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January 4, 2021

Mayor Dan Mathieson  
City of Stratford  
P.O. Box 818  
1 Wellington Street  
Stratford, ON N5A 6W1

Dear Mayor Mathieson,

**Re: Xinyi Float Glass Facility Proposal**  
**MZO O. Reg. 356/20 - Stratford, Ontario**

We represent the Wellington Water Watchers, and a number of citizens of the City of Stratford (the "City") regarding the Xinyi Canada Glass Limited float glass plant (the "Xinyi Facility") proposal in the City of Stratford, Ontario.

On December 4, 2020, we wrote your office sharing our unequivocal opinion that Stratford Council has the complete authority without legal liability to deny Xinyi's proposal for a \$6 million Cost Sharing Agreement. Further, the letter asked the City to request that the Minister of Municipal Affairs revoke the Minister's Zoning Order ("MZO") permitting the Xinyi facility while the MZO's integrity is in question. One month later, our clients have not had the courtesy of a reply.

Residents are eager to establish the sincerity of the City's current consultation. Specifically, has the City already bound itself contractually to Xinyi in a way in which there is no turning back its support? The City's website is contradictory on this point.

In response to these community concerns, this letter is a request for disclosure and poses several key questions:

1. Has the City signed a binding agreement with Xinyi Canada Glass Limited ("Xinyi") committing the City to the facility?
2. If the City signed a non-binding agreement, will Council put forward for a vote a Resolution to deny its support for the Xinyi Facility?
3. If not, what are the "conditions" Xinyi must meet to win Council approval?

4. Will Council disclose the non-binding (or binding) agreement it signed with Xinyi, and disclose the City's request for "additional information" being requested from Xinyi in response to questions asked by Council and the public, per the December 14, 2020 posting on the City's website?<sup>1</sup>
5. Were any of the requests to Minister Clark for an MZO authorized by Council? If so, was the decision made to issue the letters made in public, or in camera?
6. What are the Greenhouse Gas ("GHG") emissions of the proposed Xinyi Facility?
7. Will Council allow residents to post responses to Xinyi on the City's float glass plant webpage?

### **Background to the Request for Disclosure**

Most concerning to our clients is the exact nature of the contractual agreement already signed between Xinyi and the City. On the City's website, the question is asked at what point did the City enter into an agreement with Xinyi? The answer given is:

In November 2018, the City entered into a non-binding letter of intent with Xinyi Canada Glass Limited to build the company's first manufacturing facility in North America [emphasis added].

In addition, the City website goes on to ask an additional question: is the City obligated to enter into a contractually binding agreement with Xinyi? The answer to that question states:

The City did enter into a binding letter of intent with Xinyi Canada Glass Limited as it relates to the float glass manufacturing facility. Similar to all binding letters of intent entered into by the City, any obligations set out in that Letter of Intent are conditional upon approval of the agreement by Stratford City Council [emphasis added].

With respect, these two statements are contradictory. Did the City sign two letters of intent, one binding, and one not binding? The "binding" letter of intent presumably contains contractual obligations that bind the City to certain obligations, being the definition of "binding". If so, what are the binding obligations?

It appears Council may also approve or reject certain "obligations." If so, what are they? To avoid further confusion, our clients seek a copy of the above-noted Letter(s) of Intent immediately, so that the exact nature of Council's legal obligations may be known.

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<sup>1</sup> [tps://www.stratford.ca/en/inside-city-hall/xinyi-canada-glass-limited-project.aspx?fbclid=IwAR1nP22VgEfsz9g-d5Jgo53tWfK8nt3MSLER2SFJ13y-0E8SPMcsQt9do](https://www.stratford.ca/en/inside-city-hall/xinyi-canada-glass-limited-project.aspx?fbclid=IwAR1nP22VgEfsz9g-d5Jgo53tWfK8nt3MSLER2SFJ13y-0E8SPMcsQt9do)

Furthermore, it is of great importance to residents to establish the provenance of the letters from the Mayor to Minister Steve Clark, Minister of Municipal Affairs concerning the requests for an MZO. Numerous government sources are quoted as saying an MZO can only be issued after a request is received from a municipal Council. A review of the Agendas and Minutes of Council meetings leaves residents wondering, did Council ever authorize the Mayor to make the MZO requests?

### **Quantifiable Greenhouse Gas Emissions**

The City's website asks the question: what are the estimated GHG emissions for the facility? No answer is provided.

Instead, there is a misleading discussion of alternative ways the Xinyi Facility may be thought of as saving GHG emissions e.g. Canadians will buy energy efficient glass from Xinyi, transportation distances will be reduced, etc.

The statement, "With 100,000 households per year, the total reduction in carbon footprint per year is 70,000 metric tonnes" is misleading at best, and deceptive at worst. These are not emissions estimates - no one counts GHG emissions this way. Avoiding the question and providing a misleading answer to a critical question is exactly what someone would expect to hear from the Chinese government, not the City of Stratford.

It is respectfully submitted that the City's webpage GHG response amounts to cheerleading for the project and is being used as a promotional tool for Xinyi communications that lacks rigour and candor. Either the City knows what the GHG emissions from the Xinyi Facility will be and should disclose them, or it should confess Xinyi has not disclosed the GHG emissions to it.

As another example of cheerleading, in answer to the question "why did Xinyi pursue an MZO", Xinyi answered that Stratford and other municipal governments lack sufficient technical capacity.<sup>2</sup> With respect, hundreds of large industrial facilities have located in Ontario (in fact virtually every industrial plant) without resorting to an MZO to circumvent public consultation and the *Planning Act* process. With all due respect, taken at face value, this means the City is endorsing without dissent the proposition that it and every municipality in Ontario should seek an MZO for every development application beyond its technical expertise, which is ludicrous. Councils can and do engage outside experts to review development applications every single day – the City's website statement is disingenuous.

It is important Council vet these responses and comment before publishing blindly anything Xinyi desires. If Xinyi is allowed to post its "answers" directly to the City's website, will Council extend the same courtesy to residents?

In conclusion, our clients would like answers to the above-noted questions, at least fourteen days before Council puts the Xinyi Facility question to a vote.

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<sup>2</sup> [Xinyi Canada Glass Limited Project - Stratford](#)

Please do not hesitate to contact me at 416-572-0464, or by email to david@donnellylaw.ca, cc'ing alexandra@donnellylaw.ca and morgan@donnellylaw.ca should you have any questions or concerns.

Yours Truly,

A handwritten signature in blue ink, appearing to read 'D. Donnelly', with a horizontal line underneath it.

David R. Donnelly

cc. Client  
Council  
J. Thomson  
J. Gerber