



**New Edinburgh Community Alliance**  
**Alliance communautaire de New Edinburgh**  
(NECA)

[www.newedinburgh.ca](http://www.newedinburgh.ca)

22 March 2019

**RE: Minto Bridges – Removal of Low Clearance Warning Structures**

Dear Mayor Watson,

Thank you for taking the time to discuss the Minto Bridges signage issue with me on March 19. We are happy to hear that you read the *New Edinburgh News* and that the article in the February 2019 issue triggered your interest.

During our call, I informed you that the desire of the community is to see the removal of the height restriction structures near the Minto Bridges. This is on the basis that:

- a) the structures are aesthetically inconsistent with the Heritage Conservation Designation (HCD) of the area which detracts from the heritage values of the Minto Bridges and the neighbourhood; and
- b) there is neither evidence nor a risk assessment that the structures are necessary, which is relevant since, as we understand it, they are not required under law.

You indicated that based on the legal and engineering advice provided, you are not permitted to remove the structures. Giving due respect to the Office of the Mayor, we believe you have the authority to accept or not accept the recommendations from your staff advisors in this circumstance.

You also noted that while you agree the structures are not very pleasant to look at, you can only offer to have them painted. You requested an answer to this offer from our association within 24 hours. We regret that we did not make your timeline.

We are respectfully asking that you reconsider your view that the structure may not be removed. NECA agrees that the safety of persons and property are vital and that the protection of the Minto Bridges as part of Ottawa's heritage is also of importance.

Your staff has relied on the Ontario Traffic Manual (OTM) as requiring the structures. The OTM is not legislation and accordingly is not an instrument of law. The purposes of the OTM, as provided in the forward, are to:

- provide information and guidance for transportation practitioners;
- promote uniformity of treatment in the design, application and operation of traffic control devices and system(...);
- provide a set of guidelines consistent with the intent of the *Highway Traffic Act*; and
- provide a basis for road authorities to generate or update their own guidelines and standards.

The OTM also provides the following:

- “Guidelines are provided in the OTM to assist in making those judgements, but they should not be used as a substitute for judgement.”
- “Design, application and operational guidelines and procedures should be used with judicious care and **proper consideration of the prevailing circumstances**. In some designs, applications, or operational features, the traffic practitioner’s judgement is to meet or exceed a guideline while in others a guideline might not be met for sound reasons, such as space availability, yet still produce a design or operation which may be judged to be safe. Every effort should be made to stay as close to the guidelines as possible in situations like these, and to document reasons for departures from them.”

Regardless of any mandatory-type language, the OTM remains a guidance document not designed to replace judgement and recognizes that discretion may be exercised not to follow the guidance.<sup>1</sup> Accordingly, we believe you have the authority to remove the structures.

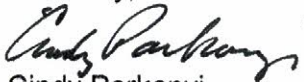
While there is no legal requirement to have the structures in place, we recognize that some risk of liability may arise without warning signs – risk is always present to some degree. However, in this case the risk is mitigated by the two existing height warning signs on the shoulder of the road approaching the bridges. Of note, it would most likely be financially impossible for the City to do everything outlined in the OTM. We understand that discretion is constantly being applied by the City’s policy decisions in prioritizing risk.

In light of the facts that the OTM is not law and recognizes judgement and discretion may be exercised, we respectfully ask that such discretion be used to find other ways to mitigate risk that result in the removal of the unsightly and inappropriate structures.

It is disconcerting that the City staff has taken this action without first consulting, leaving the residents in a position to undo a City action rather than work towards a mutual solution that would have saved time and money. It is incongruent that the City has provided New Edinburgh with beautiful heritage street signage and then erected highway 401-type structures in the area.

We very much look forward to your favourable reconsideration of this issue.

Sincerely,



Cindy Parkanyi

President, New Edinburgh Community Alliance (NECA)

cc:

Lowertown Community Association

MPP Nathalie Des Rosiers

NCC Chief Executive Officer Tobi Nussbaum

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<sup>1</sup> See: Ontario Court of Appeal decision *Fordham v. Dutton-Dunwich (Municipality)* 2014 ONCA 891 paras 51-53 – while the case referred to the word “should” rather than “must”, the principle remains that the OTM are guidelines that do not establish a legal enforceable standard of care.