

PG-28.2.265

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

**mccarthy  
tetrault**

**Cynthia A. MacDougall**  
Partner  
Direct Line: (416) 601-7634  
Direct Fax: (416) 868-0673  
Email: cmacdoug@mccarthy.ca

December 13, 2013

**VIA E-MAIL & ORIGINAL BY RUSH COURIER**

Mayor and Members of Council  
City of Toronto  
10<sup>th</sup> Floor, West Tower City Hall  
100 Queen Street West  
Toronto, Ontario M5H 2N2

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Your Worship and Members of Council:

**RE: Item PG28.2 – Official Plan and Municipal Comprehensive Reviews:  
Amendments to the Official Plan for Economic Health and Employment Lands  
Policies and Designations and Recommendations on Conversion Requests  
Application Nos. 10 147083 STE 28 OZ; 10 147097 STE 28 SA  
Pier 27 Toronto Inc., Pier 27 Toronto (North) Inc., Pier 27 Toronto (West) Inc.  
(collectively “Pier 27”)**

We are the solicitors for Pier 27 with respect to its property municipally known as 7, 15, 25R, 29 and 39 Queens Quay East (the “Property”). Site-specific Official Plan Amendment No. 393 (By-law No. 679-2012) was adopted and implementing Zoning By-law No. 680-2012 was enacted on May 9, 2012 to permit a redeployment of the already permitted residential density on the Property. Both amendments were appealed by the abutting landowner, Redpath Sugar Ltd., and are currently before the Ontario Municipal Board. The companion site plan approval application was subsequently referred to the Board by Pier 27 to be heard with the appeal (the “Applications”).

Given the submission dates for the Applications, the proposed policies of Official Plan Amendment No. 231 (“OPA No. 231”) should not apply to the Property. It is a well-accepted principle that official plan policy should not be retroactively applied.

Pier 27 is concerned that the policies relating to the physical relationship between employment uses and residential uses are not balanced. Managing this relationship should not automatically and predominantly be the responsibility of only the sensitive uses part of this equation.

The Official Plan recognizes in other contexts the value of mixed-use development, including residential uses, for a number of reasons, yet the newly proposed policies insufficiently acknowledge this. Furthermore, at a basic policy level, one would anticipate that new policies would promote environmentally responsible and sustainable activity, including compliance with government regulations. Instead, the proposed policies are directed towards creating scope for an existing enterprise that is emitting contaminants to continue to do so.

Parts of the proposed official plan amendment which prompt the concern identified above include:

1. Section 2.2.4, third paragraph;
2. Policy 2.2.4.3;
3. Policy 2.2.4.4(a); and
4. Policy 2.2.4.5.

Each of the above policies is couched in such terms that actions to locate a sensitive use that might interfere with profit maximization by an enterprise emitting contaminants would automatically be restricted. Not only is this inappropriate because it fails to recognize the aforementioned value of mixed-use residential development in the context of the re-urbanization contemplated by the Official Plan otherwise, but it also ignores the complexity of the physical context to which these policies would apply. The emission of contaminants is a function, for the enterprise in question, at least in part, of both the production process and of the features thereof that serve a pollution abatement function, each of which can be subject to change for any number of reasons including an investment in updated technology.

The above-listed policies serve to put the entirety of the onus and cost of managing the spatial relationship between sensitive uses and a contaminant source on the sensitive uses. This ignores the value of the sensitive uses, ignores the economic efficiency of motivating the emitter of the contaminants to use its expertise to manage any needed technological change and ignores the universally acknowledged truth that pollution is seldom, if ever, entirely localized in impact. The effects of contaminants should be considered on an eco-system basis and proposed policies should acknowledge that responsibilities lie with the contaminants' source: this is not the case with the policies identified above.

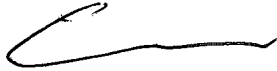
As written, these policies would preclude Council from considering the existing impact of an industry, nor do the policies address the need for disclosure by an industry that may be raising objections.

We respectfully submit that the policies listed above should be modified to address the matters set out herein. We therefore request that the consideration of the Staff Report be deferred and staff be directed to consult with our client on appropriate wording to implement this direction and report back as soon as is practicable. In the absence of such an action please be advised that our client objects to the proposed official plan amendment.

Thank you for your attention in this regard. On behalf of Pier 27, please provide us with any notice of any further consideration of this matter by any Community Council, Council or any Committee thereof.

Should you have any questions, please contact the writer, or in her absence, Kathryn Munn at (416) 601-7966.

Yours truly,



Cynthia A. MacDougall

c. Ulli Watkiss, City Clerk  
Paulo Stellato