

**CITY OF TORONTO**

**BY-LAW No. 903-1999 (OMB)**

**To amend By-law No. 438-86  
with respect to 250 Wellington Street West and 5 Mercer Street.**

WHEREAS the owner has appealed to the Ontario Municipal Board for an Order amending By-law No. 438-86 of the former City of Toronto as it applies to 250 Wellington Street West and 5 Mercer Street; and

WHEREAS the owner and the City have agreed to settle the matter on the terms set out in this by-law; and

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

WHEREAS the owner of the lands described in this by-law has elected to provide the facilities, services and matters set forth;

NOW THEREFORE, pursuant to Order No. 2092 of the Ontario Municipal Board, issued on November 17, 1999, By-law No. 438-86 of the former City of Toronto is amended as follows:

**1.** None of the provisions contained in Sections 4(2), 12(2)246(a) and 270(b)(ii)(d) of By-law No. 438-86 of the former City of Toronto, 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 and use on the *lot* of buildings or structures provided:

- (1) the *lot* on which the buildings or structures are located consists of at least the lands shown outlined by heavy lines on the Map attached to and forming a part of this by-law;
- (2) no portion of such buildings or structures erected or used on the *lot* is located above the *height* limits in metres following the symbol “H” as specified on the attached Map exclusive of rooftop structures and elements permitted by and complying with section 4(2)(a)(ii) of By-law No. 438-86 provided that the *height* of the top of all such structures and elements does not exceed the sum of 1.5 metres and the *height* limit as shown on the attached Map;
- (3) subject to paragraph (4), such buildings or structures, at or above *grade*, are located wholly within the “Building Envelope” as shown on the attached Map;

- (4) the types of structures listed in the column entitled “STRUCTURE” in the chart set out in section 7(3) Part II 7 of By-law No. 438-86 may be located wholly or partially outside of the “Building Envelope”, provided that the restrictions set out opposite the structure in the columns entitled “MAXIMUM PERMITTED PROJECTION” and “OTHER APPLICABLE QUALIFICATIONS” in that section are complied with;
- (5) any portion of such buildings or structures erected within the “Setback Zone” as shown on the attached Map is set back for a minimum of 50 per cent of the *frontage* within the “Setback Zone” shown on the attached Map;
- (6) the uses located in such buildings or structures comply with the setback requirements set out in paragraph 12(2)270(b) of By-law No. 438-86 and the width of each building equals a distance that is not less than 84 per cent of the aggregate length of the portion of the *frontage* of the *lot* abutting a *street*, excluding any vehicular access required by By-law No. 438-86; and
- (7) the density of development is permitted by this by-law subject to the *owner* or *owners* providing a *public art program* having a value equal to or greater than 1 per cent of gross construction costs and entering into an agreement satisfactory to the City, pursuant to Section 37 of the Planning Act to secure the *public art program* with the agreement registered against title to the lands.

2. For the purposes of this by-law:

- (1) “*public art program*” means “site specific art works created to enhance publicly accessible spaces, either private or City-owned, through artistic interpretations that range from independent sculpture to integrated architectural treatment and landscape design.”: and
- (2) each other word or expression which is italicized in this by-law shall have the same meaning as each such word or expression as defined in By-law No. 438-86.

PURSUANT TO THE DECISION OF THE ONTARIO MUNICIPAL BOARD ISSUED NOVEMBER 17, 1999 IN BOARD FILE NO. PL968194.

