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DATE: April 16, 2010

REPORT TITLE: **AMENDMENT TO BY-LAW 105-2009, UNDER THE RETAIL BUSINESS HOLIDAYS ACT TO PERMIT BUSINESS ESTABLISHMENTS IN THE VICINITY OF THE SQUARE ONE SHOPPING CENTRE TO BE OPEN ON HOLIDAYS**

FROM: Patrick O'Connor, Regional Solicitor
and Director of Legal and Risk Management

RECOMMENDATION

WHEREAS the Ontario Municipal Board (“OMB”) has sustained By-law 105-2009, being a by-law under the Retail Business Holidays Act to permit business establishments in the vicinity of the Square One Shopping Centre in the City of Mississauga to be open on holidays for the maintenance or development of tourism (the “By-law”);

AND WHEREAS the OMB has at the request of Council ordered certain amendments to the By-law in its Order issued on March 24, 2010 (the “Amendments”);

THEREFORE BE IT RESOLVED THAT the Amendments be enacted;

AND FURTHER, that the necessary amending By-law be presented to Council for enactment.

REPORT HIGHLIGHTS

- The appeal of Peel Region By-law 105-2009 has been dismissed on the condition that the Amendments are enacted by Council.
- The Amendments would have the effect of: i) reducing the area exempted from closing requirements on holidays to encompass only the property at 100 City Centre Drive; ii) extending the exemption to 6:00 p.m. on exempted holidays; and iii) including Family Day as an exempted holiday.
- The Amendments are acceptable to the applicant, Square One.
- The form of the necessary amending by-law is presented to Council with this report.

DISCUSSION

1. Background

By-law 105-2009 was appealed to the Ontario Municipal Board (“OMB”) and a mediation meeting was conducted on March 16, 2010. At the conclusion of the mediation meeting, the appellant, Mr. Leszek Pisarek, requested his withdrawal as a Party to the proceeding with the understanding that the remaining Parties (Square One and the Region) would seek the

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approval of an amended By-law under the *Retail Business Holidays Act* (the "Act"). On consent and at the request of the remaining Parties, the OMB converted the mediation into a hearing and rendered its decision and Order in the matter. In addition to the amendments to By-law 105-2009, the management for Square One Shopping Centre has agreed to post a notice to inform its employees of their right to refuse to work on a statutory holiday upon 48 hours notice to the employer. The management for Square One has also agreed to provide such a notice for each of the retail businesses located within the mall to be posted in each retail business establishment in an area visible and conspicuous to all employees.

2. Amendments

In accordance with the OMB Order, the staff recommendation to Council is to amend By-law 105-2009 with the following effects:

- a) Family Day would be included as an exempted holiday (presently not included);
- b) Retail businesses located in the exempted area would be enabled to open until 6:00 p.m. on an exempted holiday (presently 5:00 p.m.); and
- c) The exempted area would be reduced to the property at 100 City Centre Drive (presently also includes 99 to 309 Rathburn Road and 25 to 55 City Centre Drive).

A copy of the amending By-law has been attached as Appendix I to this report. Staff note that should Regional Council pass the amending by-law, its provisions would come into force and take immediate effect pursuant to Section 4.3(5)(b) of the Act.

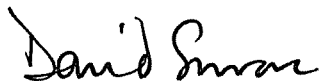
Square One management is supportive of the Amendments as well as the form of the amending by-law presented with this report.



Patrick O'Connor
Regional Solicitor

and Director of Legal and Risk Management

Approved for Submission:



D. Szwarc, Chief Administrative Officer

For further information regarding this report, please contact Patrick O'Connor at extension 4319 or via email at patrick.o'connor@peelregion.ca

Authored By: Robert Maciver

c. Legislative Services

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Appendix 1

THE REGIONAL MUNICIPALITY OF PEEL

BY-LAW NUMBER 33-2010

A by-law to amend By-law 105-2009, titled "A by-law under the *Retail Business Holidays Act* to permit business establishments in the vicinity of the Square One Shopping Centre in the City of Mississauga to be open on holidays for the maintenance or development of tourism".

WHEREAS on October 8, 2009, the Council of the Regional Corporation passed By-law 105-2009 pursuant to Subsection 4(1) of the *Retail Business Holidays Act* R.S.O. 1990, c. R.30 (the "Act");

AND WHEREAS, By-law 105-2009 provided permission for business establishments in the vicinity of the Square One Shopping Centre in the City of Mississauga to be open on holidays for the maintenance or development of tourism;

AND WHEREAS, By-law 105-2009 was appealed to the Ontario Municipal Board pursuant to Section 4.3 of the *Act*, as set out in Ontario Municipal Board Case No. PL090045 (the "Appeal");

AND WHEREAS, the Ontario Municipal Board issued its oral decision with respect to the Appeal on March 16, 2010, dismissing the Appeal on the condition that the Regional Corporation amend By-law 105-2009 in the manner directed;

NOW THEREFORE the Council of the Regional Corporation enacts as follows:

1. That Section 2 of By-law 105-2009 be deleted and the following substituted therefor:
 - "2. Any retail business in a retail business establishment located within the geographic boundaries delineated in Schedules "A" and "B" shall be permitted to sell and/or offer for sale any goods or services therein by retail on a holiday between the hours of 11:00 a.m. and 6:00 p.m. on the following holidays only:
 - a. New Years Day;
 - b. Family Day;
 - c. Victoria Day;
 - d. Canada Day;

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- e. Labour Day; and
- f. Thanksgiving Day.”
- 2. That Schedule “A” of By-law 105-2009 be deleted and the attached Schedule “A” be substituted therefor.
- 3. That Schedule “B” of By-law 105-2009 be deleted and the attached Schedule “B” be substituted therefor.
- 4. By-law 105-2009, as amended in accordance with sections 1 to 3 above, shall come into force and take effect immediately following the passing of this amending by-law, pursuant to Section 4.3(5)(b) of the *Act*.

READ THREE TIMES AND PASSED IN OPEN COUNCIL this 22nd day of April, 2010.

Regional Clerk

Regional Chair