
AIRD & BERLIS LLP

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January 29, 2013

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 February 13, 2013
Statutory Public Meeting – Citywide Zoning By-law
8 The Esplanade (“the subject lands”)
By-law 860-2008 & Committee of Adjustment Decision A0613/11TEY
ITEM: PG21.1**

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Our clients appealed (the now repealed) Zoning By-law 1156-2010 (Appeal 103) on the grounds that the City’s ongoing development review and final plans approval process could be jeopardized by the enactment of the new citywide zoning by-law with respect to the subject lands. We requested that the zoning be modified to ensure that the project as approved by the City of Toronto may continue 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 plans.

We made written submissions to the Planning and Growth Management Committee Meeting October 12, 2012, copy attached, setting out our client’s concerns with the June 2012 draft version of the Zoning By-law. We requested that the subject lands be identified as “*Not Part of this By-law*”. The November 8, 2012 version of the document proposes that the lands be zoned CR 6.0 (c6.0; r6.0) SS1 (x2116).

We have now reviewed the Final Staff Report on the Citywide Zoning By-law dated January 22, 2013 from the Chief Planner and Executive Director, City Planning Division which will be considered at the Statutory Public Meeting on February 13, 2013. We

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support the recommendations of Staff that the subject lands be removed from the proposed new Citywide Zoning By-law.

Attachment 5 to the Final Staff Report lists “**8 The Esplanade**” among those properties which Staff recommends be removed from the new Citywide Zoning By-law. The report states on page 11:

“It is recommended that direction be given to make these map changes and to continue to do so without further public notice until the production of the final version of the Zoning By-law Map prior to the enactment of the City-wide Zoning By-law.”

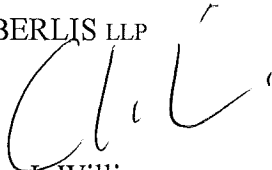
The Final Staff Report recommendation implements the advice given our clients by letter dated December 17, 2012 from Joe D’Abramo, Acting Director, Zoning By-law & Environmental Planning, copy attached. The letter notes that this change was not reflected in the November 8, 2012 version of the Zoning By-law, but the change will be included in the draft By-law that will be the subject of the Statutory Public Meeting held on February 13, 2013.

At the present time, however, the Final Staff Report dated January 22, 2013 sets out a number of recommended changes to the November 8, 2012 version of the Zoning By-law but we have not seen the actual revised version of the zoning by-law document which will be presented at the Statutory Public Meeting. We therefore reserve our right to comment on the revised document when finally published consolidating the staff recommendations set out in their report.

We ask that City Council provide the direction recommended by Staff with respect to the subject lands and remove the subject lands from the proposed new Citywide Zoning By-law.

Yours truly,

AIRD & BERLIS LLP



Christopher J. Williams

c. A Romano

CJW/RD/rd
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Barristers and Solicitors

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Partner

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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.

October 9, 2012

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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.

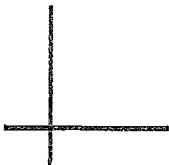
Please make this correction to the new Citywide Draft Zoning By-law prior to its presentation to a statutory Public Meeting at the Planning and Growth Management Committee now targeted for 2013.

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.



October 9, 2012

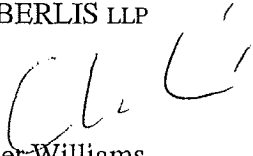
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If you have any questions please call the undersigned or Rob Dolan of this office.

Respectfully submitted.

Yours truly,

AIRD & BERLIS LLP



Christopher Williams

- c. Ray Kallio, Planning and Administrative Tribunal Law
- c. A Teixeira, City Planning Division
- c. Alfredo Romano, Castlepoint

CJW/RD/rd
13245917.2



December 17, 2012

VIA ELECTRONIC MAIL

Christopher Williams
Aird and Berlis LLP
Brookfield Place, 181 Bay Street
Suite 1800, Box 754
Toronto, Ontario
M5J 2T9

Dear Sir,

RE: 8 The Esplanade (Application File Nos. 07 114857 STE 28 OZ and 07 114846 STE 28 SA)

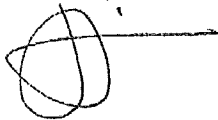
Further to your letter to the Planning and Growth Management Committee dated October 9, 2012, I am writing to confirm that the entire site which is subject to the rezoning and site plan applications filed under the address 1 Front Street East will be removed from the proposed new Zoning By-law in accordance with the expanded Transition Protocol for sites with applications for zoning by-law amendments that have not yet resulted in a building permit. This change is not reflected in the November 8th 2012 version of the Draft City-wide Zoning By-law, but it will be included in the draft that will be the subject of the Statutory Public Meeting to be held on February 13, 2013.

As noted in the staff report to Planning and Growth Management Committee dated June 4, 2012, the existing zoning by-laws will continue to govern sites which are not subject to the new Zoning By-law. The new Zoning By-law will not repeal the current in force zoning by-laws. These 'former general zoning by-laws' (a defined term in the new Zoning By-law) will continue to apply where the new Zoning By-law does not. In the case of rezoning applications, if an amendment to a former general zoning by-law is passed and a building permit is issued before the new Zoning By-law is enacted, the site will be brought into the new Zoning By-law and the zoning amendment will be recognized as a Prevailing By-law in Chapter 900.

With respect to your concerns regarding the wording of Regulation 1.5.7(1), the November 8th 2012 version of the Draft City-wide Zoning By-law has revised wording which resolves the previous inconsistency between Regulation 1.5.7(1) and the Zoning By-law Maps in Section 990.10.

If you have any additional comments, suggestions or questions with respect to this letter, please contact the assigned planner in my office, Carola Perez-Book, at 416-392-8788 or cperez@toronto.ca.

Yours Truly,



Joe D'Abramo
Acting Director, Zoning By-law & Environmental Planning
City Planning Division