

CONFIDENTIAL ATTACHMENT 2

OPA 352 – Downtown Tall Building Separation Institutional Appeals – Terms of Settlement

1. Additional OPA 352 policy language:

The City and the Institutional Appellants agree to seek to have the following Policy (ix) added to the modified version of OPA 352:

“Buildings or parts of buildings for institutional uses make unique contributions to building strong and healthy communities and typically have programmatic requirements that result in different tall building typologies and setbacks. When establishing new zoning by-law provisions and when considering site specific development applications for institutional uses, Policies (i) through (v) shall be interpreted and applied to ensure the continued growth and sustainability of institutional uses, and to recognize the programmatic requirements of institutional uses and related built form requirements, including but not limited to, larger floorplate sizes, taller floor to ceiling heights, mechanical requirements, and physical connections to adjacent institutional buildings.”

Schedule A attached hereto shows the updated policies in their entirety, which the City and the Institutional Appellants will jointly support at the LPAT hearing of the appeals. No further revisions to the policies shall be sought by the Institutional Appellants.

2. Revisions to Implementing Zoning By-laws:

The City and the Institutional Appellants agree that lands zoned Q (Zoning By-law 438-86) or in an Institutional Zone category (Zoning By-law 569-2013) shall be exempt from the provisions of the OPA 352 Implementing Zoning By-laws 1106-2016 and 1107-2016, provided such lands are used only for uses that are permitted in such zones.

Schedule B attached hereto includes draft language to be incorporated into Zoning By-laws 1106-2016 and 1107-2016, to implement the above. The parties acknowledge that this language is subject to review by Toronto Buildings and the City's Zoning By-law Team, and may be further refined before approval by the LPAT, provided it implements the principles set out herein.

The Principles:

- The exemption will apply to all of the uses permitted in the Q zone (438-86) and/or in an Institutional Zone (569-2013).
- The exemption is based on the use alone and not subject to compliance with other by-law regulations (e.g. parking rates).

- The exemption should not apply to new uses which are added to the Q zone (438-86) or an Institutional Zone category (569-2013) through future site specific amendments, however,
 - uses that come into force retroactively as part of the resolution of the general appeals with respect to 569-2013, are to be exempted;
 - uses permitted in the IS zone (under appeal and not in force) should be exempted once the IS use provisions come into force; and
 - the few additional uses in the May 2020 consolidation of 569-2013, which were not in the November 8, 2012 Council adopted version, for example, a medical office has been added as a permitted use without conditions in an IH zone, should also be exempted.

By-laws 831-80 and 912-2009 shall be added to the list of prevailing by-laws for UHN properties (Toronto Western Hospital).

The City Solicitor shall request authority of Council to support any necessary changes to Zoning By-laws 1106-2016 and 1107-2016 to implement this proposed settlement at the LPAT hearing of the appeals. No further revisions to the implementing by-laws shall be sought by the Institutional Appellants.

3. Further Site Specific Adjournments:

The City and the Governing Council of the University of Toronto shall jointly request that Appeal numbers 165, 166 and 167 be split as follows:

- 165.1; 166.1; and 167.1 – whole plan appeals (which are resolved pursuant to this settlement)
- 165.2; 166.2; and 167.2 – which shall be scoped to 698-706 Spadina Avenue and 54 Sussex Avenue, and shall be requested to be adjourned *sine die* on the Tribunal-endorsed terms of adjournment as attached as Appendix 2 to the LPAT Decision issued in PL161316 on January 23, 2019.

The City and Ryerson University shall jointly request that Appeal number 71 be split as follows:

- 71.1 – general appeal for the area bounded by Wood St. (north), Bay St. (west), Shuter St. (south) and Jarvis St. (east) with respect to OPA 352; All Ryerson University lands with respect to appeals of TOCore zoning by-law amendments 1106-2016 and 1107-2016 (which are resolved pursuant to this settlement)
- 71.2 – which shall be scoped to 202 Jarvis Street and 160-166 Dundas Street East, and shall be requested to be adjourned *sine die* on the Tribunal-endorsed terms of adjournment as attached as

4. Other:

The City agrees to provide a draft affidavit to counsel for the Institutional Appellants (prior to filing with the Tribunal in support of the settlements) for review and comment with respect to:

(a) Tower separation and agreements (as referenced in OPA 352 Policy iii) c)); and

(b) In response to the concerns of the TCDSB, the affidavit will acknowledge that the policy in Section 1. of this document (OPA 352 new Policy ix)), applies to public schools, including public schools located in podiums.

The above reflects a full resolution of all institutional appeals.

Schedule A

PROPOSED MODIFICATIONS TO OFFICIAL PLAN AMENDMENT NO. 352 WITH INSTITUTIONAL POLICY LANGUAGE

DOWNTOWN TALL BUILDINGS

- i) Tall building development will generally provide setbacks from the lot lines to the tower portion of the building in order to achieve appropriate separation distances between towers. Appropriate tower separation will seek to ensure that individual tall buildings on a site and the cumulative effect of multiple tall buildings within a block will contribute to building strong healthy communities and will fit in with the existing and/or planned context.
- ii) In order to achieve the objectives in Policy (i), the Zoning By-law will contain minimum numerical standards for tower setbacks from property lines and for separation distances between towers on the same site in the area governed by this SASP. Relief from these standards may be permitted through rezoning or minor variance provided that appropriate space between towers will:
 - a) provide a high-quality, comfortable public realm;
 - b) consider development potential, where appropriate, of other sites within the block;
 - c) appropriately limit shadow impacts on the public realm and surrounding properties;
 - d) provide appropriate access to natural light and protect privacy for occupants of tall buildings;
 - e) provide appropriate pedestrian-level views of the sky between towers as experienced from adjacent streets, parks and open spaces;
 - f) appropriately limit and mitigate the impacts of uncomfortable wind conditions on streets, parks, open spaces and surrounding properties.
- iii) When reviewing minor variance or re-zoning applications, and in determining whether the policy objectives of (ii) are met, the existing and planned context of a site will be considered, including but not limited to the following considerations:
 - a) the use of the proposed tall building and adjacent properties;
 - b) the physical relationship between tall buildings, including the extent to which the buildings can be located, oriented and designed to mitigate impacts; and/or

- c) development potential, where appropriate, of other sites within the block, including agreements, such as limiting distance agreements, heritage easement agreements, or air rights agreements, between landowners and the City.
- iv) Not every site in the area governed by this SASP can accommodate a tall building. Where a block is comprised of multiple small sites, a comprehensive block planning process may be used to locate and design tall buildings to meet the intent of this SASP.
- v) The policies in this SASP are not intended to apply to mid-rise buildings and may be applied to other tall building typologies that differ from the tower-base form, where appropriate.
- vi) Any site or area specific policy within the Central Waterfront Secondary Plan Area will prevail over this SASP.
- vii) The property municipally known, as of the year 2016, as 141 Bay Street is excluded from the policies of this SASP.
- viii) In the event of conflict, any policy contained within the University of Toronto Secondary Plan will take precedence over the policies and maps of this SASP.
- ix) Buildings or parts of buildings for institutional uses make unique contributions to building strong and healthy communities and typically have programmatic requirements that result in different tall building typologies and setbacks. When establishing new zoning by-law provisions and when considering site specific development applications for institutional uses, Policies (i) through (v) shall be interpreted and applied to ensure the continued growth and sustainability of institutional uses, and to recognize the programmatic requirements of institutional uses and related built form requirements, including but not limited to, larger floorplate sizes, taller floor to ceiling heights, mechanical requirements, and physical connections to adjacent institutional buildings.

Schedule B

DRAFT PROPOSED MODIFICATIONS TO BY-LAWS 1106-2016 and 1107-2016 TO PROVIDE FOR INSTITUTIONAL USES

438-86 / 1106-2016

(8) None of the provisions of section 12(2)380 of this By-law shall apply to prevent the erection or use of a building or structure on lands zoned Q, provided the use of such building or structure is a use identified as permitted in the Q zone as of November 9, 2016.

569-2013 / 1107-2016

(3) Building in Institutional Zone Category

None of the provisions of Article 600.10.10 Building Setback Overlay District "A" apply to prevent the erection or use of a **building** or **structure** on lands located within a zone in the Institutional Zone category as set out in Article 1.40.80, provided the use of such **building** or **structure** is a use identified as permitted in an Institutional Zone category, as of [date to be agreed, or removed].

Note: this language is subject to review by Toronto Buildings and the City's Zoning By-law Team, and may be further refined before approval by the LPAT.