

**Toronto
Port
Authority**



**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

November 13, 2012

Councillor Adam Vaughan
City of Toronto
100 Queen Street West
Toronto, Ontario M5H 2N2

Dear Councillor Vaughan:

Re: Toronto Port Authority and the Billy Bishop Toronto City Airport

I take this opportunity to address your recent statements on *The John Oakley Show*, and to clarify yet again your ongoing misrepresentations regarding various issues involving the Toronto Port Authority (“TPA”) and the Billy Bishop Toronto City Airport (“BBTCA”). As the correspondence over the past four years demonstrates, truth and fact does not always feature in your statements regarding these topics. This letter is in keeping with previous correspondence along similar lines regarding your many other misunderstandings and misrepresentations (June 27, 2008, August 28, 2009, October 20, 2010, December 1, 2010, September 13, 2011, March 23, 2012 and March 27, 2012), all of which are available, for transparency purposes, in the Executive Correspondence section at www.torontoport.com.

For ease of reference, I have included your various statements and/or claims from the November 9, 2012 airing of *The John Oakley Show* in italics:

“We’re doing a traffic study right now. We’ve done traffic counts. We’re remodelling the intersections. Bathurst and Lake Shore is a very problematic intersection, especially with the way fleet turns. We need to make sure that people move in and out of that community safely and efficiently. And the trouble is that every time we’ve tried to take steps to do this, someone in the Port Authority, usually the CEO [or] the board, has tried to sue us.”

As you know, the TPA has never sued you or the City of Toronto (or even threatened to) regarding this issue.¹ On March 9, 2012, you repeated the same falsehood to Global

¹ The only matter before the Courts during the past five years was a byproduct of obstacles that you had personally thrown up against the granting of a simple sidewalk work permit near the BBTCA. In the Superior Court of Ontario decision released in December 2008, Madam Justice D. A. Wilson advised that your refusal “to approve the work application submitted by the TPA constitutes a breach of the negative covenant set out in the *Tripartite Agreement* not to interfere with the safe use and operation of the Toronto

News in the context of your proposed installation of speed bumps in 2010; later, you privately retracted that claim in your March 23, 2012 email correspondence with the TPA, referring to it merely as a “threatening letter” and not a lawsuit.² We remain unaware of any threatened litigation.

We are, however, definitely aware that you recently utilized the tools of the local Community Council, which is dominated by anti-BBTCA representatives (unlike Toronto City Council as a whole), to erect a series of traffic-choking turn prohibition signs at the corner of Bathurst and Queens Quay. These restriction signs have dramatically increased traffic congestion, while at the same time not producing any enhanced pedestrian safety. This was confirmed last week by a representative of the Toronto Police Service at the multi-stakeholder meeting (which included City of Toronto delegates) on the issue.

As per my letter of March 27, 2012, the TPA has previously written to the City to provide a perspective that adding new speed bumps was an ill-conceived step and certainly not a solution to congestion. I note that you continue to completely ignore the fact that it is City of Toronto staff who originally recommended against the installation of speed bumps or other traffic calming measures on the streets leading to the BBTCA in 2010 because, as I understand it, i) the fact that Eireann Quay is a dead end, ii) Toronto Fire Services was opposed, and iii) speed bumps actually increase traffic congestion, rather than relieve it.

The airport’s operation and access are governed by the *Tripartite Agreement*. That legal agreement, which binds each of the TPA, Federal government and the City of Toronto, requires that access to the airport be preserved. From time to time, it has fallen to us to remind you of this obligation. Please don’t confuse these messages with “threats” to sue, for they are anything but. They are merely polite reminders that you are required to abide by the 1983 contract (the *Tripartite Agreement*) that governs the airport, which ensures unfettered airport access for the travelling public.

I’ll also take this opportunity to remind you that the construction of the Eireann Quay taxi corral, which was designed to temporarily relieve traffic congestion on Bathurst Street and was approved by Toronto City Council on July 12, 2011, is several months behind schedule due to your obstructionist tactics at various meetings of the Toronto and East York Community Council in the months that followed that formal approval; conduct which is consistent with the “obstructionist” point made by the one caller during your November 9, 2012 appearance on *The John Oakley Show*.

That obstructionist theme also arose in the December 2008 written decision of Superior Court of Ontario Judge D. A. Wilson regarding your refusal to grant the TPA a simple sidewalk work permit. 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 important to note that Mr. Vaughan, while clearly familiar with this area, is not an expert in the area of

City Centre Airport and a breach of its obligation to the TPA pursuant to the Lease Agreement for the Finger Lot to not unreasonably withhold its consent to the work requested on the Finger Lot.”

² See our correspondence to you dated March 27, 2012

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 you continue to demonstrate four years later, is to use any means in your grasp to undermine the efficient operation of the airport. To go against last weeks’ sound advice of Toronto Police Service regarding your new signage at the corner of Bathurst and Queen’s Quay, when Madam Justice Wilson has already determined that you are “not an expert in the area of vehicular traffic, pedestrian safety or roadway safety”, puts you at risk of i) being liable for traffic accidents and pedestrian injuries that arise, and ii) breaching the City’s existing contractual requirements under the *Tripartite Agreement*.

“The issue on the tunnel was ... was that ... was that the route that they are taking, we insisted that they need an environmental study because the disruption to the shipping channel. We insisted that they had to go through city property and that they were going to need an easement through city property. They said they didn’t. In the end, they did.”

You have been against the concept of the BBTCA pedestrian tunnel from the beginning. Your interview with *The Toronto Star*, as published on August 24, 2009, is indicative of your initial opposition to the project:

“It’s a bunch of money to help one particular airline, not the airline industry. It’s a bunch of money to move a few very privileged people, not taxpayers,” Vaughan said.

The TPA launched the Environmental Assessment (“EA”) for the pedestrian tunnel of its own volition, as it was a requirement of the *Canada Port Authority Environmental Assessment Regulations*. As far as we are aware, at no time have you “insisted” that such a study be undertaken due to a “shipping channel”; I’m not even sure your point has any bearing in logic as the pedestrian tunnel is being built beneath the Western Gap, without “disruption” to the water traffic served by The Port of Toronto.

The TPA gladly undertook the EA because it is a responsible public agency, following the laws as they applied to the project in question.

In terms of the tunnel’s route, the TPA always had the unilateral right to go under the northern ferry slip (as it is TPA-owned land): what we called the “dog-leg” route. As you know, the more direct underground route was under the City-owned dockwall, which would allow us to save up to \$3 million on the tunnel’s construction costs. The direct route was also the best approach for passengers with mobility challenges. On July 12, 2011, Toronto City Council approved the easement that allowed the tunnel to go the direct route; that was the right choice for BBTCA travellers, but not because another option wasn’t available as was described to you in my letter of December 1, 2010 (as copy of which is attached).

I note that City Council also accepted our offer³ to collocate the placement of the City of Toronto's new utility mains as part of the TPA's tunnel construction project; an agreement that you voted against, despite the direct health, safety and budgetary benefits to your constituents. This construction partnership allowed the City of Toronto to save \$10 million in costs that it would otherwise had to spend on this needed infrastructure; a collaboration that you and former Mayor David Miller refused to entertain on multiple occasions.⁴

It also prevented a duplication of the displacement, noise and congestion that area residents would have unnecessarily suffered had the two construction projects been undertaken separately. If you had prevailed at Toronto City Council on July 12, 2011, your constituents would have experienced far more inconvenience, an unnecessarily increased environmental impact and a larger price tag than will now otherwise be the case because of the sensible combination of the TPA pedestrian tunnel and City utility main projects.

“We told them that the \$40 million estimate was wrong. We were right. It’s \$80 million.”

The size and scope of the BBTCA pedestrian tunnel project has changed since 2009. The original pedestrian tunnel concept was both smaller and substantially shorter than what eventually became the final design. Many changes had to be made between 2009 and 2012 in light of the increasing popularity of the BBTCA. Given that this tunnel will serve the airport for decades, it wasn't prudent to ignore the increased utilization of the airport. As such, i) additional elevators and escalators had to be added, and ii) the tunnel was extended by greater than 50% to connect to the new air terminal building, rather than the airside-Ferry Passenger Terminal as had been originally planned. This increased the cost of the project as you would expect. The tunnel is an important piece of city infrastructure. It has to be done right. As you appear to need reminding, not one dollar of taxpayer money is being used to construct the tunnel, which is being financed out of Airport Improvement Fees paid by BBTCA passengers.

Moreover, the Airport Improvement Fee-funded tunnel construction cost compares very well to both the City of Toronto's \$39 million Simcoe Street underpass (on a per foot basis) as well as the \$51.5 million revitalization of Nathan Phillips Square (dramatically up from the original City construction contribution of \$16 million); each of which you funded with taxpayers' dollars. And neither of which are being done 10 stories underwater.

“And the increase in the flights that they sought we said would have to evict ORNGE. They said it wouldn't have to. ORNGE is being evicted. They're just in the delay of moving because of the controversy up at Queen's Park.”

³ Part of the motion approved at the July 12, 2011 Toronto City Council meeting

⁴ TPA letters to Mayor David Miller dated July 28, 2009, August 14, 2009, October 29, 2010.

As per my letter of September 13, 2011, a copy of which is attached, the TPA has not evicted Ornge. But you already know this. For publicly-stated operational reasons, Ornge had concluded that it should base itself in Hamilton. We understand those plans are now on hold, perhaps permanently, in part due to resistance to any move by Ornge's own pilots and staff.

On the "increasing flights" point, I take this opportunity to remind you once again of your previous claim that the BBTCA's 90 slot award in 2010, which resulted from the report by Jacobs Consultancy regarding the NEF Contour analysis, was in breach of the *Tripartite Agreement*. As was requested by then-Mayor Miller's administration, we provided the raw Jacobs data for use in the City's October 2010 "peer review" of the Jacobs' Report. As you know, the City's own independent "peer review" report confirmed the original Jacobs NEF Contour analysis, and as such, also confirmed that the TPA 2010 slot award was appropriate. Your accusation was false, yet again.

"If Porter Airlines and the Port Authority can't find a way to respect the community I represent, I stop them until they do."

We continue to try our best on that front, and I appreciate your honesty as to your desire to "stop" Porter and the TPA at every turn. Choking the intersection at Bathurst and Queen's Quay with new turn restriction signage is definitely your most inventive attempt yet to "stop" the airport.

Over the past 36 months, the TPA has pursued every available, practical initiative with regards to reducing the impact of the airport on the neighbouring community. Fortunately, your inability to collaborate hasn't prevented us from making great headway with the neighbourhood.

The impact of the 2009 Noise Contour Study, which led to the current 202 daily commercial airline slots, was mitigated by the 2010 decision of the TPA Board of Directors to grant no early morning or late evening slots during the 2010 and 2011 RFP processes that awarded the additional 90 commercial airline service slots (to reach the current 202 slots). In truth and fact, the BBTCA is among the most constrained airports in North America. The TPA successfully operates the BBTCA strictly within the limits prescribed under the existing *Tripartite Agreement*.

Traffic congestion in the area of the immediate vicinity of the airport has complex roots, and it is largely a result of extremely rapid residential growth in the area – and one presumes the new residents are well aware of the airport's presence, if not actually using it or being one of the 1,700 individuals whose employment is directly associated with the airport. You should ask yourself why, despite personally reviewing the various new condominium construction building permits in this part of the city, you never thought to plan for the necessary traffic improvements; your lack of foresight cannot be lost on our neighbours in the community, despite your transparent attempts to place the blame for this congestion solely on the airport's doorstep.

The permanent Airport Community Liaison Committee has met 7 times since it was created in 2011, in keeping with the recommendations of the Jacobs Consultancy Noise Management Study released on February 8, 2010. I note that you have personally attended only one of such meetings, despite requesting that a permanent slot be created for you. I assume your ongoing absence is an indication of the success this important forum has been for the community. If this wasn't the case, I assume you would be in attendance, demanding action.

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 recommendations⁵ aimed at mitigating the impact of the BBTCA on the neighbourhood. If you have any feasible ideas that would further mitigate the impact of the BBTCA on the neighbourhood, and I exclude closing the airport from any such list, please let us know.

I'll take this opportunity to remind you 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 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) all generated a decibel reading equal to or greater than a Q400 in either take-off or landing mode at the BBTCA.

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 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. And in certain areas of Scarborough, for

⁵ Such as the construction of the BBTCA noise sound barrier and measures to restrict aircraft engine run-ups and idling.

example, the Canadian National rail line runs through many a residential backyard at all hours of the day and night, carrying all kinds of poisonous or hazardous cargo.

Living in a City requires us all to deal with the reality of City life; the sounds just differ by neighbourhood. I challenge you to find a public agency that is more active in mitigating the impact of its essential business on its neighbours than the TPA.

The TPA's other recent community commitments include:

- 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.
- Financial support for the 2012 Reel Artists Film Festival, which was held at the TIFF Bell Lightbox from February 22-26.
- Financial support for Harbourfront's 2012 summer programming, following the TPA's successful 2011 role as Harbourfront's *Lead Summer Partner*.
- Support for the annual Disabled Sailing Association of Ontario regatta.
- Support for the World Wildlife Federation's Great Canadian Shoreline Cleanup.
- Leadership and financial support for the popular 2nd annual Sail-In Cinema August 18-20, 2012.
- Financial support for *ProAction, Cops & Kids*.
- 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.

--

Thank you for the opportunity to address your misrepresentations, yet again. If you would like any further detail, our team remains ready, as always, to assist.

Respectfully,



Mark McQueen
Chairman

cc: His Worship Mayor Rob Ford, City of Toronto

Councillor Doug Ford, City of Toronto

John Oakley, AM640

Enclosures

Appendix: AM640 Interview Transcript

TRANSCRIPT OF AM640 INTERVIEW
PREPARED BY CISON CANADA INC. / Cision RADIO/TV – OTTAWA
THE JOHN OAKLEY SHOW (5) (CFMJ-AM), Toronto, 09 Nov 2012, Time:
09:23am, Length: 00:06:11
DISCUSSION ON FUTURE AREA OF BILLY BISHOP AIRPORT

JOHN OAKLEY (CFMJ-AM): All right, let's get back into it. Our panel this morning, Doug Ford, Adam Vaughan, Spider Jones talking about the Toronto Island Airport, Billy Bishop Airport and they've got a big ceremony planned at 10 this morning. The two boring machines are going to start digging that tunnel and they'll unveil that amidst some very positive stats from a study commissioned by the Port Authority. And it's called the economic impact study.

Ipsos-Reid surveyed 700 residents of the GTA and the sampling was both south and north of Queen Street in Adam Vaughan's ward primarily. And of those surveyed in the area south of Queen Street, 88 per cent strongly or somewhat agree that Billy Bishop Airport is a valuable asset to the city.

And so it goes, questioning that, Adam, says well it's an industrial use and he's concerned for the citizenry.

There was a piece in the Globe and Mail I think recently where folks south of Front actually in your ward, that's a burgeoning area. It's really taken off, and there are a lot of people who are actually working around the airport for the very reason because the airport is there. It's an economic engine to that part of the community, isn't it?

ADAM VAUGHAN (city councillor): I understand the economic profile. We need to deal with the impacts.

UNIDENTIFIED MALE SPEAKER: We're the only city in North America, and I met some folks at an event the other day, that he actually can land, get off the ferry, and walk home. Another gentleman can walk to work and walk to the airport. It's the only airport in North America that can... you can do that.

ADAM VAUGHAN: So again, to the point that this is...

ADAM VAUGHAN: And if more people did that, we wouldn't have the congestion down there that they have to deal with.

So getting transit there, getting the shuttle bus working. In fact we had a big meeting this week with the port authority, with the folks from Porter, with the folks from Transport Canada and the neighbourhood and the school, working hard to figure out how to manage the traffic impact. That's the issue we have to deal with.

UNIDENTIFIED MALE SPEAKER: Well, you know, the meetings go on and on, but you have to understand the traffic down there remains the same.

ADAM VAUGHAN: No, that's the problem.

UNIDENTIFIED MALE SPEAKER: Listen, it's been a problem for many years the traffic in that area, jammed in. You get the good with the bad sometimes. I think it's a good economic engine for the city. It's very convenient and people coming from all over the United States or wherever they come into Canada through that airport, and they get a great experience. I love it.

ADAM VAUGHAN: I understand those arguments and understand where they're coming from, and I understand the popular opinion and the survey. I wouldn't call it an economic assessment study. But the issue we have to deal with is the congestion and the noise. And

there are communities and schools down there that deserve help from city hall. And as a representative, I'm going to make sure they get.

JOHN OAKLEY: Well, what would you do?

ADAM VAUGHAN: Not in a confrontational way.

JOHN OAKLEY: What would you say has been...

ADAM VAUGHAN: We're doing a traffic study right now. We've done traffic counts.

We're remodelling the intersections. Bathurst and Lake Shore is a very problematic intersection, especially with the way fleet turns. We need to make sure that people move in and out of that community safely and efficiently.

And the trouble is that every time we've tried to take steps to do this, someone in the Port Authority, usually the CEO of the board, has tried to sue us.

And we're making progress. I've got some new staff down there that understand they have to be a good neighbour. And as we resolve these issues, some of this controversy will fall away.

But let's focus on our responsibilities here at city hall. It's not just about fighting problems. It's also about solving problems, and that's what we're doing down there.

JOHN OAKLEY: All right, well, if we do address and solve these problems...

UNIDENTIFIED MALE SPEAKER: Well, I'm glad he agrees that we're solving a lot of problems down there.

ADAM VAUGHAN: I don't think you guys are. You guys are...

UNIDENTIFIED MALE SPEAKER: Yeah, I know. You're just a roadblock, Adam, down there.

ADAM VAUGHAN: We, I've twice in the last two weeks tried to bring up the issue of what we're going to do about Christie's. What's the solution?

JOHN OAKLEY: I'll get around to that here in a second. Let me take some calls and then...

(inaudible, speakers overlapping)

ADAM VAUGHAN: We have some serious economic issues on the horizon.

UNIDENTIFIED MALE SPEAKER: It's about reducing taxes to businesses. That's what it's about.

JOHN OAKLEY: Josh in...

ADAM VAUGHAN: So what's the strategy?

JOHN OAKLEY: Let's get Josh in here. Good morning. You're on the Oakley show.

CALLER: Hey, good morning, guys.

JOHN OAKLEY: Yeah.

CALLER: Hey, listen, Adam, I hear your points and I understand what you're saying. I use that airport constantly. I live down there, very close in fact. I'm in your ward. And I ... I couldn't live without that airport. I travel a lot for my business. It just wouldn't be viable to go to Pearson every other week to get on a plane.

Now you know, the majority of the vote, we live in a democracy and, you know, 80 plus per cent of the individuals who live in that area agree that this is a positive idea. So I think in this particular, you know, situation we have to perhaps be, you know, reactive rather than proactive because there's not going to be, you're not going to see every issue that comes our way.

I think we need to get it done, or we're going to have hypocrites like yourself, Adam, that are just going to stumble this on the entire way and it's never going to get done.

ADAM VAUGHAN: How am I being hypocritical?

CALLER: You've been hypocritical in the report that was just read about the tunnel. I mean, it goes on and on. I mean, the Ford brothers are doing a fantastic job.

ADAM VAUGHAN: On the tunnel issue, on the tunnel issue, there were construction issues.

CALLER: (Inaudible...) on the tunnel issue, my friend.

ADAM VAUGHAN: Pardon?

CALLER: You are the biggest ignorant in that... in that entire office.

JOHN OAKLEY: Well, wait a minute. Let's not get personal here. Just you're saying he was being... he was against the tunnel going through. That's the point?

Josh has hung up, all right.

ADAM VAUGHAN: The issue on the tunnel was ... was that ... was that the route that they are taking, we insisted that they need an environmental study because the disruption to the shipping channel. We insisted that they had to go through city property and that they were going to need an easement through city property. They said they didn't. In the end, they did.

We told them that the \$40 million estimate was wrong. We were right. It's \$80 million. And the increase in the flights that they sought we said would have to evict ORNGE.

They said it wouldn't have to. ORNGE is being evicted. They're just in the delay of moving because of the controversy up at Queen's Park.

UNIDENTIFIED MALE SPEAKER: Look at the bigger picture.

ADAM VAUGHAN: People see us raising these issues and say we're just being obstructionist. We're trying to manage the reality of the dynamic that's down there and make sure that the interests of the neighbourhood are not lost in all the hoopla around the love of Porter.

UNIDENTIFIED MALE SPEAKER: But did you not just hear that poll, Adam? Eighty-eight per cent of your own constituents want the airport. So get over it and work with them.

ADAM VAUGHAN: And even the ones who want it want it managed properly so that the neighbourhood is not negatively impacted.

UNIDENTIFIED MALE SPEAKER: I know, but you're a constant roadblock for the Port Authority. I hear it right from the Port Authority, he's constantly, constantly putting up a roadblock, non-stop. If it was up to Adam Vaughan, we wouldn't have an airport.

ADAM VAUGHAN: The Port Authority...

UNIDENTIFIED MALE SPEAKER: We wouldn't have Porter Airlines. We'd have a park there, I can assure you.

ADAM VAUGHAN: If Porter Airlines and the Port Authority can't find a way to respect the community I represent, I stop them until they do.

UNIDENTIFIED MALE SPEAKER: That's right.

ADAM VAUGHAN: Absolutely.

UNIDENTIFIED MALE SPEAKER: And the 2,000 job too.

JOHN OAKLEY: All right, we'll hold on to that thought and take more calls. We've also got these road cops who have been making the news. We have the Christie plant. Adam, you are agitating to talk about that and what we do as far as that's concerned. Does the city owe these folks anything?
