

Authority: Local Planning Appeal Tribunal Decision
issued on October 23, 2020 and Ontario Land Tribunal
Order issued on October 7, 2021 in Tribunal File PL180387

CITY OF TORONTO

BY-LAW 757-2021(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands known municipally known in the year 2020 as 400-420 King Street West

Whereas the Local Planning Appeal Tribunal decision issued on October 23, 2020 and Ontario Land Tribunal Order issued on October 7, 2021 in Tribunal File PL180387, upon hearing an appeal under Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, deems it advisable to amend the Zoning By-law for the City of Toronto, being By-law 569-2013, as amended, with respect to lands municipally known in the year 2020 as 400-420 King Street West; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted 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 and matters in return for an 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 aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 569-2013, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto; and

Whereas pursuant to Section 39 of the *Planning Act*, the council of a Municipality may, in a by-law passed under section 34 of the *Planning Act*, authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the by-law;

Now therefore pursuant to the Order of the Ontario Land Tribunal, By-law No. 569-2013 is further amended as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.

2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions.
3. Zoning By-law No. 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10, respecting the lands outlined by heavy black lines to CRE (x42), as shown on Diagram 2 attached to this By-law;
4. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.12.10 Exception Number 42 so that it reads:

(42) Exception CRE 42

The lands, or a portion thereof as noted below, are subject to the following site specific provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 400-420 King Street West, if the requirements of Clause 7 and Schedule A of By-law 757-2021(OLT) are complied with, **buildings**, or **structures**, may be constructed or erected in compliance with regulation (B) to (X) below;
- (B) Despite regulations 50.5.40.10(1) and (2), the height of the **building** or **structure** is the vertical distance between the Canadian Geodetic Datum elevation of 86.58 metres in the year 2019 and the highest point of the **building** or **structure**;
- (C) In addition to the uses permitted by regulations 50.10.20.10(1) and 50.10.20.20(1), **public parking** is permitted if located entirely below ground;
- (D) The total permitted maximum **gross floor area** for all uses is 43,200 square metres, allocated as follows:
 - (i) the permitted maximum **gross floor area** for residential uses is 39,850 square metres; and
 - (ii) the required minimum **gross floor area** for non-residential uses is 3,335 square metres, excluding the area associated with **public parking**;
- (E) In addition to the elements described in regulation 50.5.40.40(3), the **gross floor area** of the **building** is reduced by the area in the **building** used for elevator machine rooms and mechanical rooms above and below ground;
- (F) A minimum of ten percent of the **dwelling units** must contain three or more bedrooms and a minimum of thirty-four percent of the **dwelling units** must contain two or more bedrooms;
- (G) Despite regulation 50.10.40.10(1), the permitted maximum height of a **building** or **structure** on the lands is the numerical value, in metres, following the letters following the "HT" on Diagram 3 of By-law 757-2021(OLT);

- (H) Despite (G) above and regulations 50.5.40.10(3), (4), (5), (6), (7) and (8) the following elements of a **building** may exceed the maximum height limits shown on Diagram 3 of By-law 757-2021(OLT) as follows :
- (i) parapets, roof access, including roof hatch and the access ladder, chimneys, vents, and water supply facilities, pipes, roof drainage, antennae, telecommunication equipment, satellite dishes, lightning rods, guard rails, railings, dividers, screens, balustrades, unenclosed **structures** providing safety or wind protection, privacy and wind screens, elements of a **green roof**, pergolas, trellises, light fixtures, and landscape elements which may project up to a maximum of 4.0 metres;
 - (ii) window washing equipment may project up to a maximum of 6.0 metres;
 - (iii) architectural features, which may project no higher than the second **storey**;
 - (iv) canopies, which may project no higher than the second **storey**; and
 - (v) support cables, which may project no higher than the fourth **storey**;
- (I) Despite (H)(i) and (ii) above, only the following equipment and structures are permitted to be located on top of the roof for the portion of the **building** labelled as "HT 156.9" on Diagram 3 of By-law 757-2021(OLT):
- (i) parapets, roof access, including roof hatch and the access ladder, vents for garbage and mechanical shafts, antennae, telecommunication equipment, satellite dishes, lightning rods, and elements of a **green roof** which may project up to a maximum of 4.0 metres; and
 - (ii) window washing equipment may project up to a maximum of 6.0 metres;
- (J) Despite regulations 50.10.40.30(1), 50.10.40.70(1), (3) and (5), clause 50.10.40.80, and article 600.10.10 the required minimum **building setbacks** and minimum above ground separation distance are shown in metres on Diagram 3 of By-law 757-2021(OLT);
- (K) Despite (J) above, regulations 50.5.40.60(1), 5.10.40.70(1) and 50.10.40.60(1), (2), (4) the following **building** elements may encroach into the required minimum **building setbacks** and minimum above ground separation distance:
- (i) canopies and support cables, awnings, decks, balconies, terraces, patios, pergolas, trellises, privacy and wind screens, unenclosed **structures** providing safety or wind protection to rooftop **amenity space**, architectural features including piers and fins, art and **landscaping** features, and ornamental elements, up to 3.0 metres;

- (ii) cornices, parapets, light fixtures, window sills, eaves, doors, site servicing features, ventilation shafts, railings, guards, terrace platforms, landscape planters, underground garages and associated **structures**, and wheelchair ramps, up to 0.5 metres; and
 - (iii) guards, railings, parapets, terraces, privacy and wind screens, landscape planters and terrace platforms may project beyond the required **building setback** to the extent of the **main wall** of the **storey** below;
- (L) Despite regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
 - (i) a minimum of 0.15 **parking spaces** per **dwelling unit** for the residents of the **building**;
 - (ii) a minimum of 22 **parking spaces** for non-residential uses; and
 - (iii) no residential visitor **parking spaces** are required;
- (M) **Parking spaces** for non-residential uses, as required by (L)(ii) above may be located within **public parking**;
- (N) A maximum of 10 percent of the **parking spaces** required by (L)(i) and (ii) above may be small car **parking spaces** with a minimum width of 2.4 metres, length of 5.4 metres and vertical clearance of 1.8 metres;
- (O) Despite Regulations 200.15.1.5(1) and 200.15.10(1), a minimum of 6 accessible **parking spaces** must be provided and maintained below ground;
- (P) Despite regulation 200.15.1(1), an accessible **parking spaces** must be provided with the following dimensions:
 - (i) a minimum length of 5.6 metres;
 - (ii) a minimum width of 3.4 metres; and
 - (iii) a minimum vertical clearance of 2.1 metres;
- (Q) Despite regulation 200.5.1.10(2)(A) and (D), Electric Vehicle Infrastructure, including electric vehicle supply equipment, does not constitute an obstruction to a **parking space**;
- (R) Despite regulation 230.5.1.10(4)(b), the minimum dimension of a **bicycle parking space** if placed in a vertical position on a wall, **structure** or mechanical device is:
 - (i) minimum length or vertical clearance of 1.9 metres;

- (ii) minimum width of 0.45 metres; and
- (iii) minimum horizontal clearance from the wall of 1.2 metres;
- (S) Despite regulations 230.5.1.10(10) and 230.50.1.20(2), "long-term" and "short term" **bicycle parking spaces** may be located in a secured room, enclosure or bicycle locker and in a **stacked bicycle parking space**, provided that such space is accessible to visitors;
- (T) Despite regulation 230.5.1.10(9) "long-term" **bicycle parking spaces** may be located on the first or second **storey** of the **building** and anywhere below ground;
- (U) Despite (T) above, "long-term" **bicycle parking spaces** for residential uses below ground must be provided in accordance with the following:
 - (i) a minimum of 50 percent of the "long-term" **bicycle parking spaces** for residential uses will be located on the first level below ground; and
 - (ii) a minimum of 90 percent of the "long-term" **bicycle parking spaces** for non-residential uses will be located on the first level below ground;
 - (iii) no **bicycle parking spaces** will be located on the third level below ground;
- (V) Despite regulation 230.5.1.10(4)(C) a **stacked bicycle parking space** may be provided in with the following minimum dimensions:
 - (i) a minimum length of 1.8 metres;
 - (ii) a minimum width of 0.4 metres; and
 - (iii) a minimum vertical clearance of 1.2 metres;
- (W) Despite regulations 220.5.10.1(2), (3), (4) and (5) a minimum of one Type "B" **loading space** and one Type "G" **loading space** must be provided;
- (X) In addition to the required **amenity space**, a maximum of 4 guest suites may be permitted, provided that they:
 - (i) have no food preparation facilities; and
 - (ii) are available for use on a temporary basis as overnight accommodation exclusively for persons visiting residents of the **building**;

Prevailing By-law and Prevailing Sections:

(None Apply).

5. None of the provisions of By-law 569-2013 apply to prevent a temporary sales office or construction office on the lands, for a period not to exceed 3 years from the date of this By-law coming into full force and effect.
6. Despite any future severance, partition or division of the lands as shown on Diagram 1 attached to this By-law, the provisions of this By-law will apply as if no severance, partition or division occurred.
7. Section 37 Provisions
 - (A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown as CRE (x42) on Diagram 2 of By-law 757-2021(OLT) in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
 - (B) Where Schedule A of By-law 757-2021(OLT) requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
 - (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A of By-law 757-2021(OLT) are satisfied.

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SCHEDULE A

Section 37 Provisions

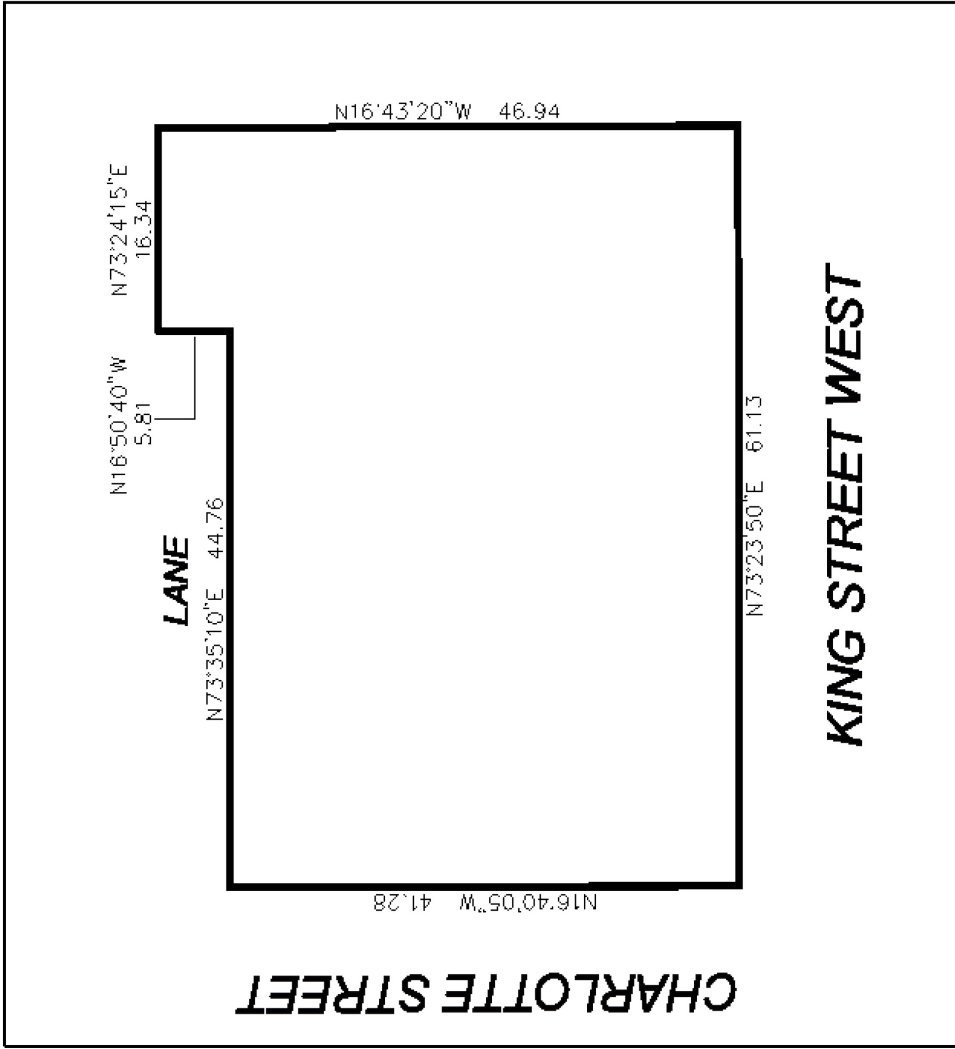
The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lot and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

- (1) A cash contribution of six million dollars (\$6,000,000.00) to be paid by the Owner prior to the issuance of the first above-grade building permit and to be allocated as follows: 10 percent toward new affordable housing, 10 percent toward Toronto Community Housing Corporation ("TCHC") capital repairs, 40 percent toward arts and culture in Ward 10, and 40 percent toward parks and community services and facilities within the vicinity of the Site, at the discretion of the Chief Planner and Executive Director, City Planning and in consultation with the Ward Councillor;
- (2) The cash contribution referred to in (1) above shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table 18-10-0135-01, or its successor, calculated from the date of the Agreement to the date of payment;
- (3) In the event the cash contribution referred to in (1) above has not been used for the determined purpose within three (3) years of the amending Zoning By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided the purpose is identified in Official Plan Policy 5.1.1 and will benefit the community in the vicinity of the lands.

The Section 37 Agreement will also secure the following matters as a legal convenience to support the development:

- (4) the Owner will comply with the City's tree by-laws to the satisfaction of the Supervisor, Tree Protection and Plan Review, Urban Forestry, Parks, Forestry and Recreation division;
- (5) the Owner will provide and maintain a Privately-Owned and Publicly-Accessible Space ("POPS") with an approximate area of 115.9 square metres at the southwest corner of the property, with the specific location, configuration and design secured in a Site Plan Agreement with the City to the satisfaction of the City Solicitor, pursuant to Section 114 of the City of Toronto Act, 2006, as amended and as applicable, Section 41 of the Planning Act, as amended; and
- (6) prior to the issuance of Site Plan Approval, the Owner shall convey to the City for nominal consideration a public pedestrian easement over the three-metre unobstructed pedestrian clearways along both King Street West and Charlotte Street, to the satisfaction

of the Director, Community Planning, Toronto and East York District, and registered to the satisfaction of the City Solicitor.



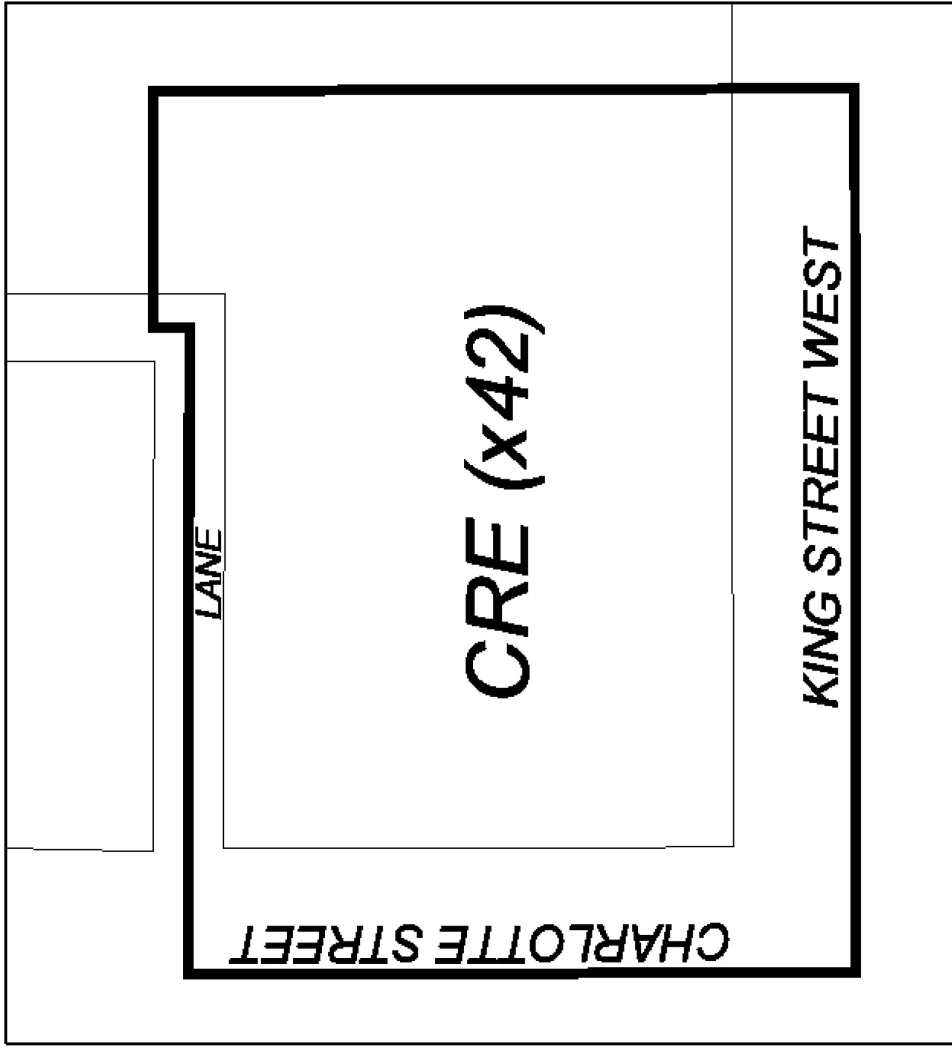
400 King Street West, Toronto

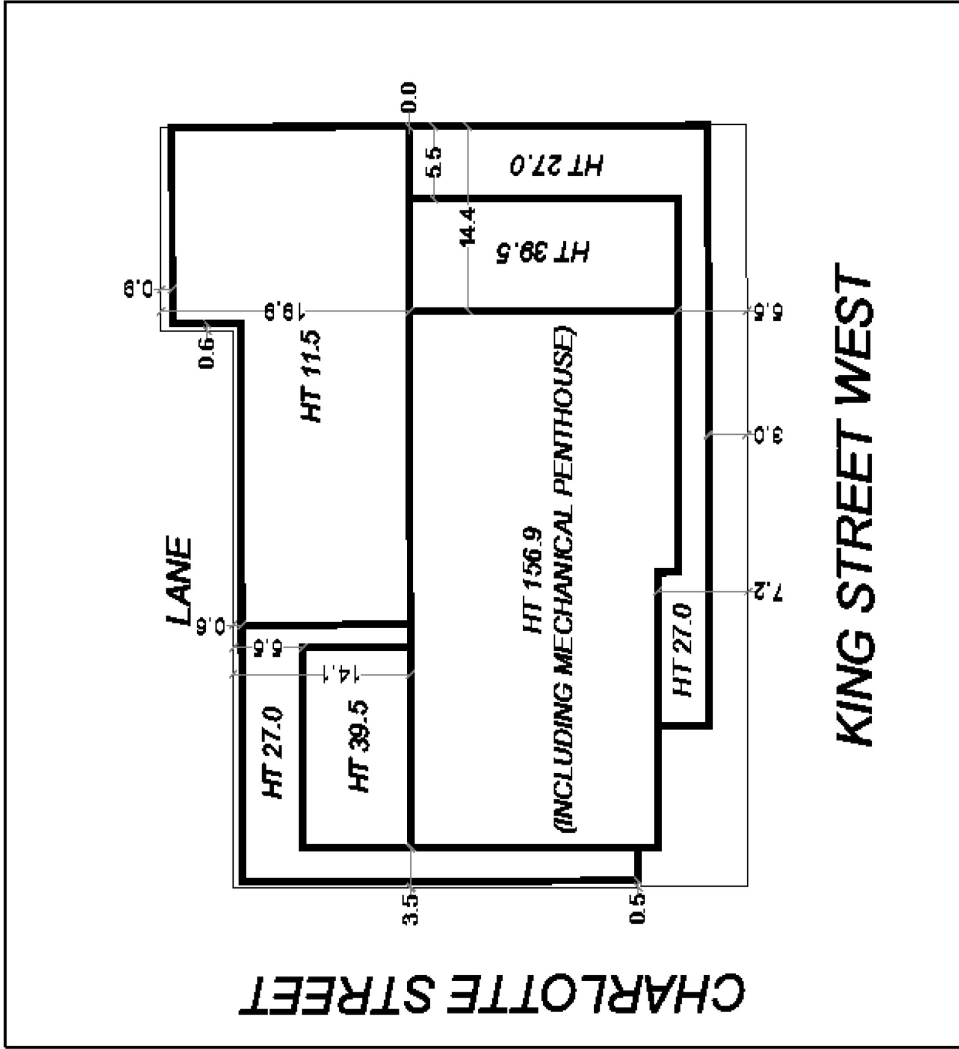
Diagram 1

File #18



North Scale





Toronto City Planning Division
400 King Street West, Toronto

File #18

Diagram 3

