

**Toronto  
Port  
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**Administration  
Portuaire  
de Toronto**

60 Harbour Street, Toronto, Ontario, Canada M5J 1B7  
Tel/Tél: 416.863.2000 • Fax/Télécopieur: 416.863.4830 • www.torontoport.com

April 9, 2013

Mayor Rob Ford  
City of Toronto  
Toronto City Hall  
100 Queen Street West, 2<sup>nd</sup> Floor  
Toronto, ON  
M5H 2N2

Your Worship:

Re: Billy Bishop Toronto City Airport

I wanted to follow-up on the letter received by the Toronto Port Authority (“TPA”) from Deputy City Manager John Livey dated March 20, 2013 in relation to my February 13, 2013 letter to you about all of the opportunities before Toronto City Council regarding the Billy Bishop Toronto City Airport (“BBTCA”).

For ease of reference, I’ll address each of the points in order and have included your Staff’s observations or questions of the TPA in italics:

*“The Master Agreement between the City and the TPA for the pedestrian tunnel and island water main is a positive example of cooperation between public organizations on important infrastructure projects.”*

We couldn’t agree more. In fact, the TPA first proposed that these two projects work in tandem to former Mayor David Miller in 2009. We were delighted that the City agreed in 2011 to combine its proposed island water and sewer main, a decision which we understand will save the City of Toronto upwards of \$10 million dollars by doing so. As you know, the \$82 million cost of the TPA’s pedestrian tunnel is one hundred per cent financed by the private sector, and will be paid for by BBTCA passengers, without a single dollar from taxpayers of any level of government.

*“The City of Toronto and the TPA must continue to improve communication and relations between the airport and the neighbouring community.”*

The TPA and BBTCA are very committed to working with its neighbours. We do this in a variety of formal and informal ways.

The permanent Airport Community Liaison Committee has met nine times since it was created in 2011, in keeping with the recommendations of the Jacobs Consultancy Noise Management Study released on February 8, 2010. The local City Councillor has personally attended only one of such meetings. We assume this ongoing absence is an indication of the success this important forum has been for the community.

The TPA has also created a comprehensive operational noise management program, implemented in early 2011, that includes a noise management office with dedicated staff, state of the art technology to track aircraft noise, and a monthly public reporting mechanism on the website. This model is based on a similar program in place at Pearson Airport.

More broadly, we have undertaken every one of the Jacobs Consultancy Report's 16 recommendations<sup>1</sup> aimed at mitigating the impact of the BBTCA on the neighbourhood. The TPA remains open to any feasible ideas that would further mitigate the impact of the BBTCA on the neighbourhood.

It is worth reminding your staff of the independent "noise capture" engineering study undertaken by Jacobs Consultancy in July 2009. The study was done from six different Waterfront locations between May 13 and May 22, 2009. It found, for example, that all of the following elements of life in the City of Toronto generated a decibel reading equal to or greater than a Q400 in either take-off or landing mode at the BBTCA:

- i) the Don Valley Parkway and the excavation of the West Donlands (for neighbours at Queen and River Street);
- ii) noise from the Gardiner Expressway and nearby construction vehicles (for residents at City Place); and
- iii) a motorcycle on Stadium Road (for the condo owner on the balcony of 680 Queen's Quay, unit 702).

Beyond the permanent Airport Community Liaison Committee and comprehensive operational noise management program, the TPA has also established a Tunnel Committee comprising residents and airport stakeholders for the duration of the pedestrian tunnel's construction.

Toronto, as Canada's most populated urban area, is no stranger to ambient noise. And, depending upon where you live, the reality of the type of urban noise that you experience will be different.

The residents on Balmoral Avenue live within a stone's throw of a very busy TFS Aerial Ladder truck. In Yorkville, condo residents will hear the local TFS Pumper Truck make more than 2,400 runs each year. On Chaplin Avenue, a Toronto Ambulance depot is adjacent to a dense residential area. The East Annex Heritage District shares a few

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<sup>1</sup> Such as the construction of the BBTCA noise sound barrier and measures to restrict aircraft engine run-ups and idling.

precious century-old blocks with many of Toronto's busiest restaurants at Avenue Road & Davenport. In the northern part of Etobicoke, Pearson Airport is omnipresent for perhaps 20 hours each day and night. On the western end of the downtown waterfront, residents there live in proximity to the BBTCA – which was opened in 1939, long before any of the local residents moved into the area. And in certain areas of Scarborough, for example, the Canadian National rail line runs through many a residential backyard at all hours of the day and night.

Living in a City requires us all to deal with the reality of City life; the sounds just differ by neighbourhood. We do not know of a public agency in Toronto that is more active in mitigating the impact of its essential business on its neighbours than the TPA.

As an organization, the TPA is committed to building healthier and more sustainable communities in our city. Here is a listing of just a few of our recent initiatives; in many cases the primary beneficiaries of these initiatives are BBTCA neighbours:

- Financial support to the Harbourfront Community Centre's (HCC) expansion of its Room 13 program, an internationally known leadership program for at-risk youth aged 13-17 that builds entrepreneurial, management, and teamwork skills.
- \$900,000 investment to construct sound barriers to protect nearby residents from noise caused by normal engine maintenance taking place at BBTCA.
- The TPA invested \$1 million to create protective islands and fish habitat wetlands at Tommy Thompson Park.
- Financial support for Harbourfront's 2012 summer programming, following the TPA's successful 2011 role as Harbourfront's *Lead Summer Partner*.
- All of the TPA's operations, including the BBTCA, continue to be 100 per cent powered by Bullfrog Power, Canada's 100 per cent green electricity provider. The TPA was Bullfrog's first client with a link to the Federal government.
- Financial support for the 2013 Reel Artists Film Festival, which was held at the TIFF Bell Lightbox from February 20-24.
- Financial support for MOCCA, the Museum of Contemporary Canadian Art.
- Support for the annual Disabled Sailing Association of Ontario regatta.
- Support for the World Wildlife Federation's Great Canadian Shoreline Cleanup.
- Financial support for *ProAction, Cops & Kids*.
- Financial support for the Canadian Art Foundation.
- Leadership and financial support for the popular 2<sup>nd</sup> annual Sail-In Cinema on August 18-20, 2012. Attended by more than 2,000 people and 70 boats.
- Financial support of *Doors Open on Toronto's Waterfront*, presented by Queen's Quay Terminal in association with The Waterfront Business Improvement Area, May 26-27, 2012.

*"There are key issues that the City of Toronto and the TPA need to resolve: including traffic operations around the airport and Eireann Quay."*

The TPA is supportive of the process that John Livey has been stick-handling regarding the traffic around the airport.

Traffic congestion in the area of the immediate vicinity of the airport has complex roots, and it is partially, if not largely a result of extremely rapid residential growth in the area. The City of Toronto has reviewed and approved the various new condominium and townhouse construction building permits in this part of the city. Traffic congestion has followed, at the same time as the airport's success over the past six years. It would be unfair to place the blame for this congestion solely on the airport's doorstep.

We understand the frustration that BBTCA passengers have experienced as a result of the decisions, in 2012, of the Toronto and East York Community Council regarding a series of motions it passed restricting both turning and traffic lanes available, the immediate impact of which was to choke the traffic exiting the BBTCA northbound on Bathurst Street at Queen's Quay West. The new "no right on red" in the northbound lane has been of particular concern, and is one of the few such signs across the City. According to the Toronto Police Service ("TPS"), these new restrictions have increased congestion while not producing any enhanced pedestrian safety. This was made clear to the City by a TPS representative at the November 8, 2012 meeting regarding traffic movements around the BBTCA, attended by City staff, the TTC, and TPA. If the turning restrictions were truly about managing safety for the school children and youth who use the community centre, and not choking access to the airport, the Community Council wouldn't have made it a 24-hour/day ban. There aren't any 8 year-old schoolchildren using that intersection at 10 p.m., for example. We are of the view that these signs, which restrict the "safe use and operation" of the BBTCA, are inconsistent with the City's obligations under the 1983 *Tripartite Agreement*.

It must also be noted that the 2012 Toronto and East York Community Council decision to erect no-turn restriction signs at Bathurst/Queen's Quay is consistent with Councillor Adam Vaughan's June 26, 2007 By-Law designed to undermine the airport by preventing taxis from waiting for BBTCA passengers on land owned by the TPA. Councillor Vaughan claimed the street to be a fire route for the airport. The motion "designating Eireann Quay...as a fire route with no stopping at any time. [A motion which]...prevented taxis and other vehicles from queuing for access to the airport."<sup>2</sup> One assumes this move was made by Councillor Vaughan in the hopes that an absence of taxis would eventually deter passengers from using the airport.

The TPA had to ask the Superior Court of Ontario to provide relief for the benefit of BBTCA passengers. According to Madam Justice Wilson, "the enactment of the [City] By-Laws which had the effect of preventing the use of the Finger Lot as contemplated by the [TPA's] application constitute a breach of the provisions of the Tripartite Agreement not to interfere with the 'safe use and operation of the Island Airport'."<sup>3</sup> She also struck Councillor Vaughan's By-Law down in the same Court Decision.

In the 2008 Court Decision, the learned judge referred to the City's reliance on "the Affidavit of a member of City Council, Adam Vaughan...." She continued that "It is

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<sup>2</sup> Paragraph 13, page 4, Decision of Madam Justice D.A. Wilson, December 23, 2008

<sup>3</sup> Paragraph 45, page 11, Decision of Madam Justice D.A. Wilson, December 23, 2008

important to note that Mr. Vaughan, while clearly familiar with this area, is not an expert in the area of vehicular traffic, pedestrian safety or roadway safety...the views and opinions expressed in his affidavit are of little assistance.” In her ruling, the Judge determined that “the refusal of the City to approve the [TPA] work application...[leads] me to conclude that the City was acting to achieve a collateral purpose....” The collateral purpose, as is evidenced by the 2012 Toronto and East York Community Council decision to erect no-turn restriction signs at Bathurst/Queen’s Quay on behalf of Councillor Vaughan, is to use any means available in the given year to undermine the efficient operation of the airport.

We look forward to working with your team to bring about the necessary modernizations to local traffic patterns. But this effort needs to be more constructive than the past six-plus years have shown, if it is to have any chance of success. Partnerships work best when they are a two-way street, so to speak.

*“The City and the TPA need to come to an agreement on a final resolution on the PILTs matter.”*

Although we’d be delighted to have a “final resolution” to this topic, the TPA has already paid the City of Toronto one hundred per cent of the amount of PILTs for all of its properties, including the BBTCA, as recommended by the independent 2009 Federal DAP panel for the 1999 - 2012 period.

As per our agency’s public statement of April 3, 2013, it was “regrettable” that City Councillors were prevented from receiving a confidential, in camera briefing from City Staff that would have provided the background regarding the Staff recommendation in favour of the PILT motion before Council that day. The proposed PILT agreement was recommended to Council by both the City Solicitor and the Treasurer via a report on February 12, 2013<sup>4</sup> and was subsequently approved by the City’s Government Management Committee on February 25, 2013.

The proposed agreement would have meant that BBTCA passengers would pay PILT contributions to the City for the airport at the same per passenger rate – \$0.94 per – that is currently paid by Pearson Airport. The 2009 independent Federal PILT Dispute Advisory Panel recommended that the Billy Bishop airport be “taxed” in the same way as Pearson Airport: on a per passenger basis. The \$0.94 per BBTCA passenger fee tabled at Council last week well exceeds the \$0.80 per passenger fee that was recommended to the City and TPA by this 2009 independent Federal PILT Panel.

The proposed per-passenger PILT approach is widely used at other airports in Ontario, including Pearson, London, Ottawa and Thunder Bay.

For years, MPAC, the municipal property assessor, has assessed the BBTCA as Industrial land. MPAC included in its analysis the notion that the airport property could be a high

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<sup>4</sup> <http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getAgendaReport&meetingId=6851>

rise condo development site, despite the fact that the land is zoned as parkland in the City's Official Plan, and has been an airport since 1939. The BBTCA is currently governed by the *Tripartite Agreement* as you know (executed by each of the City of Toronto, the Department of Transport and the TPA). The *Tripartite Agreement* outlines that the property is to be used as an airport, and only an airport, from 1983 - 2033. As such, no condominiums, power generating stations or manufacturing plants could be built on the site. This has not stopped MPAC from trying to charge the airport taxes at the industrial development rate, which is the source of the so-called "\$26 million tax arrears bill" reported in the media.

No one in Toronto, whether they are a fan or foe of the airport, thinks the BBTCA property should be an automotive plant, power plant or high rise condo development. Why then should it be taxed that way by MPAC?

The TPA has always said that it is prepared to pay its fair share of PILTs, which is why it has already paid more than \$13 million of PILTs to the City in recent years. Last week's series of votes was a "missed opportunity". As Council has declined to accept the advice of its own Solicitor and Treasurer on the BBTCA PILT, the TPA will consider asking that a new Federal Dispute Advisory Panel be struck to advise the parties on the quantum of PILTs that are appropriate for the BBTCA to pay. Just as the TPA did in 2012 when it asked for a new DAP Panel to provide advice regarding all non-airport TPA properties.

We have no fear of the wisdom of an independent panel of PILT experts.

*"The TPA must rehabilitate the Cherry Street Bridge over the Ship Channel to restore two-way traffic operations."*

In 2012, the TPA continued its efforts to preserve the utility of the 1931 lift bridge over the Ship Channel at Cherry Street. These TPA-funded repairs are just a temporary measure to preserve essential marine access to the Ship Channel, as the bridge is reaching the end of its useful life.

We were surprised by the reference to this asset in Mr. Livey's letter, as the City of Toronto has already agreed to lead the rebuilding of this bridge via the June 26, 2003 Structured Settlement Agreement executed by the City, TPA and TEDCO. In that agreement, the City undertook to take over one-third of the capital expenditures required to maintain or replace this bridge, with the remaining two-thirds coming from Toronto Waterfront Revitalization Corp. at the City's request. We look forward to working with the City as it fulfills its longstanding contractual responsibilities in this regard.

This point was previously made by TPA CEO Geoff Wilson in a letter to Joe Pennachetti on November 23, 2012, when he asked that the City "create and lead a Task Force comprised of appropriate representatives of the City, TWRC, TPLC and TPA to finalize the funding by the City and TWRC of the capital expenditures required to repair and maintain the Cherry Street Bridge, as previously agreed by the City in the 2003 Structured Settlement Agreement."

*“I am somewhat perplexed by the TPA request to expand the footprint of the BBTCA.”*

I am happy to take this opportunity to address this point. Our letter did not contain a request to expand the footprint of the BBTCA. Item Six of the February 13, 2013 letter said as follows:

Under the terms of the *Tripartite Agreement*, the footprint of the BBTCA property cannot be expanded, whatever the reason might be. We understand that Transport Canada is considering making amendments to the current “Runway End Safety Area” (“RESA”) regulations. These amendments, should they proceed, would require the TPA to extend the current BBTCA RESA areas a short distance into our existing waterlots. Given the importance of safety at BBTCA, Toronto City Council may want to consider amending the Tripartite Agreement to provide for changes to the airport’s footprint and/or property boundaries “if required by federal aviation regulations or applicable law”.

We introduced these seven items (including the one excerpted above) for City Council’s consideration via our letter of February 13, 2013, solely because City Staff had reached an agreement-in-principle on the BBTCA PILT, which meant that the airport’s operations would be considered at an upcoming meeting of Council. They were not formal requests by the TPA of the City, and were clearly positioned as being ideas that Councillors might want to consider given that Council would be taking an active review of the BBTCA following the Staff Report on PILTs. It seemed opportune to provide Councillors with other items to consider at the same time, should that be of interest. Clearly, many of the ideas proffered would require amendments to the 1983 *Tripartite Agreement*. That is not, in and of itself, a reason for these ideas to not be considered by Council at an appropriate juncture.

As the TPA advised earlier, the environmental assessment regarding the Marine Exclusion Zone did not arise due to potential changes that may eventually come to Canada’s Runway End-Safety Area regulations, nor do potential changes to RESA drive the thinking behind the pending improvements to the Marine Exclusion Zone.

The airport is very popular with Torontonians, and anticipating the impact of potential future changes to RESA regulations is just prudent stewardship on our collective parts. If I may, I’d like to remind your staff of a 2012 survey conducted by Ipsos Reid (a representative, randomly-selected sample of 700 adults living in Toronto, included 300 who live downtown, South of Queen Street.):

- Eight in ten (83 per cent) of those surveyed ‘agree’ that Billy Bishop Toronto City Airport (BBTCA) ‘is great for the economy of Toronto’ – including 85 per cent of those living downtown south of Queen.
- 84 per cent believe the airport is a great gateway, with the majority (87 per cent) saying it is a valuable asset for the city.
- Eight in ten (81 per cent) Toronto residents ‘agree’ that ‘Billy Bishop Toronto City Airport is an important part of Toronto’s future economic growth’

- Eighty seven per cent ‘agree’ that BBTCA is ‘a valuable asset for the city’
- Nearly half of all downtown residents (50 per cent north of Queen; 45 per cent south of Queen) have used BBTCA
- Nine in ten (89 per cent) Torontonians ‘agree’ that ‘the Toronto Port Authority provides important economic benefits to the City of Toronto’

The TPA remains committed to balancing the needs of the residential community which has grown up around the airport with those of our airport users. From using Bullfrog renewable resource power in all its facilities, to monitoring aviation noise sources with latest radar-based technologies, and developing fish habitats, the TPA works hard to ensure that the environment is well looked after for future generations.

Please accept our thanks for your ongoing support of the BBTCA. We hope that this information addressed the points raised in Mr. Livey’s correspondence. Do not hesitate to contact us should you have any questions regarding this letter or the details therein.

Respectfully,



Mark McQueen  
Chairman

cc: The Hon. Denis Lebel, P.C., M.P.  
Minister of Transport, Infrastructure and Communities

The Hon. Glen Murray, MPP  
Minister of Transportation

Councillor Doug Holyday  
Deputy Mayor

Councillor Frank Di Giorgio  
Budget Chief

Councillor Denzil Minnan-Wong  
Chair, Public Works and Infrastructure Committee

Councillor Karen Stintz  
Chair, Toronto Transit Commission

Councillor Michael Thompson  
Chair, Economic Development Committee

Councillor Adam Vaughan



**Joseph Pennachetti**  
City Manager

**Robert Deluce**  
President and CEO, Porter Airlines

**Calin Rovinescu**  
President and CEO, Air Canada