

Authority: Ontario Land Tribunal Decision issued on October 5, 2021 and Ontario Land Tribunal Order effective on July 27, 2022 in File OLT-22-003665

CITY OF TORONTO

BY-LAW 792-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 465-471 Richmond Street West and 38 Camden Street.

Whereas the Owner of the lands in the year 2020 appealed a proposed zoning by-law amendment to the Local Planning Appeal Tribunal (now the Ontario Land Tribunal) pursuant to Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Ontario Land Tribunal, by its Decision issued on October 5, 2021 and Ontario Land Tribunal Order effective on July 27, 2022, determined to amend Zoning By-law 569-2013, as amended, with respect to lands known municipally as 465-471 Richmond Street West and 38 Camden Street; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the 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 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 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 density permitted beyond that otherwise permitted on the aforesaid lands by By-law 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;

The Ontario Land Tribunal Orders:

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 569-2013, Chapter 800 Definitions except as specified by this By-law.

3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting lands outlined by heavy black lines to CRE (x87), 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 (x87) so that it reads:

(87) Exception CRE (x87)

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 lands municipally known as 465-471 Richmond Street West and 38 Camden Street, By-law 792-2023(OLT), including Section 6 and Schedule A of By-law, together with (B) to (O) below, are complied with, a **non-residential building or structure** may be erected and used;
- (B) The permitted maximum non-residential **gross floor area** for all the **buildings or structures** on the lands must not exceed 13,500 square metres;
- (C) Despite Regulations 50.5.40.10(1) and (2), the height of a **building or structure** is measured as the vertical distance between the Canadian Geodetic Datum elevation of 90.85 metres and the highest point of the **building or structure**;
- (D) In addition to Regulation 50.5.40.40(1), the **gross floor area** of a **non-residential building** is reduced by the area in the **building** used for **amenity space**;
- (E) Despite Regulation 50.10.20.10(1)(B), a **dwelling unit** in a permitted **building** type in Clause 50.10.20.40 is not permitted;
- (F) Despite Regulation 50.10.20.40(1), a **residential building** is not permitted and only a **non-residential building** is permitted;
- (G) Despite Regulation 50.10.40.1(1), the elevation of the first **storey** of a **building or structure** erected on the lands may be at or within 0.8 metres above the height of the public sidewalk abutting the lands or from the elevation of the **street** abutting the lands;
- (H) Despite Regulation 50.10.40.10(1), no portion of any **building or structure** may exceed the height in metres specified by the numbers following the symbol "HT" on Diagram 3 of By-law 792-2023(OLT);
- (I) Despite Regulations 50.5.40.10(3), (4), (5), (6), (7), (8), 50.10.40.10(2) and (3), and (H) above, the following **building** elements and **structures** may be permitted to project above the maximum permitted height limits shown Diagram 3 of By-law 792-2023(OLT) as follows:

- (i) parapets, awnings, fences, guard rails, railings and dividers, pergolas, trellises, balustrades, eaves, screens, stairs, roof drainage, window sills, columns, pillars, chimneys, vents, pipes, terraces, balconies, lightning rods, light standards and fixtures, architectural features, architectural flutes, ornamental elements, art and landscaping features, elements of a **green roof**, planters, seating areas, wheelchair ramps, retaining walls, canopies and awnings, decorative screens, roofing, and skylights by a maximum of 2.0 metres;
 - (ii) equipment used for the functional operation of the **building**, including, elevator machine rooms, electrical, utility and ventilation equipment, solar panels and related equipment, antennae and satellite dishes, flight warning lights, site servicing features, decorative screens and any associated enclosure **structures** including parapets, green roof infrastructure, building maintenance units, window washing equipment and crane **structures** by a maximum of 5.0 metres; and
 - (iii) Elevator overrun, stair roof access area, and mechanical air handling unit by no more than 2.94 metres.
- (J) Despite Regulations 5.10.40.70(1), 50.10.40.70(1), (4) and (5), and 50.10.40.80(1), (2), and (3), and Clause 600.10.10, the required minimum **building setbacks** and minimum separation distance between **main walls** of **buildings** must be provided as shown in metres on Diagram 3 of By-law 792-2023(OLT);
- (K) Despite (J) above, and in addition to Regulation 50.5.40.60(1) and Clause 50.10.40.60, the following may encroach into the required minimum **building setbacks** and separation distance between **main walls** of **buildings** as shown on Diagram 3 of this By-law:
 - (i) eaves, cornices, fences and safety railings, chimney breasts, uncovered platforms, balconies, canopies, architectural fins and screens, awnings, lighting fixtures, ornamental elements, trellises, windowsills, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps and associated features, air vents and air intakes, site servicing features, and landscape and public art features by a maximum of 2.0 metres;
- (L) Despite Regulations 200.15.1(1) and (3), 200.15.10(1), no accessible **parking spaces** are required;
- (M) Despite Regulation 200.5.1.10(13), for the purposes of ingress and egress to and from the underground **parking garage**, a **vehicle elevator lift** shall provide access to a **street**. Otherwise, the **drive aisle** within the **parking garage**, both at and below **grade** shall have a minimum width of 6.0 metres;

- (N) For the purposes of this exception, a **vehicle elevator lift** shall mean a mechanical platform and compartment system housed in a shaft used for the purposes of raising and lowering vehicles with drivers in the vehicle to different levels within the **parking garage**, without the use of ramps or drive aisles; and
- (O) Despite Regulation 220.5.10.1(6), two shared Type "B" / Type "C" **loading spaces** must be provided and maintained on the lands.

Prevailing By-laws and Prevailing Sections: (None Apply)

- 5. Despite any severance, partition, or division of lands shown on Diagram 1, the provisions of this By-law will apply to the whole of the lands as if no severance, partition or division had occurred.
- 6. Section 37 Provisions
 - (A) Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force, 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 on Diagram 1 of By-law 792-2023(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, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force, that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
 - (B) Where Schedule A of this By-law 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 upon satisfaction of the same;
 - (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 applicable provisions of Schedule A are satisfied; and
 - (D) Once the agreement or agreements securing the facilities, services and matters set out in Schedule A have been executed and registered, the provisions of Schedule A shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.

Ontario Land Tribunal Decision issued on October 5, 2021 and Ontario Land Tribunal Order effective on July 27, 2022 in File OLT-22-003665.

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 lands shown in Diagram 1 in this By-law. Prior to the issuance of any **building** permit, the owner shall enter into an agreement to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure community benefits and matters required to support the development, as follows:

Community Benefits

1. Prior to the issuance of the first above-grade **building** permit for the development on any portion of the lands, the Owner agrees to pay to the City, by certified cheque, the sum of **\$500,000.00 Canadian Dollars**, that is indexed according to Clause 2 below to be allocated towards:
 - (A) **\$400,000.00** Canadian dollars towards the provision of new affordable housing and/or the Toronto Community Housing Corporation revolving capital fund for repairs to Toronto Community Housing Corporation housing in the Ward; and
 - (B) **\$100,000.00 Canadian Dollars** towards local streetscape improvements and/or community service facilities in the local Ward.

(The "**Cash Contribution**")

2. The Cash Contribution shall be indexed upwards in accordance with the Construction Price Index, calculated from the Ontario Land Tribunal bringing into force and effect this By-law to the date of payment by the Owner of the Cash Contribution is made to the City.
3. In the event the Cash Contribution has not been used for its intended purpose within three (3) years of the date of the Ontario Land Tribunal Order bringing into force and effect this By-law, 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 that the purposes are identified in the City's Official Plan and will benefit the local community.

Matters Required to Support the Development

4. The owner shall construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner shall be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the Site Plan Control application.

5. Prior to the issuance of any permit for all or any part of the lands, including a **building** permit or Heritage Permit, but excluding permits for repairs, maintenance, and usual and minor works as are acceptable to the Senior Manager, Heritage Planning, the Owner shall:
- (A) provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Planning for the **heritage site** on the lands; and
 - (B) provide a Letter of Credit, including provision for upwards indexing in accordance with the Construction Price Index, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning, to secure all work included in the approved Conservation Plan, and approved Interpretation Plan.





