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Matter No. P752-01

May 18, 2018

DELIVERED VIA EMAIL

Mayor John Tory and Members of Council
c/o City Clerk's Office
City of Toronto
13th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M4H 2N2

**Attention: Ms. Ulli S. Watkiss,
City Clerk**

Your Worship and Members of Council

**RE: TOcore: Downtown Plan Official Plan Amendment
- City Council Meeting Agenda Item No. PG29.4
- Ed Mirvish Enterprises Limited
- 322 King Street West**

We are the solicitors for Ed Mirvish Enterprises Limited, the owner of the lands municipally known as 322 King Street West in the City of Toronto (the "**Property**"), which is the subject of an active development application.

We have reviewed the proposed Downtown Plan Official Plan Amendment (the "**Downtown Secondary Plan**") as it would apply to the Property, and are writing to register concerns with and objections to the proposed Downtown Secondary Plan on behalf of our client. These relate to both the procedural implementation of the Downtown Secondary Plan, and to the substantive policies of the Plan as proposed.

For the reasons that follow, we request that this matter be deferred, to allow the public meaningful opportunity to assess the impacts of these policies, and to allow City Staff to remedy the significant issues that exist with the plan in its current form.

Our client's concerns with the Downtown Secondary Plan include, but are not limited to, the following:

1. Absence of Transition Provisions

As proposed, the Downtown Secondary Plan does not contain transition provisions, which are critical to prevent prejudice to landowners or developers with development projects and

applications that are already underway. Staff have in fact recommended that the proposed policies inform the evaluation of both current and future development applications in the Downtown Secondary Plan area. For development proposals that are already in progress, having been planned and submitted under the existing policy regime, this approach threatens to prejudice property owners, developers, investors and any other parties involved in the development process, including our client as owner of the Property.

The Downtown Secondary Plan should be revised to exempt pre-existing applications and approved developments, in keeping with long-standing principles of fairness and certainty that are the foundation of the planning system in Ontario.

2. Inconsistency and Conflict with Provincial Policy Statement and Provincial Plans

The proposed Downtown Secondary Plan also contains a number of policies that unduly restrict residential development and are in conflict with the existing and planned context of downtown Toronto. These policies are inconsistent with those of the Provincial Policy Statement 2014, and do not conform with those of the Growth Plan for the Greater Golden Horseshoe 2017, both of which call for residential development and intensification within the boundaries of what is proposed to be the Downtown Secondary Plan area.

Furthermore, the proposed Downtown Secondary Plan contains new designations and policies that impose overly prescriptive performance and built form standards, including mandatory residential unit mix, type, and size, building heights and setbacks, and the location and layout of interior amenity space. In addition to policies that require minimum non-residential gross floor area in new developments and that prohibit net-new shadows on parks and open spaces, these policies will jeopardize the viability of future development.

It is not clear how the proposed policies achieve conformity with the Growth Plan, nor consistency with the Provincial Policy Statement 2014.

3. Inappropriate Use of Section 26

Notwithstanding the significant concerns noted above, the adoption of the Downtown Secondary Plan is being undertaken pursuant to Section 26 of the *Planning Act*, with final approval to be sought from the Minister of Municipal Affairs. In support of this approach, Staff remark that this process "represents a partial conformity exercise" for the Growth Plan 2017. However, despite the significant amendments made to the *Planning Act* in recent months, it is unclear what statutory authority exists for this "partial conformity" exercise. Any efforts to bring the Official Plan into conformity with the Growth Plan should take into account the Official Plan as a whole, rather than seeking "partial conformity" on an area by area basis.

Moreover, reliance on approval by the Minister pursuant to Section 26 eliminates any further opportunity for stakeholders, including our client, to challenge any flaws or defects in the plan, due to recent changes to the *Planning Act*. This circumstance underscores the importance of further deliberation on the part of the City, and sober reconsideration of the issues outlined above.

Please accept this letter as notice of our client's objections to all policies, plans, maps, or any other parts of the proposed Downtown Secondary Plan that relate in any way to the Property. Furthermore, we ask that this matter be deferred to allow for further consultation with impacted landowners.

We respectfully request notification of any further actions or decisions made by City Council respecting this matter.

If you have any questions or concerns about the matters discussed above, please contact the undersigned.

Yours very truly,

Devine Park LLP

per: Michael Cook

Patrick J. Devine
PJD/AEF/MAC

cc: client