

CITY OF TORONTO

BY-LAW No. 385-2012(OMB)

To amend Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 224 King Street West.

WHEREAS authority is given to the Council of a municipality by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass Zoning By-laws; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the By-law in return for the provision of such facilities, services or matters as are set out in the By-law; and

WHEREAS Subsection 37(3) of the *Planning Act* provides that, where an owner of land elects to provide facilities, services or matters in return for any increase in the height or density of development, the Municipality may require the owner to enter into one or more agreements with the Municipality dealing with the facilities, services and matters; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide the facilities, services and matters, as hereinafter set forth; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owner of such lands and the City of Toronto (hereinafter referred to as the "City"); and

WHEREAS the Official Plan of the City of Toronto contains provisions relating to the authorization of the height and density of development; and

WHEREAS Council at its meeting of August 25, 26 and 27, 2010 determined to support the coming into force of this By-law; and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this By-law; and

WHEREAS the Ontario Municipal Board, by way of Order PL091057 issued on February 28, 2012, following an appeal pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, determined to amend the former City of Toronto Zoning By-law No. 438-86, the General Zoning By-law, with respect to lands known municipally in the year 2009 as 224 King Street West;

THEREFORE, By-law No. 438-86, the General Zoning By-law of the former City of Toronto, as amended, is further amended by the Ontario Municipal Board as follows:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law including the provision by the *owner* of the *lot* of the facilities,

services and matters set out in Appendix 1 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 2 of this By-law.

2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services or matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
4. None of the provisions of Sections 4(2)(a), 4(5)(b) and (i), 4(10)(d), 4(12), 4(13)(a) and (c), 4(17)(a) and (b), 7(3) Part II 1(i) and 3, 7(3) Part II 7, 7(3) Part II 8(ii), 7(3) Part III 2 and 12(2)246 of Zoning By-law No. 438-86, of the former City of Toronto, as amended, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the erection or use of a *mixed-use building* on the *lot* provided that:
 - (a) the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the total *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* does not exceed 21,390 square metres, of which:
 - (i) the aggregate *residential gross floor area* erected or used on the *lot* does not exceed 20,740 square metres; and
 - (ii) the aggregate *non-residential gross floor area* erected or used on the *lot* does not exceed 650 square metres;
 - (c) the maximum number of residential *dwelling units* erected or used on the *lot* shall not exceed 234;
 - (d) a minimum of 420 square metres of *indoor residential amenity space* shall be provided on the *lot* in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom;
 - (e) a minimum of 210 square metres of outdoor *residential amenity space* shall be provided on the *lot* of which at least 40 square metres shall be provided in a location adjoining or directly accessible from indoor *residential amenity space*;
 - (f) subject to (g), no portion of the building or structure erected or used above *grade* is located otherwise than within the *lot* and wholly within the areas delineated by

heavy lines on the attached Map 2, subject to the following which may extend beyond the areas delineated by such heavy lines:

- (i) lighting fixtures, ornamental elements, trellises, window sills, planters, balustrades, guard rails, stairs, stair enclosures, wheelchair ramps and railings, and awnings and canopies which may extend a maximum of 3.0 metres beyond the heavy lines shown on Map 2;
 - (ii) an architectural feature located above a *height* of 151.0 metres may extend beyond the heavy lines shown on Map 2, subject to the following restrictions:
 - (a) the architectural feature may project up to a maximum of 7.2 metres south of the heavy lines shown on Map 2;
 - (b) the architectural feature may project up to a maximum of 3.6 metres north of the heavy lines shown on Map 2;
 - (iii) balconies and architectural features may extend up to 2.1 metres north and south of the heavy lines shown on Map 2; and
 - (iv) landscape and public art features are not subject to this subsection (f).
- (g) the *height* of any building or structure, or portion thereof including mechanical penthouse, does not exceed those *height* limits as indicated by the numbers following the symbol H on the attached Map 2, with the exception of the following:
- (i) railings, parapet walls, window washing equipment, stair towers, partitions dividing outdoor recreation areas and trellises, elements of a green roof, lightning rods, and exhaust flues, located above the *height* of each of the roof levels of the building provided the maximum vertical dimension of any such element does not exceed 2.0 metres;
 - (ii) an architectural feature may extend up to 6.0 metres above a *height* of 151.0 metres within the areas shown as permitting a maximum *height* of 151.0 metres on Map 2; and
 - (iii) landscape and public art features are not subject to this subsection (g);
- (h) a minimum of 100 *parking spaces*, including 3 *car-share parking spaces*, shall be provided and maintained on the *lot* for the use of residents of the *lot*;
- (i) no balconies are permitted on the east or west facing walls of the building;
 - (j) no windows are permitted on the east facing wall of the building below a *height* of 30.0 metres above *grade*;

- (k) no *parking spaces* shall be required for residential visitors or non-residential uses on the *lot*;
 - (l) the minimum width of a drive aisle shall be 5.55 metres;
 - (m) access to *parking spaces* may be provided by motor vehicle elevators, provided each motor vehicle elevator has a minimum width of 3.5 metres, is readily accessible at all times for the parking and removal of a motor vehicle and provided not less than two (2) motor vehicle elevators are provided and maintained in the building for the use of residents of the *lot*;
 - (n) a minimum of 176 *bicycle parking spaces -occupant* shall be provided and maintained on the *lot* for the use of residents of the *lot*;
 - (o) no *bicycle parking spaces – visitor* are required to be provided on the *lot*; and
 - (p) one *loading space – type "G"* shall be provided and maintained on the *lot*.
5. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:

"car share" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and to use a *car-sharing* vehicle, a person must meet the membership requirements of the *car-sharing* organization, including the payment of a membership fee that may or may not be refundable. Cars are reserved in advance and fees for use are normally based on time and/or kilometres driven;

"car-share parking space" means a *parking space* exclusively for a car used only for *car--sharing* purposes;

"grade" means 86.02 metres Canadian Geodetic Datum;

"height" means the vertical distance between *grade* and the highest point of the building or structure except for those elements otherwise expressly prescribed in this By-law;

"parking space" means an unimpeded area having minimum dimensions of 5.6 metres in length and 2.6 metres in width which is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another vehicle;

"publicly accessible open space" means the area of the *lot* located as shown on Map 2 which is not located within a building, which is privately owned, operated and maintained, and is open and accessible to the public at all times, every day of the year, and is subject to an easement with the City; and

"sales office" means an office located in a temporary building, structure, facility or trailer satisfactory to the City's Chief Planner and used exclusively for the initial sale and/or

initial leasing of *dwelling units* or *non-residential gross floor area* to be erected on the *lot*.

6. A temporary *sales office* shall be permitted on the *lot*.
7. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
8. Building permit issuance with respect to the lands to which this By-law applies shall be dependent upon satisfaction of the provisions in this By-law and in the Section 37 Agreement relating to building permit issuance, including the provision of monetary payments and the provision of financial securities.
9. No person shall use any land or erect or use any building or structure on the *lot* unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
 - a. All new public roads have been constructed to a minimum base curb and base asphalt and are connected to an existing public highway; and
 - b. All water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

PURSUANT TO THE ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED FEBRUARY 28, 2012 IN BOARD FILE NO. PL091057.

Appendix "1"
Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for no credit for development charges, indexing escalation of the financial contribution and any letters of credit, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of both agreement and easement:

- (1) the *owner* shall provide and maintain a minimum of 10% of the *dwelling units* as three or more bedroom units;
- (2) prior to the issuance of the first above-*grade* building permit for any building on the *lot*, excluding a temporary *sales office*, the *owner* shall pay to the City the sum of \$1,000,000.00, such funds to be used towards one or more of the following:
 - (i) streetscape improvements to John Street;
 - (ii) capital improvements to public housing in Ward 20; and
 - (iii) a King Street West Heritage Conservation District study.

Such cash amount is to be indexed in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the sum by the *owner* to the City;

- (3) prior to the issuance of the final building permit for a building on the *lot*, excluding a temporary *sales office*, the *owner* shall provide and register to the satisfaction of the City Solicitor a non-exclusive easement in perpetuity, in favour of the City of Toronto, to take effect 12 months after first occupancy of the building, for use by the City and the general public as publicly accessible, privately owned, open space, over the forecourt located south of the building and more particularly identified on Map 2 as *Publicly Accessible Open Space*, extending approximately 14.5 metres in depth from the south property line and having a width of approximately 15.28 metres, such lands to be provided and maintained at the *owner's* expense;
- (4) the *owner* shall comply with the City's 1% for public art program, with 50% of the public art to be provided on the portion of the *lot* located south of the southerly 23.0 metre height area shown on Map 2;
- (5) the *owner* shall provide and maintain exterior building materials generally as shown in the 1:50 scale elevation drawings dated October 15, 2010 with building materials labelled, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

- (6) the *owner* shall prior to the issuance of any building permit for a building on the *lot*, including excavation and shoring but excluding any building permit for a temporary *sales office*:
- (a) undertake and complete a building assessment of the condition of the Royal Alexandra Theatre and 220 King Street West;
 - (b) prepare a construction monitoring program in respect of the Royal Alexandra Theatre property (260 King Street West) and the property located at 220 King Street West, which shall be maintained during all of the construction; and
 - (c) take out, and thereafter maintain during all of the construction, appropriate insurance to protect the Royal Alexandra Theatre and 220 King Street West, in respect of all construction required for the completion of the development permitted by this By-law;
- all to the satisfaction of the City's Manager, Heritage Preservation Services; and
- (d) the *owner* shall repair any damage caused by the construction of the development, to the Royal Alexandra Theatre and 220 King Street West, as may be identified by the construction monitoring program, to the satisfaction of the City's Manager, Heritage Preservation Services.
- (7) the *owner* shall enter into and register on title to the *lot* one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning Division, to secure the facilities, services and matters set forth in this Appendix 1.



