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Ministry of the Environment
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Dear Ms. Berlin,

Please consider these comments as objecting to the form, content, and adherence to the law of the Terms of Reference document related to the GO Transit Environmental Assessment for the proposed changes to the Georgetown GO Transit service and the proposed Air Rail Link.

These projects have been difficult to disentangle from the beginning. Although the act applies to '*an enterprise or activity or a proposal, plan or program*' of a public body, or a major commercial or business enterprise, neither is the case with respect to the Air Rail Link. There is no proposal before you for an Air Rail Link. There is no proponent of an Air Rail Link. GO Transit, who submitted the Terms of Reference for the Minister's review, admits it is not a proponent of an Air Rail Link. It has no plan or proposal for an Air Rail Link. GO Transit wishes to increase its service on the Georgetown Rail line. It does not wish to install, build, or operate an Air Rail Link. Yet it is presenting a Terms of Reference document which purports to examine alternatives for an Air Rail Link. On whose behalf is somewhat of a mystery. We would therefore demand that until there is a proponent, who can respond to questions, consult with interested parties, and act with authority on the Terms of Reference and the Environmental Assessment itself, it is not in keeping with the Act to proceed on the portion of the Environmental Assessment which deals with the Air Rail Link. It is difficult to assess which alternative is an 'alternative to' something when there isn't something proposed.

In the alternative, should the minister find that a proponentless EA is appropriate to consider, we offer the following specific comment on the Terms of Reference.

Adherence to the Act.

The Act requires that a proponent examine and provide the environmental advantages and disadvantages to each of the alternatives to the undertaking. GO Transit does not purport to do this. They have not asked for an exception under 6.1 (3) of the act, therefore we can reasonably assume that they intend to meet the requirements of 6.1 (2). However the terms of reference clearly suggests that the alternatives to will not be environmentally studied, but rather will be examined to determine if they can be implemented at a reasonable cost. This reasonable cost is not defined anywhere in the Terms of Reference. It can be seen from the public record that this issue has dogged the process from the very beginning, and is the subject of many, many public comments. GO's response has always been that it is their intention to examine all alternatives. And this statement was made by GO when the Class EA was abandoned in favour of the full EA. But the public, rightly, does not agree that an analysis based on criteria such as 'reasonable cost' with an admission that they do not intend to fully examine the environmental issues of each potential routing, will give a fair or transparent result. By way of example, the 'Blue 22' option through Weston, according to the federal minister of Transport, will not cost 'one nickel' of taxpayer's money. We suspect this to be somewhat of an exaggeration, but GO Transit has refused to break out the actual cost of the 'Blue 22' option to the taxpayer. Given that one route can therefore be built at zero cost, how can any other route ever be seriously considered, according to GO's 'reasonable cost' cull of the potential options. We believe that an environmental assessment must provide environmental advantages and disadvantages, and GO will not be doing that for almost all of the 'alternatives to'. This makes a mockery of the assertion that they will be evaluating all possible alternatives, and in turn is in violation of the act. We have asked, and continue to ask, that all

alternatives be evaluated fully, on their environmental impacts. We therefore urge the minister to reject a Terms of Reference which describes an Environmental Assessment which will NOT evaluate or present the environmental advantages and disadvantages or all the 'alternatives to' for the Air Rail Link.

Places To Grow Act

GO has only recently added the 'Places to Grow' Act, and in particular the growth plan for the Greater Golden Horseshoe as part of its justification for the Air Rail Link. Yet they have excerpted the Plan out of context to justify their decisions. The Plan has some principles (See Section 3.2.3), including a preference for public transit. Yet the Air Rail Link as originally proposed, would not meet those principles. GO has also suggested by a reference to Schedule 5 (page 4) that the link to the airport from the Georgetown corridor is a decision already made by the province. Schedule 5 and accompanying documents clearly state that any markings are illustrative, not to scale, and are not indicative of final decisions. Without having had an opportunity to review the relevance of this Plan, including discussions with various provincial ministries, it is impossible for the public to determine if this is, in fact, a final decision of the government or merely a fuzzy grey line on a map. In addition, the Places to Grow act seems to favour neighbourhood connective transit systems, yet GO's Terms of Reference makes neighbourhood connectivity a secondary purpose to the Air Rail Link. This in turn means that even if neighbourhood connective transit is a desirable (and Plan mandated) possibility of one of the potential routes, if the neighbourhood connections get in the way of the prime purpose of ferrying business travellers between Pearson Airport and Union Station, those connections will not be an outcome of the EA. We have asked, and continue to ask, that in keeping with the spirit and intent of "Places to Grow" that the Terms of Reference be modified to indicate a preference for local benefits to any transit alternatives. Again we would urge the minister to reject a Terms of Reference which misinterprets the legislation of the province to justify its decisions.

Purpose of the Air Rail Link

One of the key elements of an Environmental Assessment is the notion that a public 'need' must be met, and that a major undertaking must be built to address that public 'need', and that the environment must be protected as far as it can be. GO Transit has not established a 'need' giving rise to the Air Rail Link. There have been numerous studies on the topic, most suggesting it was not a practical thing. GO tries to argue that Toronto would be at a competitive disadvantage if it did not have one of these. They have published lists of cities which have some form of link, but we feel it is comparing apples to oranges. Some of the links are commuter rail, some are subway-like, and only one or two are the kind of link originally proposed by the federal government. There is no backup documentation for the assertion about the competitive disadvantage. There is also no indication that the targeting of business and some tourist traffic is somehow to provide an environmental benefit, or serves a need not provided by any other means. For this reason, we believe the purpose of the undertaking to be seriously flawed. We urge the minister to reject a Terms of Reference whose underpinning is not based on a clearly documented and justified public 'need' or purpose.

Fatal Inconsistency

The Terms of Reference states

"1.1.6 Initiation of the Air-Rail Link Project

Working with GO Transit in determining possible funding for proposed GO Transit expansion, Transport Canada identified an opportunity to use excess capacity within the Georgetown Corridor to provide enhanced transportation service from Union Station to LBPIA. The work to determine the interest and feasibility of an Airport Transportation Link from Union Station to LBPIA was initiated in April 2001 when Transport Canada released a Request for Expressions of Interest (EOI) specifically for a rail link from Union Station to the LBPIA."

Later it also states: (page 12)

“Because of both track capacity and operating restrictions, commuter rail service between Union Station and Georgetown is currently limited to four peak period trains in the peak direction with some off-peak bi-directional service.”

This inconsistency presents yet another problem with the Terms of Reference. Again without a proponent for an Air Rail Link, we are faced with the notion that the rationale for the originally proposed Link was to take advantage of ‘excess’ capacity within the Georgetown corridor. Yet this selfsame EA purports to justify the GO expansion on the basis that there are capacity and operating restrictions which make it impossible to meet current needs. As the corridors referred to in the two paragraphs are the same, one statement is patently false. We cannot decide which one it is. We urge the minister to reject a terms of reference whose underpinnings are so clearly flawed and inconsistent.

Evaluation Methods

We have been advised by several EA experts, and by members of Provincial Parliament, that the Terms of Reference will be the bible by which the EA will be accomplished. Anything not in the Terms of Reference will simply be unchallengeable later. GO Transit would have us believe otherwise. When we have complained (as many have done) that we cannot tell from this terms of Reference what systems, yardsticks, or values they will use when making their environmental ‘trade offs’ they merely tell us that if they are unreasonable AFTER THE FACT, that we can ask the minister to reject the EA on that basis. We know that is a much more difficult hurdle to overcome. We fail to see why GO transit cannot, or will not, put into the terms of reference what measures, yardsticks, values etc. they will use when making their environmental ‘trade offs’. It will be impossible to fairly and confidently predict the outcomes of the environmental assessment if the evaluations methodology is completely unknown. We so request that a Terms of Reference which has no specific measures and values to indicate how these trade-offs will be made, be rejected by the minister as being vague and unintelligible by the public.

Socio-Economic environment.

This is a key portion of the act, and GO Transit has consistently given this item less than the desired attention. It is a key feature of the reason the village of Weston is reacting so strongly to this proposal. The Socio-Economic reality is that the village is on very shaky economic footings, particularly in the business centre of the town. Any disruption will have an immediate impact on the viability of the businesses and its Business Improvement Area or BIA's ability to function. The Blue 22 original proposal would have killed the economic hub. Even the modified proposal would have damaged it greatly. It is for this reason that the citizens want the socio-economics to be given the attention it deserves in this study. However, at most opportunities to respond to questions, GO refers to ‘nuisance effects’ and ‘access’ issues. They clearly don’t understand the fragile dynamics at work here. And their lack of concern was made very evident by their advice in response to a question that their socio-economic expert they have hired is a noise and vibration engineer. We have not found his credentials to include being a socio-economics expert. Hence we need some amendments to the Terms of Reference which will ensure that the socio-economic impacts of the various options will be studied in detail, by real experts, and with a real view to understanding the real potential impacts, and whether these are mitigable. Without these amendments, we must urge the minister to reject the Terms of Reference.

Mitigation

On a number of occasions, concerned citizens have demanded to know what GO will do if their property values decrease as a result of the incursion of these new trains. GO’s routine answer is to suggest that in some situations property values go up, and in some they go down. But they will look at it and try to build walls, etc. to return the area as best as possible to pre-construction condition. Unfortunately once again, we are hamstrung by having no proponent. GO Transit will not be building or running an ARL. As

designed it is fairly certain that Blue 22 would cause serious property value diminishing in any of the communities it whizzed by. They are right that some forms of transit do cause values to go up. Subways in particular have that effect, as local access to rapid transit is enhanced, thus nullifying the nuisance effect. However in this case, the plan does not include local access to rapid transit. Even if it were to stop in Weston the price makes it unreasonable as a local transit option. So there is virtually no chance that property values will go up. They have already gone down. Unfortunately, the notion of mitigation of this, either by purchasing depreciated property at pre-depreciation prices, or compensating losses directly, is not included in the terms of reference. And the proponent of the Air Rail Link, which is not a public body but a private, profit making consortium, can reap those profits at the expense of the properties along the line. They should be held to account, and without their presence at the EA, nor the specific reference to the possibility in the Terms of Reference, residents rightly presume they will get nothing. The terms of reference must include the possibility of property value compensation, in this circumstance. We ask that the minister reject a terms of reference which does not specifically include the concept of property value devaluation, and compensation for same as a method of mitigation.

Consultation

The development of a Terms of Reference is meant to include meaningful consultation with interested parties. The consultation so far has had a number of problems. Public notices of Public Information Centres apparently had the wrong day on the notice. We have no idea how many individuals did not have an opportunity to attend a Public Information Centre as a result of this. Neither public information centre in Weston had sufficient copies of the draft terms of reference for the public to peruse during the meeting. GO Transit held two Public Information Centres in Weston. The second was Wednesday, Sept 13 (advertised as Thursday, Sept 13). However, in the notices for the second meeting, GO advised the public that their deadline for comments on the Terms of Reference was August 11, 2006. The public therefore was understandably of the view that the Sept 13 meeting was a waste of time, as the deadline had passed. GO later agreed to accept comments after Sept 13, but this was not done as part of another public notice.

There were numerous problems with the Public Liaison Committee, and you can see from the 'minutes' that all of the meetings were heavy on process issues and left very little time for discussion or consultation on the Terms of Reference. We requested that the terms of reference creation itself be a consultative process. GO did not allow that type of process to take place, instead preparing a draft and asking for comments. They presumably had this 'draft' in their possession during the first meetings of the Public Liaison Committee, in spite of their assurances otherwise, as they have indicated in the public record that comments made in those early meetings caused changes to the terms of reference. GO refused to show us the final draft before it was submitted.

In addition several persons who wished to be part of the consultation process in the Public Liaison Committee were specifically denied that opportunity. GO initially used the size of the committee as a limitation, but when most of their invitees failed to show up, they then refused some on the grounds that there would be too many from one area, and others on the grounds that elected officials were not welcome.

Please see my letter to you of July 7 for additional comments on the lack of consultation.

My last letter to the "proponent", on September 22nd, was never replied to. Instead I only found the "proponent's" comments in the public record document attached to the terms of reference.

And finally, though we asked many times for a comprehensive analysis of the problem sought to be solved by the Air Rail Link, and sought reports and studies leading to that conclusion, most of the studies referred to in the Terms of Reference were never discussed, nor were copies made available to the PLC or the public. And the 'Places to Grow' act and the companion plan for the Greater Golden Horseshoe, were never discussed, nor was their linkage to the project indicated in any way prior to the publication of the document. It is a significant and alarming failing. Much of the justification for the project and its potential routing is alleged by GO to come from that legislation and plan, and there was no opportunity to

discuss or analyze this on this basis. Given our problems with the lack of a proponent and the general vagueness of the purpose, it should have been discussed vigorously by the interested parties, prior to the filing of the Terms of Reference.

Thank you in advance for your consideration of our comments.

Sincerely,

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