

**Toronto
Port
Authority**



**Administration
Portuaire
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May 5, 2014

Mr. Andrew Cash, M.P.
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. Cash:

I am writing to you in response to your April 30, 2014, statement in the House of Commons with regard to the Toronto Port Authority (TPA). You brought forward themes of accountability, legality and control of the Billy Bishop Toronto City Airport (BBTCA) in your statement, and I would like to take this opportunity to respond and provide you with information about our organization and its mandate.

Established under the Canada Marine Act, the TPA is a government business enterprise that is mandated to be financially self-sufficient. The TPA is accountable to the Federal Government through Transport Canada, and is guided by a nine-member Board of Directors composed of representatives from the Municipal, Provincial and Federal Governments. The TPA falls under the jurisdiction and oversight of the Federal Government, specifically the Ministry of Transportation, however the City of Toronto does have a direct governance relationship via its appointed representative to the TPA's Board of Directors. It is worth noting that, as with every other Port Authority or Crown Corporation, for example, the TPA's day-to-day affairs are managed by an arms-length Board of Directors.

It is also important to note that the City of Toronto is a signatory to the 1983 *Tripartite Agreement* and we work closely with the City of Toronto and see great value in collaborating with staff and Councillors on many municipal initiatives. The *Tripartite Agreement* governs the operations of BBTCA, and, like us, the City of Toronto is bound by it. The City of Toronto does not have the unilateral right to amend that agreement, as you appear to be advocating.

The *Tripartite Agreement* recognizes that the TPA operates a public airport facility, but on predominantly private lands owned by the TPA, not the City of Toronto, whose minority share of lands used are leased to the TPA. All buildings and structures at the airport are situated on TPA lands. The *Tripartite Agreement*, signed by the City of Toronto, recognizes that the TPA has the right, and obligation, to operate the BBTCA on its own behalf and not on behalf of the Minister of Transport. As well, the TPA "must administer, control, manage, and operate the airport in an efficient and business-like manner so as to ensure the most effective operation thereof that is consistent with good management aimed at meeting the overall objective of cost recovery."

The TPA is compliant with all laws, regulations and obligations within the *Tripartite Agreement*.

During Question Period, you made the comment that the TPA is acting as though it is “above the law” with respect to the airport’s administration. It would be instructive to understand to which specific law or set of laws you are referring. I am concerned that your source for this information appears to be a press release containing the same quote, issued on April 29, 2014, by a lobby group which referred to the TPA as a “rogue federal agency.” Both of these statements are patently untrue.

For 30 years, the TPA (and its predecessors) has operated the BBTCA under the aforementioned *Tripartite Agreement*. If terms within this agreement are to change, all parties must agree to that change; the fact that Porter Airlines proposed the introduction of commercial jet service at the airport is well understood. It is unclear how that private sector proposal, which may never again see the light of day on the floor of a future Toronto City Council, gives the current Council the right (legal or moral) to immediately and unilaterally impose caps on our airport’s Bombardier Q400 (ie. propeller-only) passengers. Indeed, such action would be a violation of the *Tripartite Agreement* as executed by the City of Toronto.

The City has outlined the manner in which it would like to consider changes to this agreement as far as jets are concerned, and the Toronto Port Authority has suggested that further information is required before specific cap figures can be settled upon under a jet scenario; the information we seek relates to the environmental impact of the Porter Proposal, for example.

Who on Council is not interested in the outcome of the proposed Environmental Assessment into Porter’s Proposal? Surely, the airport’s foes on Council would expect that the EA will be highly critical of the proposal, just as some of the airport’s fans might expect otherwise. We do not fear the results of the EA, whatever it may ultimately find.

This is perceived by some to be an alternative approach; this is true, and is legitimate given the TPA as an equal partner in the *Tripartite Agreement*. It is unclear why you believe that the City of Toronto should be able to unilaterally restrict the airport beyond the already highly-restrictive terms of the existing *Tripartite Agreement*.

As you will recall, former Mayor David Miller wanted to close BBTCA. Had he and his Council colleagues voted along those lines in 2010, are you of the view that the TPA should have closed the airport, even though only 12%¹ of Torontonians at the time were “dead set” against the BBTCA? Even if that Council vote were in breach of the *Tripartite Agreement*?

At the same time, if the elected body known as the Parliament of Canada theoretically directed the Minister of Transport to introduce jets at BBTCA, do you believe the TPA should comply with that form of unilateral action, despite Parliament being in violation of the government’s own signature on the *Tripartite Agreement*? In your view, which democratically-elected body should the TPA take direction from, even if that body is asking the TPA to violate the *Tripartite Agreement*?

¹ May-June 2010, Ipsos Reid Survey

As outlined in our letters to the City in the last few weeks, we are not opposed to the introduction of passenger caps at the airport. As you'll have seen from our correspondence, it was the TPA in fact that offered interim passenger caps in 2013, as approved by our Board last December. We simply believe that it would be premature to permanently and irrevocably institute caps on airport passengers prior to the completion of an Environmental Assessment, Runway Design, updated Master Plan and Precinct Plan, all of which were specifically called for by the November 2013 and March 2014 City Staff Reports. We cannot, in the absence of important information and study, agree to the City's demand to change to the *Tripartite Agreement* in a way that could negatively impact the economic viability of the airport or the passenger experience.

As you will well understand, there are several scenarios under which the current City of Toronto staff recommendation on the Porter Proposal will never see the light of day again, even if the TPA and Transport Canada agreed today to every single motion approved by City Council last month; as we both know, this Council cannot bind the incoming one. That does not make the questions posed by City Council unworthy of review, however, which is why we have begun to undertake the two key studies.

The TPA recognizes that we have an important role to play in building Toronto, serving citizens and working with the City, but we are also responsible for ensuring that we run our business units, and specifically the airport, effectively and make decisions that will impact the future of our business in an informed manner. That is required of us under the Canada Marine Act.

The Billy Bishop Airport has become a significant success, earning the support of 90%² of Torontonians who believe it is an important asset for Toronto. This is the byproduct of excellent airline services and a convenient location, that has been combined with effective administration and critical investment by the TPA. The airport will continue to fit within, and not overwhelm, the Toronto mixed-use Waterfront – of that you have our commitment. The TPA will continue to identify solutions that address community concerns such as traffic and congestion, and do the work that City Council has requested of us.

We remain open to every single constructive suggestion that you may have in that regard, and would be pleased to meet at your convenience.

Respectfully,



Mark McQueen
Chairman

cc: The Hon. Lisa Raitt, P.C., M.P.
Minister of Transport

² January 2014, Ipsos Reid Survey