

CITY OF TORONTO

BY-LAW No. 7-2013(OMB)

To amend Zoning By-law No. 438-86 of the former City of Toronto, as amended, with respect to the lands municipally known as 42 Charles Street East and 39 Hayden Street.

Whereas the Ontario Municipal Board, pursuant to its Order issued September 21, 2012 in relation to Board Case No. PL120212, determined to amend Zoning By-law No. 438-86 of the former City of Toronto;

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:

1. None of the provisions of Sections 2(1) with respect to *grade* and *height*, 4(2)(a), 4(5)(b), 4(13)(a) and (c), 8(3) PART I 1 and 3(a), 8(3) Part II 1 and 12(2)84 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 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 *residential building* on the *lot* provided that:
 - (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the total aggregate *residential gross floor area* erected on the *lot* shall not exceed 29,461 square metres;
 - (c) the maximum number of residential *dwelling units* erected or used on the *lot* does not exceed 474;
 - (d) the *height* of each portion of a building or structure erected above *grade* on the *lot*, in respect of each *building envelope* area, have a maximum *height* in metres as shown following the symbol "H" on Map 2 for the corresponding *building envelope* area, including mechanical and roof top elements, except for:
 - (i) railings, parapet, window washing equipment, stair towers, terrace guards and dividers, planters, lightning rods, exhaust flues, landscape features, aircraft warning lights and decorative screens extending to a maximum vertical projection of 2.0 metres above the *height* limits shown on Map 2;
 - (e) no portion of the building or structure erected on the *lot* shall be located above *grade* other than wholly within the *building envelope* area delineated by heavy lines on the attached Map 2 subject to the following:
 - (i) cornices, eaves, vents, safety or wind protection, lighting fixtures, ornamental elements, trellises, window sills, planters, balustrades, guard rails, stairs, stair enclosures, wheelchair ramps, railings, landscape and

public art features, awnings and canopies, all of which may project beyond the *building envelope*; and

- (ii) balconies and balcony piers located above the third *storey* which may project beyond the building envelope to a maximum of 1.5 metres;
 - (1) balconies located on the west and east facing walls shall have translucent balcony glass railings;
- (f) a minimum of 1 *bicycle parking spaces* per unit shall be provided and maintained on the *lot* for the residents of and visitors to the building in accordance with the following:
 - (i) for residents, a minimum of 0.8 *bicycle parking spaces - occupant* per unit, that shall be located in a secured room; and
 - (ii) for *visitor*, a minimum of 0.2 *bicycle parking spaces - visitor* per unit:
 - (1) may be provided at level P1;
 - (2) may be located in a secure room; and
 - (3) may be located in a bicycle locker;
- (g) a minimum of 172 *parking spaces*, in accordance with the following:
 - (i)

Type of Unit	Parking Ratio
Bachelor	0.19 space/unit
1 Bedroom Unit	0.31 space/unit
2 Bedroom Unit	0.47 space/unit
3 Bedroom Unit	0.74 space/unit
Residential Visitor Parking	6 spaces
 - (ii) provided further that a reduction of five resident parking spaces will be permitted for each car-share parking space provided and that the maximum reduction permitted by this means be capped by the application of the following formula:

$$5 \times (\text{Total Number of Units} \div 60), \text{ rounded down to the nearest whole number; and}$$
- (h) a temporary sales presentation centre shall be permitted on the *lot*, and none of the other provisions of this By-law shall apply to such use.

2. 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 and in return for 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 the subject to the agreement referred to in Section 3 of this By-law.

3. 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 and 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.
4. 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.
5. Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure 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 of 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.
6. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
7. Definitions

For the purpose of this By-law, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended except that the following definitions shall apply:

- (i) "*building envelope*" means a building envelope for each *height* area as shown by an "H", and as delineated by the heavy lines on Map 2 attached hereto;
- (ii) "*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 where such organization may require that use of cars to be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
- (iii) "*car-share parking space*" means a parking space that is reserved and actively used for car-sharing;
- (iv) "*City*" means the City of Toronto;

- (v) "*grade*" means 115.0 metres above Canadian Geodetic Datum;
- (vi) "*height*" shall mean 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;
- (vii) "*lot*" means at least the lands delineated by heavy lines shown on Map 1;
- (viii) "*owner*" means the registered *owner* of the *lot* or any part thereof; and
- (ix) "*temporary sales office*" means a temporary building, structure, facility or trailer on the *lot* used exclusively for the purpose of the initial sale of *dwelling units* to be erected on the *lot*.

PURSUANT TO THE ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD
ISSUED ON SEPTEMBER 21, 2012 IN BOARD FILE NO. PL120212.

Appendix "1"

Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of that *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* and the *owner* with conditions providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above *grade* building permit the *owner* shall provide a cash contribution of \$4,000,000 to be applied toward the following:
 - (a) \$200,000 to be directed to local park improvements; and
 - (b) \$3,800,000 for streetscape improvements on both Charles Street East and Hayden Street from Yonge Street to Church Street not abutting the site.
2. The cash amount of \$4,000,000 shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the execution of the Section 37 Agreement to the date of payment.
3. The *owner* of the *lot* shall enter into and register on title to the *lot* and on title to the lands known municipally in the year 2012 as 42 Charles Street East and 39 Hayden Street, 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 Chief Planner and Executive Director, City Planning Division, to secure the facilities matters set forth in this Appendix.



