

Sent Via Email
rmaciver@clarington.net



April 28, 2022

Robert Maciver
Municipal Solicitor
Municipality of Clarington
40 Temperance Street
Bowmanville, ON L1C 3A6

Dear Rob:

RE: Host Community Agreement Dispute

**The Regional
Municipality of
Durham**

Corporate Services
Department
Legal Services

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Level 1
PO Box 623
Whitby, ON L1N 6A3
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Don Beaton
BCom, M.P.A.
Commissioner of
Corporate Services

Further to our virtual meeting last week, this is to confirm that I have received instructions from my client to ensure that this matter continues to progress towards a conclusion. My client appreciates the efforts of Clarington and the staff who participated in the mediation to reach a resolution. However, recognizing that some time has passed since the mediation concluded without an agreement, the Region took the step of terminating the mediation, by letter dated December 7, 2021

I understand from Clarington's response letter dated January 4, 2022, that your client took issue with the Region's termination of the Mediation and suggested that termination was premature.

Unfortunately, the Region's position remains unchanged as confirmed in our letter dated January 6, 2022. Further, the Region does not accept that the HCA applies to the AD Facility. The Region participated in the mediation in an effort to understand Clarington's objections to the siting of the Mixed Waste Pre-Sort and Anaerobic Digester Facility (the "AD Facility") and to work to reach a resolution which satisfied both parties. As of December 7, 2021, Clarington had not accepted the offer to settle presented at the mediation, nor had the Region received a responding offer to settle acceptable to our client.

As efforts to resolve this matter have failed, the Region intends to move forward with the development of the AD Facility as approved by Regional council.

If Clarington does in fact intend to advance this dispute further, it is my client's position that the HCA does not apply. In order to achieve the required clarity and to ensure that this matter moves forward I have recommended to my client that an application be brought before the Superior Court of Justice seeking a declaration that that the HCA does not speak to or have any bearing on the location of the AD Facility within the Clarington Energy Business Park.

My client would like to avoid the costs of such an application as well as engaging in further dispute with Clarington on this matter. A formal withdrawal of Clarington's dispute under the HCA would avoid the need to take this issue to Superior Court. I would be pleased to discuss this option further at your convenience.

Further, the Region remains open, on a limited basis, to a timely acceptance of the offer it made in September. This offer provides significant benefits to Clarington, including benefits which Clarington is not otherwise entitled or likely to receive should the matter proceed to Court.

Yours Truly,



Arend J. Wakeford
Senior Solicitor

c: Elaine Baxter-Trahair, CAO
Jason Hunt, Regional Solicitor and Director of Legal
Services