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SENT BY EMAIL and DELIVERED

September 29, 2023

Ms. Briana Bloomfield
City Clerk
City of Owen Sound
City HallP
808 Second Avenue East
Owen Sound, Ontario
N4K 2H4

Dear Ms. Bloomfield:

**R.K. Radbourne Building Ltd. re ZBA No. 50, Owen Sound
Notice of Appeal to the Ontario Land Tribunal
Our File No. 500974**

We are the lawyers for R. K. Radbourne Ltd. which is the owner of 1887 Ninth Ave East, Owen Sound. Our client's property is located directly across from the property at 1580 20th Street East, Owen Sound ("Subject Lands").

Please accept this correspondence as our client's Notice of Appeal to the Ontario Land Tribunal ("OLT") with respect to the passage of City of Owen Sound ("City") By-law No. 2023-095 ("ZBA"), which was passed and enacted by Council on September 11, 2023. Please find enclosed our firm cheque in the amount of \$1,100.00 payable to the Minister of Finance in satisfaction of the prescribed appeal fee as well as a completed OLT Appeal Form (A1).

Background

The ZBA was passed by Council in order to permit the development of a rock-climbing gym in an existing industrial mall on the Subject Lands. The ZBA rezoned the Subject Lands from the M2 Zone (Heavy Industrial Uses) to the M1 Zone (Light Industrial Uses). Our client does not object to the use of the Subject Lands for the purpose of allowing the rock-climbing gym to be established on the Subject Lands. Our client does object to the

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Subject Lands being rezoned to the M1 zone and states that the Subject Lands would be more appropriately rezoned in the MU (Mixed Use Industrial) zone. Our client provided a written submission to Council by letter dated July 24, 2023.

The existing industrial mall on the Subject Lands contains a variety of lighter type industrial uses. Our client recognizes that a rock-climbing facility is a permitted use in the M1 Zone in the City's Comprehensive Zoning By-law.

However, a rock-climbing facility is also a permitted use in the MU Zone. Council's passage of the ZBA appears to be founded on the mistaken premise that certain existing uses, such as a printing/publishing establishment, in the industrial mall would not be permitted in an MU zone. Unfortunately, Council was not advised that the only printing/publishing establishment in the industrial mall was closed at least two years ago, if not more. As such, the non-existing printing/publishing use does not provide justification for the M1 Zone on the Subject Lands.

In fact, there is an existing heart clinic on the Subject Lands which is not a permitted use in either the M1 or M2 Zones. By rezoning the Subject Lands to the M1 Zone, Council has permitted a clearly existing illegal use to continue on the Subject Lands. A clinic is permitted in the MU Zone and rezoning the Subject Lands to the MU Zone would remedy the existing illegal use of the Subject Lands as well as allow for the establishment of the rock-climbing facility.

Council was also advised that the introduction of the MU Zone to the Subject Lands would permit the establishment of certain incompatible uses, such as restaurants, into the area. What Council was not advised is that a restaurant is a permitted use on my client's lands, which again lie directly across the street from the Subject Lands.

The passage of the ZBA ignores the current reality of the surrounding area to the Subject Lands which is an area in transition to a variety of mixed uses.

Our client relies on the following grounds in support of its appeal:

1. The ZBA is not consistent with the Provincial Policy Statement 2020, including, but not limited to, s. 1.1.1(a) and 1.1.1(c);
2. The ZBA does not conform to the City's Official Plan, including, but not limited to, s. 3.9.1.1, 3.9.2.2 and 3.9.2.8.;



3. The ZBA permits a clearly existing illegal use on the Subject Lands, a clinic, within the M1 Zone which is contrary to the City's Comprehensive Zoning By-law;
4. The ZBA is poor planning and is not in the public interest; and,
5. Such further and other grounds as counsel may advise.

Our client reserves its right to expand or modify any of the foregoing grounds.

Yours very truly,

A handwritten signature in blue ink that reads "Al Burton".

Al Burton

AB/ab

Cc: Client