

McCarthy Tétrault LLP
 PO Box 48, Suite 5300
 Toronto-Dominion Bank Tower
 Toronto ON M5K 1E6
 Canada
 Tel: 416-362-1812
 Fax: 416-868-0673

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Tara L. Piurko
 Partner
 Direct Line: (416) 601-7675
 Direct Fax: (416) 868-0673
 Email: tpiurko@mccarthy.ca

April 2, 2013

VIA E-MAIL (clerk@toronto.ca)

Mayor and Members of Council
 City of Toronto
 Toronto City Hall
 100 Queen Street West
 Toronto, Ontario M5H 2N2

Your Worship and Members of Council:

Re: Proposed New Comprehensive Zoning By-law ("New By-law"); Planning and Growth Management Committee PG 21.1

**And Re: Primaris Retail REIT
 900 Dufferin Street
 338, 363/365, 369/371, 377, 385 Yonge Street
 1 Eglinton Square
 14, 18, 22, 26 Englehart Crescent**

We are the solicitors for Primaris Retail REIT, which owns and controls various properties in the City of Toronto, including those listed above.

Based on our review of the new City of Toronto draft Zoning By-law these properties have been made "subject to the by-law." Our client is expressing its concern and objection that the New By-law appears to restrict or diminish zoning permissions for these properties.

Concerns Related Specifically to Certain Properties

900 Dufferin Street

The site is commonly known as "Dufferin Mall" and is located on the West side of Dufferin Street between College Street and Bloor Street West.

The site contains a large number of parking spaces associated with the primary use of the site as a commercial retail mall. The New By-law proposes new standards for parking spaces and a provision that any alterations to the property in the future will require compliance with the parking provisions of the New By-law (s. 200.5.1.10). These provisions may create zoning issues that would not previously have existed under the existing zoning regime if our client or any tenant applies for a building permit to alter the structure, as commercial retail mall landlords and tenants often do.

For example, the proposed New By-law introduces a new "maximum size" of parking space restrictions. If any of our client's parking spaces are currently oversized they would have to be

resized. The New By-law also includes revised parking requirements for various uses, including a requirement that the parking provided on site not be less than the minimums or more than the maximums required by the by-law for particular uses. Commercial retail malls often change tenants, and likewise uses and the gross floor area associated with particular uses may fluctuate dramatically. Building alterations will often be required as large tenants move in and out, triggering a zoning reassessment each time. It would be impractical and illogical to require revisions to the number of parking spaces provided by the mall every time that happens, including potential site plan revisions.

The New By-law also includes a requirement that parking be located on the same lot as the use for which it is required. The Dufferin Mall property in fact includes two separate lots (LT21309-0001 & 21309-0694), which may offend this provision in the New By-law. Our client objects to any changes proposed by the by-law which would, now or in the future, necessitate changes to the parking configuration on the site, or deem the existing parking provided on site to be inadequate at the time alterations or additions to the building are made.

The new Use definitions and restrictions described in the New By-law change the uses to which our client, or our client's potential tenants, can put the space in the building. Our client also objects to any change in the uses permitted in a CR zone that diminish or reduce in any way our client's ability to use all or part of the premises.

338, 363/365, 369/371, 377, 385 Yonge Street

These properties are located on the East and West side of Yonge Street, north of Dundas Street and South of Gerrard Street.

The proposed zoning on these properties will make them subject to "Development Standard Set 1" guidelines, which include new setback restrictions (s. 40.10.40.70). Among these restrictions is a new requirement that at least 75% of the main wall of the building facing a front lot line must be located at or between the front lot line and a maximum of 3.0 metres from the front lot line. This new restriction has the potential to adversely affect any potential redevelopment of the property, and is a new restriction introduced by the proposed New By-law.

The new Use definitions and restrictions described in the New By-law change the uses to which our client, or our client's potential tenants, can put the space in these buildings. Our client also objects to any change in the uses permitted in a CR zone that diminish or reduce in any way our client's ability to use all or part of these premises.

1 Eglinton Square

This property is commonly known as Eglinton Square Mall, and is located on the East side of Victoria Park Avenue, South of Eglinton Avenue East.

In addition to the concerns related to parking that are outlined for the Dufferin Mall, described above, it is proposed that a portion of this property will be subject to "Policy Area 4" provisions. These are new provisions which mandate a greater number of parking spots for the same uses, as compared to areas that are not subject to Policy Area 4 restrictions. Despite the Policy Area map purporting to include part of these lands in Policy Area 4, the text of the New By-law (s. 200.5.1.10(1) and x471), make it possible for someone to interpret that the Policy Area 4 requirements do or do not apply to the site. Our clients do not believe that they should be subject to increased parking requirements.

Our client objects to the new 11.0 metre height restriction introduced in the New By-law and objects to the density permissions being characterized in the new by-law as CR 0.1 (c0.1; r0.0), on the basis that this could be interpreted as more restrictive than the zoning density regime spelled out in former Scarborough By-law No. 8978.

The new Use definitions and restrictions described in the New By-law change the uses to which our client, or our client's potential tenants, can put the space in the building. Our client also objects to any change in the uses permitted in a CR zone that diminish or reduce in any way our client's ability to use all or part of the premises.

14, 18, 22, 26 Englehart Crescent

These properties are residential apartments located East of Victoria Park Avenue, immediately South of the Eglinton Square Mall.

Our client objects to the density permissions being characterized in the New By-law as "au99.0", on the basis that this could be interpreted as more restrictive than the zoning regime spelled out in former Scarborough By-law No. 8978. Specifically under the new configuration it makes our client subject to the default provisions for RA zones which create new restrictions relating to height, frontage, and setbacks, which did not exist previously.

Concerns Common to all the Properties

Generally speaking it is our client's position that the entire zoning regime applicable to these properties should at least maintain the existing permissions and provisions contemplated by the existing zoning regimes for these properties. Our client objects to any change that would diminish or lessen in any way the development permissions on the properties.

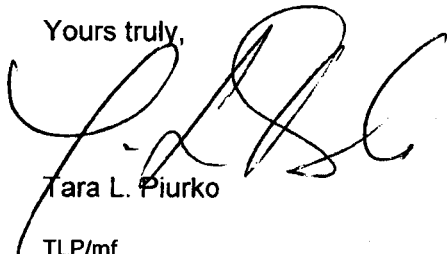
Our client is also concerned that the New By-law proposes changes to certain definitions and performance standards, including changes that may negatively impact zoning permissions, such as the definition of "gross floor area", the introduction of "standard sets", newly imposed requirements for setbacks, vehicle parking, loading, and bicycle parking, and built form restrictions.

Our client objects to any further amendment that Council may approve which may adversely affect or otherwise diminish, lessen or restrict our client's zoning for these properties, and reserves the right to appeal any such new provisions.

We would be pleased to discuss the foregoing. Please provide us with notice of Council's decision in this matter or of any future consideration by Council, Community Council or any Committee.

Thank you for your attention in this regard.

Yours truly,



Tara L. Piurko

TLP/mf