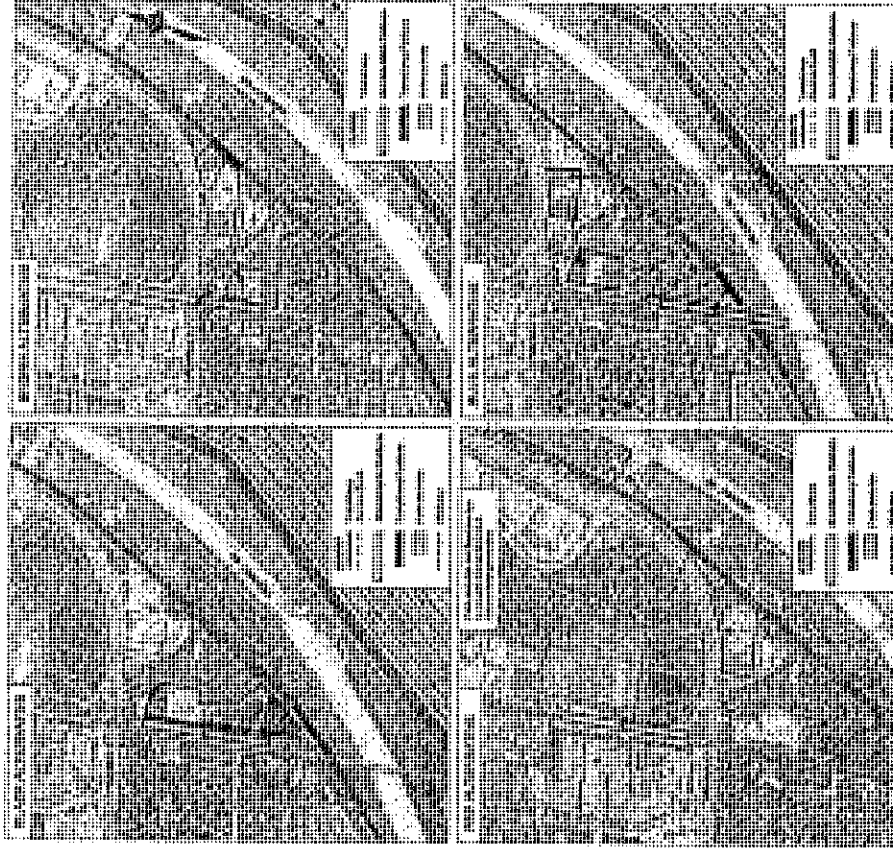
Based on the preferred more northern alignment described above, three primary transitway station locations were considered. These comprised use of either the vacant provincial land protected by MTO between the MetroVoy/GO right-of-way and the West Don River floodplain or a site east of the river and remote from the MetroVoy/GO Barrie Line. One of the eastern sites incorporated a station and facility location suggested by the adjacent Concord West community. The transitway station locations were combined with four potential locations for the GO Rail platform to generate the four site layout alternatives shown in Figure 5-10a and evaluated in terms of the project objectives in the matrix in Table 5-8. The red alternative layout represents the community's suggested locations for the stations with the unfeasible park-and-ride location north of Centre Street replaced by a lot on private land closer to the station south of Highway 7.

For the remote locations, the only possible transitway station locations were opposite privately-owned land south and on the curve, of Highway 7 and further east between Highways 7 and 407 south of the Centre Street crossing. Both of these remote locations can only be served by parking and PPUDO access that is constrained in size and they would require a minimum 380-500 metre (450-560m average) walk by all transit users transferring between the 407 Transitway station and any of the GO Barrie rail service station locations (north or south of Highway 7).

In addition to this unacceptable, inconvenient transfer at a major network connection, the area between the flood plain and Highway 7 is not large enough for station ancillary facility needs (PPUDO, park-and-ride, bus transfer). Additional parking capacity can only be achieved by adding a lot on private land west of the river with a new river crossing to provide access. Walk-in distances from these parking facilities to northern GO Rail platform locations remain excessive. While all alternatives generally preserve flood plain and valley lands, an additional crossing is required to make parking either side of the tributary feasible.

Considering all factors assessed in the evaluation, the preferred Transitway/GO Rail platform configuration is the Black Alternative, with station support facilities on the protected provincial land immediately adjacent to the existing rail right-of-way. Development of this site configuration:

- Minimizes the walking distances for passengers transferring between the Transitway and GO Rail, the seamless north-south to east-west connectivity essential at this node;
- Places PPUDO and park-and-ride facilities conveniently close to platform access for both transit systems;
- Provides a reasonable parking capacity without intruding into the West Don River flood plains;
- Allows most of the natural riverbank vegetation and the adjacent woodlot to be preserved;
- Requires a support facility layout that minimizes effects on natural vegetation;
- Permits mitigation of noise and visual effects on the residential community west of the GO Line as discussed in Section 7;
- Preserves access from the residential areas to the valley lands by means of defined walkways through the station support facilities;
- Provides improved access to the Marita Paine Park Trail via the new river crossing.





Public Comments	Study Team Responses
	<p>Route 87 operated by YRT);</p> <ul style="list-style-type: none"> <li>• can be reached from the residential areas via collector and arterial roads such as Autumn Hill Blvd., Summeridge Drive, Bathurst Street, Thornhill Woods Drive, Highway 7; and,</li> <li>• complements the access from the western growth areas provided by the GO Barrie Rail Station by serving the more eastern growth areas.</li> </ul>
Concerned over the transitway's interference with a local place of worship.	After review of the proposed plan in the area, the member of the public was satisfied with the proposed plans.
Improve point-to-point travelling by introducing shorter but more frequent bus (mini-bus) routes that extend into residential areas from the transitway.	The introduction of mini-bus routes would be an ideal method for improving point-to-point travel to and from the transitway and enhancing the connectivity of the transit system. Such service would typically be facilitated or provided by other local transit services such as YRT. The scope of the current 407 Transitway study includes the fully grade separated infrastructure planned. Demand forecasting for the transitway has assumed the provision of convenient, frequent feeder services to the transitway stations by other local transit agencies.
Improve bike traffic, especially that crossing Highway 404 by introducing dedicated bike lanes along the transitway;	A bike and ride parking facility will be provided at each of the planned seven stations. However, due to the limited ROW for the transitway itself, the inclusion of a bikeway (a part of the ROW set aside for the preferential treatment of bicycle traffic, made up of one or more bicycle lanes) along the transitway is not practical. The transitway is a fully grade separated facility designed for high-speed (100km/h plus) standards, not compatible with freeway bike lanes running alongside. Unless continuous barriers were provided and the numerous structures were widened, parallel bike lanes would pose potential safety concerns for bicycle riders and transit passengers alike.
Platforms should be built at bus stops along the transitway to facilitate boarding and alighting; the platforms should be built in a way to be easily converted for use by future light rail transit.	The MTO's Transitway Design Standards require platforms to be installed at each transitway station and provision will be made for future conversion LRT.

### Additional Comments Received

The Concord West Residents Ad Hoc Committee made up of residents in the residential area between Highway 7 and Highway 407 and Keele Street to Centre Street, submitted a letter to MTO on September 27, 2010 presenting an alternative location for the GO Barrie (Concord) Station. The alternative presented by the Committee was to locate the station north of Highway 7 in and around the Concord Floral lands. A response letter dated December 8, 2010 indicated that evaluations of four alternative configurations including the committee's proposal were conducted. An evaluation matrix and drawings were presented (see **Appendix A**). It was concluded that the technically preferred preliminary design alternative, which was developed in consultation with the TRG members, was the most suitable option for the transportation needs at this location. The preferred alternative allows opportunities to mitigate effects on the surrounding communities and improve access to valleylands. It includes the construction of a safe pedestrian crossing of the rail line, which does not currently exist and continuous access through the facilities from the Concord West community to the valley lands. The committee also presented to the MTO a recent sighting of the Blanding's Turtle at the GO Barrie (Concord) Station area. The Blanding's Turtle is regulated under the provincial *Endangered Species Act* and the federal *Species at Risk Act*. The preferred alternative maintains a riparian corridor for turtle and other wildlife migration, as habitat for

Blanding's Turtle is not believed to be present at this location. The preferred design also maintains an adjacent woodlot. Further investigations to confirm the presence/absence of Blanding's Turtle and its habitat will be carried out during the Detailed Design Stage. The response indicated that the lands in question have been retained by the Province solely for this planned transportation infrastructure. It was noted that if not required for this transportation infrastructure, the lands would be sold for other uses and community access to the valley at this location could be lost.

MTO received a reply from the Committee on December 16, 2010. MTO has offered to meet with the Concord West Residents Ad Hoc Committee at their earliest convenience to determine if there is any additional mitigation possible to address their concerns.



## memorandum

**DATE:** February 15, 2011

**TO:** Mayor and Members of Council

**FROM:** Jeffrey A. Abrams  
City Clerk

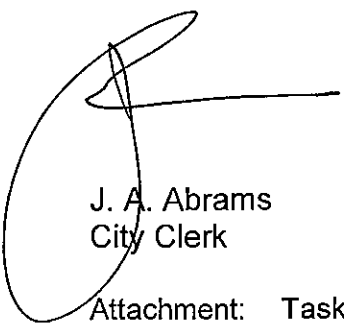
**RE:** COMMUNICATION  
COUNCIL MEETING – FEBRUARY 15, 2011  
COMMITTEE OF THE WHOLE (WORKING SESSION) REPORT NO. 10, ITEM 2  
ESTABLISHMENT OF ADVISORY COMMITTEES – DRAFT TERMS OF  
REFERENCE FOR CONSIDERATION

C7  
Item # 2 Report No. 10  
CW(WS)  
COUNCIL – FEB. 15, 2011

At its meeting of February 8, 2011, the Committee of the Whole (Working Session) recommended the establishment of a task force to review the establishment of advisory committees and report findings to the Committee of the Whole meeting of March 22, 2011.

Given the urgency of the matter, the sub-committee has already begun its deliberation.

**Accordingly, it is recommended that Council approve the attached terms of reference and ratify the action taken.**



J. A. Abrams  
City Clerk

Attachment: Task Force on Advisory Committees Terms of Reference [Draft]

/ab

**TASK FORCE ON ADVISORY COMMITTEES  
TERMS OF REFERENCE  
[Draft]**

---

**Mandate / Objectives**

The Task Force on Advisory Committees shall:

- a) Develop general terms of reference for all advisory committees;
- b) Recommend the committees of this type to be established for the 2011-2014 term; and
- c) Provide a report to the March 22, 2011 Committee of the Whole with the recommendations.

**Term**

The Task Force on Advisory Committee shall submit a Findings Report, with recommendations, to the March 22, 2011 Committee of the Whole meeting.

**Membership**

The Task Force on Advisory Committees shall be composed of the following:

- Local and Regional Councillor Gino Rosati;
- Ward Councillor Tony Carella;
- Ward Councillor Sandra Yeung Racco;
- Ward Councillor Alan Shefman.

**Meeting Procedures**

The proceedings of the committee are to be governed by the City's Procedural By-law.

**Agendas and Reporting**

Agendas shall be prepared by the City Clerk's Office.

Agendas shall be posted on the City's web site one week prior to the scheduled date of meeting or as soon as practicable.

**Meetings**

The committee may meet on the schedule determined, or at the call of the Chair.

Meetings are to be open to the public in accordance with the *Municipal Act, 2001*.

**Notice of Meetings**

Meetings will be noted on the Schedule of Meetings calendar posted on the City's website.

**Quorum**

A majority of members, including the Chair, shall constitute quorum.

**Staff Resources**

The City Clerk's Office will be responsible for agenda production and distribution, the giving of procedural advice, the recording of the proceedings of the Committee.

**Authority**

The committee may not exercise decision-making powers, or commit expenditures save for those specifically delegated by Council. The committee may not direct staff to undertake activities without authority from Council.

The Terms of Reference for the Committee were established by Council's adoption of Item No. 2 Committee of the Whole (Working Session) of Report No. 10 on February 8, 2011.

**Amendment / Expansion of Terms of Reference**

Only Council can initiate any amendment and/or expansion of the Terms of Reference.



# memorandum

**DATE:** February 15, 2011

**TO:** Mayor and Members of Council

**FROM:** Jeffrey A. Abrams  
City Clerk

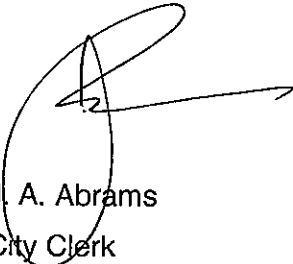
**RE:** COMMUNICATION  
COUNCIL MEETING – FEBRUARY 15, 2011  
FINANCE AND ADMINISTRATION COMMITTEE REPORT NO. 2, ITEM 1  
COUNCIL EXPENDITURE BUDGETS

C8  
Item # 1 Report No. 2  
Finance and Administration  
Committee  
**COUNCIL – FEB. 15, 2011**

At its meeting of February 7, 2011, the Finance and Administration Committee recommended the establishment of a sub-committee to review the Council Expenditure Budgets and report findings to the Finance and Administration Committee meeting of February 22, 2011.

Given the urgency of the matter, the sub-committee has already begun its deliberation.

**Accordingly, it is recommended that Council approve the attached terms of reference and ratify the action taken.**



J. A. Abrams  
City Clerk

Attachment: Council Budgets Task Force Terms of Reference

/rm

## **COUNCIL BUDGETS TASK FORCE TERMS OF REFERENCE**

---

### **Mandate / Objectives**

- 1) The Council Budgets Task Force is a sub-committee of the Finance and Administration Committee.
- 2) The Council Budgets Task Force will give consideration to the recommended 2011 expenditure budgets for Council offices, and report its findings to the Finance and Administration Committee meeting of February 22, 2011.

### **Term**

The term of the Council Budgets Task Force ends with the delivery of its report to the Finance and Administration Committee meeting of February 22, 2011.

### **Membership**

The Council Budgets Task Force is composed of Councillors Carella, DeFrancesca, Iafrate, and Racco.

### **Meeting Procedures**

The proceedings of the committee are to be governed by the City's Procedural By-law.

### **Agendas and Reporting**

Agendas shall be prepared by the City Clerk's Office in consultation with the Committee Chair. Agendas shall be posted on the City's web site one week prior to the scheduled date of the meeting or as soon as practicable.

After each meeting of the Committee, the City Clerk shall submit a report in the City's committee report format to the Finance and Administration Committee.

### **Meetings**

Meeting dates will be determined at the first meeting of the committee. The committee may meet on the schedule determined, or at the call of the Chair.

All meetings are to be open to the public in accordance with the *Municipal Act, 2001*.

### **Notice of Meetings**

Meetings will be noted on the Schedule of Meetings calendar posted on the City's website.

**Quorum**

The majority of members, including the Chair, shall constitute quorum.

**Staff Resources**

The role of staff is to act as a resource to the committee, but not to be members of the committee, or to deliberate or draft the findings of the committee. The following staff will provide advisory and technical support specific to the mandate and objectives of the committee: Commissioner of Finance/City Treasurer, Commissioner of Planning, Commissioner of Legal and Administrative Services, and the City Clerk.

The City Clerk's Office will be responsible for agenda production and distribution, the giving of procedural advice, and the recording of the proceedings of the committee.

**Authority**

The committee may not exercise decision-making powers, or commit expenditures save for those specifically delegated by Council. The committee may not direct staff to undertake activities without authority from Council.

The Terms of Reference for the Task Force were established by Council's adoption of Item 1 of the Finance and Administration Committee Report No. 2 of February 7, 2011.

**Amendment / Expansion of Terms of Reference**

Only Council can initiate any amendment and/or expansion of the Terms of Reference.



---

**Subject:** Correction for the record re Council Meeting on Feb 15, CW green space

**C9**  
**Item # 21 Report No. 7**  
**CW**  
**COUNCIL – FEB. 15, 2011**

---

**From:** Furfaro, Cindy  
**Sent:** Monday, February 14, 2011 9:31 AM  
**To:** Hardychuk, Gloria  
**Cc:** Racco, Sandra; Abrams, Jeffrey; Fernandes, Sybil  
**Subject:** FW: Correction for the record re Council Meeting on Feb 15, CW green space

Hello Gloria.

Please add the email below as Additional Information for the Council Meeting on February 15 - Item 21, Report 7. Thank you.

Cindy Furfaro-Benning  
Executive Assistant  
Councillor Sandra Yeung Racco  
Ward 4, Concord/Thornhill  
905-832-8585 ext. 8198  
cindy.furfaro@vaughan.ca

---

**From:** Dr. P. Correa [mailto:drpcorrea@abrisci.com]  
**Sent:** Sunday, February 13, 2011 9:57 PM  
**To:** Bevilacqua, Maurizio  
**Cc:** Dr. P. Correa; Racco, Sandra; Schulte, Deb; Rosati, Gino; Di Biase, Michael; Carella, Tony; Iafrate, Marilyn; Shefman, Alan; DeFrancesca, Rosanna; Furfaro, Cindy; Pearce, Andrew; Robinson, Bill; MastroJo@aol.com; dellaccio49@gmail.com; djbacchin@gmail.com; Ciafardoni, Joy  
**Subject:** Correction for the record re Council Meeting on Feb 15, CW green space

Dear Mayor Bevilacqua and Members of the Vaughan City Council,

It has come to our attention that our Local Councillor, Sandra Racco, filed, on February 10th, a Memorandum that refers to Item 21, Report No. 7 of the Committee of the Whole of February 1, which contains the December 8, 2010, letter of Mr. R. Minnes, 407 Transitway Project Manager, and an excerpt of the EPR that discuss alternative locations for the intermodal hub, including one option located on the north side of Highway #7. Please note that this option and its analysis do **not** correspond to our Alternative Plan

Furthermore, we want to draw your attention to the fact that the current attachment #1 of the revised resolution proposed by our community and sent to you last Monday, February 7th, 2011, already contains the community's December 10, 2010, response to this December 8, 2010, letter from Mr. Minnes (including that EPR excerpt), and also **contains a correct analysis, matrix and map corresponding to the Alternative Plan proposed by our community**. The MTO has never addressed this response, or its analysis. The proper context of the record must not be distorted.

2/14/2011

Thus, the following conclusion contained in the more recent letter sent on February 1, 2011, by Mr. Minnes to Councillor Racco is **not warranted at all**: "the review of this option was clearly evaluated in the EPR and found unacceptable as it does not fulfill the requirement of seamless passenger transfers between the transitway, GO Barrie rail line and York VIVA services". **As you may verify from that attachment #1, the option put forth by the community was never clearly evaluated, nor properly analyzed nor addressed by the EPR.**

We were somewhat dismayed that we had to find out about this Memorandum from the internet, despite the vows made by our Councillor to keep the community up to date on this vital issue.

**We request that the present response be put on record for the upcoming Council Meeting of February 15th.**

Thank you for your prompt attention to this matter,

Dr. Paulo Correa  
Chair, CWRAHC

Josephine Mastrodicasa  
President, CWSC

Maria Bacchin  
President, CWRA



February 15, 2011

**VIA E-MAIL ONLY**

Mayor & Members of Council  
City of Vaughan  
2141 Major Mackenzie Drive  
Vaughan, ON L6A 1T1

Stephen J. D'Agostino  
Thomson Rogers  
Suite 3100, 390 Bay Street  
Toronto, ON M5H 1W2

**C11**  
**Items # 4, 5, 6 & 7**  
**Report No. 7 CW**  
**COUNCIL -- FEB. 15, 2011**

**RE: Rogers Wireless Telecommunication Sites**

Site Development File DA.10.061  
Site Development File DA.10.070  
Site Development File DA.10.088  
Site Development File DA.10.089

**Council Agenda – February 15, 2011**

Communications from Thomason Rogers

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Further to our deputation at the Committee of Whole Meeting of February 1<sup>st</sup>, 2011 in connection with the above-mentioned telecommunication proposals and in response to Communications for the February 15, 2011 Council Meeting from Mr. D'Agostino on behalf of Thomson Rogers dated February 9, 2011, the solicitor for Rogers Communications Inc.

We are writing to Council to request that:

1. Council not give its concurrence with respect to the four above-mentioned proposals.
2. Council defer this matter for three Council cycles so that we will have the opportunity to have a Public Meeting with guest speakers in order for us to provide you and the residents with additional material concerning the issues raised at Committee of the Whole Meeting.

In addition, we ask request that Council direct staff to initiate a telecommunication towers siting master plan. We are aware that such an undertaking is not an easy task; however, staff can work with telecommunication companies, such as Rogers and representatives from ratepayers/homeowners associations and members of the community. The implementation of a telecommunication towers siting master plan will assist the city in avoiding telecommunication towers build-outs and dealing with tower growth in an ad hoc manner. The end result is a planning tool that offers numerous benefits to city staff and citizens, as well as the telecommunication companies who participate.

Rogers Telecommunications Inc. states on their website that they are dedicated to strengthening the health, safety and wellness of members of our community. Therefore, we request that Rogers work with Council, city staff and City of Vaughan ratepayers/homeowners associations in order to ensure and strengthen the health, safety and wellness of the citizens of Vaughan.

We look forward to working with Council, city staff and Rogers Telecommunications Inc. In the meantime, if you require any further information and/or would like to meet to discuss this further please do not hesitate to contact us at [wwha@wwha.ca](mailto:wwha@wwha.ca).

Respectfully yours,

*J Fedele*

---

**Josie Fedele**

2<sup>nd</sup> Vice President

The West Woodbridge Homeowners Association Inc.

cc: Mr. Clayton Harris, City Manager  
cc: Mr. Jeffrey A. Abrams, City Clerk  
cc: Mr. John Zipay, Commissioner of Planning

**Hardyckuk, Gloria**

**Subject:** 050682 URGENT Response To West Woodbridge Homeowners Association - Rogers Wireless  
Telecommunications Council Meeting Feb 15, 2011

C12  
Items # 4, 5, 6 & 7  
Report No. 7 CW  
COUNCIL – FEB. 15, 2011

**From:** sdagostino@thomsonrogers.com [mailto:sdagostino@thomsonrogers.com]  
**Sent:** Tuesday, February 15, 2011 12:09 PM  
**To:** Shefman, Alan; Schulte, Deb; Rosati, Gino; Iafrate, Marilyn; Bevilacqua, DeFrancesca, Rosanna; Sandra Racco <"sandra.racco"@vaughan.ca>; Tony Carella <"tony.carella"@vaughan.ca>  
**Cc:** The WWHA, Inc. <wwha@wwha.ca>; Harris, Clayton; Abrams, Jeffrey; Zipay, John; LRoscoe@thomsonrogers.com <LRoscoe@thomsonrogers.com>  
**Subject:** 050682 URGENT Response To West Woodbridge Homeowners Association - Rogers Wireless  
Telecommunications Council Meeting Feb 15, 2011

To the Mayor and Members of Council,

As you know from our previous correspondence we are the solicitors for Rogers Communications Inc. ("Rogers") in connection with the wireless telecommunication facilities on today's Council agenda.

We have just read correspondence directed to you from Josie Fedel on the letterhead of the West Woodbridge Homeowners Association (the "Letter"). We note that only one of the four sites before Council are located within the geographic responsibility of this Association. As with the earlier deputation, this letter is full of significant misinformation. We respond as follows:

As we noted in our correspondence and as agreed to by your legal staff, the regulation of wireless telecommunications including matters related to potential health effects are within the exclusive jurisdiction of the federal government. In that respect the federal government has put in place its requirements which have been the subject of review by Canada's distinguished scientific community represented by the Royal Society of Canada. Rogers is required by its regulator to comply with Safety Code 6. In fact, these sites operate well below Safety Code 6.

The studies held out by the Letter are not reliable or authoritative. For example, the Bioinitiative Report has been considered by the World Health Organization on several occasions but has not been deemed significant enough to amend the recommendations we quoted in our correspondence to you. In fact, in its June 2009 report to the World Health Organization, Canada put the Bioinitiative Report ([http://www.who.int/peh-emf/project/mapnatreps/CANADA\\_national\\_report\\_IAC\\_2009.pdf](http://www.who.int/peh-emf/project/mapnatreps/CANADA_national_report_IAC_2009.pdf)) into dubious light stating:

"These concerns appear to arise from periodic media reports and dubious Internet websites which contain inaccurate, unsubstantiated, controversial or contradictory statements regarding EMF-health issues. Also, several outspoken advocates are demanding the application of precautionary measures to EMF exposure. In this regard, the Bioinitiative Report and news articles on the Internet (e.g. Next-up news) are often cited by concerned individuals. The concerns result in widespread public opposition to the proposed construction of high-voltage power lines and cellular base stations. Opposition to such proposals is often influenced by factors other than health issues (e.g. aesthetics and property devaluation)."

The National Research Council article identified in the Letter was criticized by Health Canada for not providing any new data. As well, Health Canada stated that the conclusions in the report were made without a full examination of the scientific evidence. We note that its primary author was a journalist not a scientist. A recent media report on the subject can be found at:

<http://www.montrealgazette.com/technology/data+exposure+study+Health+Canada+says/3823410/story.html>

The reference to a cell tower being relocated in Simcoe Ontario in 2007 is also not true. The facility in question is  
2/15/2011

a Rogers facility located on a municipal water tower. The facility has never been moved and continues to operate at its original location today.

We respectfully request that Council disregard the Letter and give concurrence to the four sites on today's agenda in accordance with the staff recommendation. In the alternative, should Council require further information on Safety Code 6, then we request that you turn to the Region of York Medical Officer of Health to update his recent report to Richmond Hill which is attached to our original correspondence to you.

Rogers is committed to working with the city on the development of a new protocol. There is no reason why these sites should be held in abeyance while that process continues.

Stephen D'Agostino  
Thomson Rogers  
Stephen J D'Agostino Law Professional Corporation  
Barristers and Solicitors  
Suite 3100, 390 Bay St.,  
Toronto, Ontario, Canada  
M5H 1W2

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submitted by RC Di Biase /

item 1 CW(CWS) Rpt 10  
Communication C13

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Tuesday, February 15, 2011

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# Landfill monitoring fund drained by city

Article

Comments (1)

Published On Mon Feb 14 2011

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Lynne McNelly, left, and her dog Molly meet up with Julie Vitto and Rosie in Riverdale Park, the site of an old landfill, where pipes are still in place to release gas from deep beneath the surface.

SAN GREWAL/TORONTO STAR

Paul Moloney  
Urban Affairs Reporter

The City of Toronto has drained its reserve fund to look after 161 closed landfill sites because \$23 million was recently allocated to the Pan Am aquatic centre in Scarborough.

By year's end, the Perpetual Care of Landfills Reserve Fund will be down to \$200,000 while the long-term cost of looking after the old landfills is projected to be \$121 million, says auditor general Jeff Griffiths.

The fund was targeted because the money is to clean up the former Morningside landfill to allow the aquatic centre to be built, but Griffiths questions that strategy in a report to the audit committee.

"It is arguable that the amount of \$23 million should not be charged to a reserve fund the purpose of which is to provide for ongoing post-closure costs to protect the environment and not remediation expenditures to ready a site for redevelopment," his report said.

The cost of caring for old landfills includes surface and groundwater monitoring; maintenance of drainage structures; monitoring leachate and gas emissions; and maintaining the surface cover.

Not only will the reserve be tapped out, but there is no plan to address the shortfall, the audit report said.

Meanwhile, about \$21 million in city grants run by the Toronto Environmental Office — including grants for green roofs — needs more scrutiny, the auditor general says.

In his review, Griffiths said four out of nine projects were late submitting progress reports.

In the case of one \$135,000 grant, 11 months went by without a report and both the scope and location of the project had changed significantly.

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"There are no regular meetings with project teams or site visits to determine whether projects are proceeding as planned," said the 15-page report to be discussed at next week's audit committee meeting.

Griffiths found grant recipients have little incentive to file reports because they receive 90 per cent of the grant money up front.

As it stands, the city's environmental office "has little leverage to compel recipients to comply with agreements."

City managers are proposing to adopt a system where only 40 per cent of the grant is handed out initially, with another 40 per cent paid on substantial completion and 20 per cent at full completion.

Managers are also agreeable to the auditor general's call for regular inspections of green roof installations to ensure they continue to provide environmental benefits.

By inspecting roofs that can last up to 30 years, the city could claw back grant money if maintenance is lacking, the report said.

"Since the full benefits of the roof, and the funds provided by the city, are only recognized if the roof is properly maintained, grant recipients should expect to reimburse the city a portion of funds granted where the roof is not maintained as required," it added.

Under the \$2.4 million Eco-Roof Incentive Program, the city hands out grants of up to \$100,000 for a green roof with vegetation and up to \$50,000 for a cool roof with a white coating to reflect heat.



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