

Letters from Industry

From: Beverly Jarvis [<mailto:beverly.jarvis@chba-udicalgaryregion.com>]
Sent: Thursday, March 17, 2016 5:31 PM
To: Dalgleish, Stuart
Cc: Dietrich, Kathy; Tita, Matthias; De Jong, Cliff; MacInnis, Brandy; Chase, Jeff; Rmorden@bentallkennedy.com; chris@quantumplace.ca
Subject: Development in Proximity to Rail

Good afternoon. Further to our letter dated March 1, 2016, which we understand will be shared with Council in the Agenda package for the Strategic Session on March 21st, we would like to offer the following update to the said correspondence for consideration at Council.

Thank you, GM Dalgleish, for directing coordination of the meeting yesterday (March 16th) with Administration and a few representatives of Industry and Industry organizations. The meeting was a valuable exchange of information. While the Industry expressed concern about the past engagement, which to date has been perceived largely as an 'inform' level notwithstanding the significant negative impact of outcomes on Industry and the City of Calgary itself, we are encouraged that the City is revisiting certain aspects of the interim policy approach, such as sensitive uses, identified by Industry, at a minimum, as needing further consideration and refinement, and we are encouraged that the City is finding more prudent and strategic solutions associated with existing tenancies/uses. We are hopeful this indicates the City will continue to work with the Industry in achieving a made-in-Calgary solution moving forward.

In finding the made-in-Calgary solution, a reasonable level of urgency should apply as the implications of timing for the interim policy approach, being discussed as approximately one (1) year to finalize and implement a better more fulsome approach, is a very long time to have real estate assets essentially frozen or sterilized waiting for the ultimate picture to emerge, particularly in an uncertain economy.

We consider active and meaningful engagement with Industry critical to be certain that the City is largely focused on solutions ensuring the privately-owned third party (CP/CN Rail) whose operations are creating the risk, is appropriately liable for mitigating that risk, and the responsibility is not transferred to a more accessible or convenient recipient, being adjacent landowners within the Municipality's jurisdiction.

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In our meeting yesterday, we also identified opportunities to improve key messaging and outreach with each other and our stakeholders/members. Certainly, we feel that with the City now looking to advance a more collaborative engagement and the inclusion of the Industry as part of the solution, we will have positive future updates and communication regarding the made-in-Calgary solutions that work for landowners and the City of Calgary.

Respectfully,

On behalf of

Chris Ollenberger, President, NAIOP Calgary

Beverly J Jarvis, Director, CHBA-UDI Calgary Region Association

c.c. Kathy Dietrich, Director; Matthias Tita, Director; Planning & Development, City of Calgary
Cliff DeJong, Brandy McInnis, Planning & Development, City of Calgary
Jeffery Chase, Office of the Mayor, City of Calgary
Richard Morden, Treasurer, BOMA Calgary
Donna Moore, CEO, CHBA-UDI Calgary Region Association
Guy Huntingford, CEO, CHBA-UDI Calgary Region Association

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ATTACHMENT 3

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Letters from Industry



March 1, 2016

DELIVERED BY EMAIL

Mr. Stuart Dagleish
General Manager, Planning and Development
The City of Calgary
Calgary, Alberta

Dear Stuart:

Re: Development in Proximity to Rail

Thank you for agreeing to meet last week with the industry organizations represented as follows: Amie Blanchette for CHBA-CR, Richard Morden for BOMA and NAIOP, Bev Jarvis for UDI-Calgary and Chris Ollenberger, on behalf of NAIOP. We appreciated the opportunity to welcome you to your new position as General Manager for Planning and Development, and engaging us in discussion with Cliff De Jong, Brandy MacInnis and Dave Danchuk.

Meeting Take-aways:

We would like to provide you with a summary of our take-away impressions and perspectives as follows. To begin with, we are encouraged by the fact we were able to sit down and begin dialogue with you on this topic. We are reassured that The City has taken the approach that the FCM Guidelines are not a reasonable or workable solution for the development in proximity to rail concerns in Calgary and that there is a desire to create a made-in-Calgary ultimate policy to address the issue.

It appears we are aligned in the belief that the railway should accept responsibility for the liability and risk of their own operations within The City and should make whole the municipalities within which those profitable operations are undertaken. We believe we should work together with The City to ensure that assumption of this liability by rail becomes a reality. Industry believes the alleged obligation on the part of municipalities to assume responsibility to mitigate is falsely placed. Rail should be held accountable to mitigate through routing, travel speed, management of dangerous cargo and, within their rail right of way, setbacks, berms and crash walls, etc by the rail companies themselves.

Accordingly, we are anxious to work in concert with The City with respect to shared advocacy opportunities with the Federation of Canadian Municipalities, the Ministry of Transportation and the railways, as well as undertaking a collaborative outreach to other municipalities.

We recognize that The City has not stalled the approvals process and is accepting applications for projects in proximity to rail in the absence of a permanent policy position. The City is applying an interim policy strategy. However, there are several significant areas of concern with this policy strategy outstanding from industry's standpoint:

1. Transparency – while we appreciate that there is sensitivity around very specific discussion of 'risk' and 'liability', there is a great deal of higher level conversation on the subject of rail, risk and risk-mitigation that need not be behind closed doors or 'in-camera'. It is unsettling for industry to be completely unaware of the conversations between Council, as the ultimate policy decision maker, and Administration, and the Council directions to Administration, even in part, which absorb months of focus moving toward an ultimate policy without input from or knowledge of industry partners, comprised of landowners with significant financial investment in property which will be severely impacted as a
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direct result. Accordingly, we would ask that the presentation to Council by Administration in March be made in the public hearing portion of the meeting with only sensitive questions or discussion to take place in-camera?

2. While we appreciate an interim policy/process is in place, we are concerned that the interim process the City has landed upon was largely developed without input from industry, including feedback received at the workshop in October which did not inform meaningful change. If The City's arbitrary criteria identifies a potential project required to undergo the interim process review, the applicant is subjected to uncertainty and significant additional engineering and consulting fees as well as a time consuming process with little assurance of achieving desired outcomes. We are also very concerned that this interim process is now likely to be applied for the rest of 2016, further extending uncertainty and the potential for injurious effect on values of our members' holdings.

3. We propose that the statistics provided as the *limited number of applications* affected may be somewhat misleading as follows:

- a) a greater number of applications might be in the queue were it not for the uncertainty the industry is experiencing related to policy or if the economy was better;
- b) the potential magnitude of the impact of policy on even one project is formidable and not sufficiently represented by what may appear to be a low number of potentially impacted applications to date;
- c) we have not begun to appreciate the impact of policy, even the interim policy, on EXISTING developments in proximity to rail;

4. Uncertainty leads to loss of investment – In our meeting we heard reference to the timeline of upwards of one-year to achieve the ultimate policy. In addition to the hardship this visits on the existing landowners invested in proximity to rail in the City of Calgary, the shadow cast on investment in Calgary, downtown / along rail, will become much broader, extending nationally and internationally as investors become increasingly wary.

Going forward:

We appreciate Administration is presently bound by the December Council direction and will remain on course until the Council Strategic Session on March 21. Respectfully, we request consideration might be given to the related public presentation request above. In the interim, we look forward to a letter from the Mayor's office to FCM and Minister of Transportation (per Council direction), which we have provided input to, to be shared with Industry.

We remain deeply concerned about the implementation of Interim Policy that supersedes approved CPC direction and policy and is contrary to the stated goals of the MDP. We request that we meet again within the next three weeks to discuss the details of the Interim Policy, how it would apply against existing buildings and also bare land or redevelopment applications. We would also suggest that a discussion occur on how the rail companies have been withholding information that would assist applications, and how to adjust the City's expectations with respect to assessments in light of the limited responses of the railways to such applications.

On behalf of NAIOP Calgary, UDI Calgary, BOMA Calgary, CHBA-Calgary Region

NAIOP Calgary

Per: _____

Chris Ollenberger, President

BOMA Calgary

Per: _____

Richard Morden, Treasurer

UDI-Calgary

Per: _____

Guy Huntingford, CEO

Canadian Home Builders Association- Calgary Region

Per: _____

Donna Moore, CEO

cc. Brian Pincott, City of Calgary Councillor, FCM Representative
Jeff Fielding, City Manager / Brad Stevens, Deputy City Manager / Dave Danchuk, Office of Deputy City Manager
Cliff De Jong and Brandy McInnis, Planning & Development / Jeff Chase, Office of the Mayor