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October 9, 2012

84235

BY EMAIL

pgmc@toronto.ca;

Merle MacDonald
Planning and Growth Management Committee
10th Floor, West Tower, City Hall
100 Queen Street West
Toronto Ontario
M5H 2N2

Dear Ms MacDonald:

**Re: Planning and Growth Management Committee Meeting October 12, 2012
Recommended Changes to the Draft Citywide Zoning By-law
8 The Esplanade (“the Subject Lands”)
By-law 860-2008 & Committee of Adjustment Decision A0613/11TEY
ITEM: PG18.7**

Aird & Berlis LLP acts for Castlepoint Realty Partners the owner of the subject lands.

Our clients appealed (the now repealed) Zoning By-law 1156-2010 (Appeal 103) on the grounds that the City’s municipal development review and plans approvals process, which has been ongoing since 2007 and which is a priority for both the City of Toronto, the Board of Directors of the Sony Centre for the Performing Arts and our clients could be jeopardized by the enactment of the new citywide by-law with respect to the subject lands.

Our client’s concern then and now is that the project as approved by the City of Toronto in 2008 be allowed to proceed through its final site plan and building permits process without the introduction of new zoning regulations which heretofore have not been included as part of the approved project or its plan(s).

We have reviewed the June 2012 Draft Revised Zoning By-law and have the same concerns as we did in 2010. We are therefore requesting that the subject lands not form part of the new citywide Zoning By-law owing to the ongoing development review and building permit approval process which has been extraordinarily incremental.

Staff in their report dated March 15, 2011 to Planning and Growth Management Committee, Attachment 7 thereto, recommended that 1 Front Street East and 8 The Esplanade be made “*Not Part of this By-law*” as shown of Diagram 27 of the Draft By-law tabled with the Committee. City Council on April 12 and 13, 2011 adopted the recommendation that City Council enact the amendment to the City of Toronto Zoning By-law 1156-2010 substantially in accordance with the draft Zoning By-law Amendments attached as . . . A7 . . . to the report (March 15, 2011) from the Chief Planner and Executive Director. For reasons not known to us, (now rescinded) By-law 540-2011 deleted clause “Y” as originally framed to address the subject lands and deleted Diagram 27 from the by-law as enacted.

We maintain our position that 8 The Esplanade should be “*Not Part of the By-law*” for the purposes of reintroducing a new citywide comprehensive zoning by-law. The approvals history for the subject lands remains ongoing to date and it is too complex for the transition clauses as currently enunciated in the June 2012 Draft Zoning By-law.

Please make this correction to the new Citywide Draft Zoning By-law prior to its presentation to a statutory Public Meeting at the Planning and Growth Management Committee now targeted for 2013.

We have also noted Chapter 1, Section 1.20.3(1) which indicates “all lands regulated by this by-law are delineated by a zone boundary line on the Zoning By-law Map and identified by a zone symbol as one of the zones listed in Section 1.40” is not consistent with Section 1.5.7 which relies on the category “Not Part of This By-law” to affirm that the former General Zoning By-law applies. Necessary corrections need to be made to the legend annotations of all maps to include the Category “Not Part of this By-law” and extend this category to the subject lands.

Secondly we are relying on the fact that Chapter 1, Section 1.5.6 asserts that “Nothing in this By-law repeals the provisions of the Former General Zoning By-laws.”

We continue to have the same general concerns with the need to protect our clients existing property rights and zoning/planning approvals. We also continue to monitor the precision of the manner in which the new zoning by-law will delineate those parcels of lands which are to continue under the former General Zoning By-laws.

We therefore will await the revised version of the Draft Zoning By-law which will be released prior to the Statutory Public Meeting anticipated now for 2013 and provide final comments on the form and content of the planning instruments presented for approval at that time.

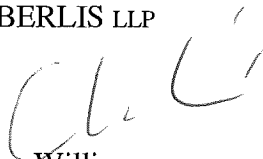
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If you have any questions please call the undersigned or Rob Dolan of this office.

Respectfully submitted.

Yours truly,

AIRD & BERLIS LLP



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- c. A Teixeira, City Planning Division
- c. Alfredo Romano, Castlepoint

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