



October 11, 2012

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Planning and Growth Management Committee
c/o Merle MacDonald, Administrator
City of Toronto
Toronto City Hall
10th Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

Dear Sirs/Mesdames:

Re: Official Plan Amendment No. 199 for new Heritage and Public Realm Policies ("OPA 199")

We are the lawyers for the owners of 71-95 King Street East in the City of Toronto. We are writing to provide our clients' objections to the adoption of OPA 199, which are intended to be received at the statutory public meeting on October 12, 2012. For the sake of clarity, these representations are made on behalf of the following parties:

Albany Club of Toronto – 91 King Street East
Pixis Real Estate Equities Inc. – 93 (95) King Street East
Emerald Valley Developments Inc. – 83-89 King Street East
1623037 Ontario Limited – 79-81 King Street East
451098 Ontario Limited – 71-77 King Street East

Overview of objections

Our clients currently have two main objections to the adoption of OPA 199. First, OPA 199 fails to identify the nature of the incentives that the City proposes to provide to facilitate the preservation and maintenance of the City's heritage inventory. Secondly, OPA 199 is premature and does not represent good planning because it approaches City wide planning on a piecemeal basis. For the reasons that follow, we are requesting that the Committee defer further consideration of OPA 199 until the heritage policies and incentives for heritage preservation can be considered on a comprehensive basis.

Heritage preservation incentives must be identified

The City's current model of heritage preservation does not work. Adopting restrictive and anti-development policies in the absence of meaningful incentives and other assistance to encourage preservation will not result in the meaningful preservation and rejuvenation of the City's heritage inventory. The high cost of heritage preservation creates the need for owners of heritage properties to seek increasingly greater heights and increased densities in order to compensate for the substantial and ever increasing cost of heritage preservation.

As must have been apparent to members of Council during the recent trip to Chicago, significant tax and other financial incentives, and not merely designations, are required to ensure the success of any heritage preservation scheme. In all major cities in the U.S., there is strong and clear evidence that architecturally significant buildings are preserved only after appropriate tax and other incentives are provided by public sector authorities. Clear examples of this can be seen in the downtown of the City of Chicago, on Michigan Avenue (the Golden Mile), State Street and elsewhere in the City core, and similarly throughout other major American cities.

While the City recognizes that publically funded incentives are critical to encourage the preservation of heritage in the City, the City's current and proposed policies fail to identify or implement such incentives. As a result, there is a significant risk that the policies set out in OPA 199 will not or cannot be effective and the desired objective of preserving the City's heritage inventory will not be achieved.

OPA 199 is premature

The purpose of an official plan is to set out a framework of "goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality". The plan shapes specific operative planning decisions within a municipality. In order to ensure that the City's Official Plan achieves these objectives, the courts and the Ontario Municipal Board emphasize the need to read the plan in its entire context. The contextual approach is therefore not only critical to good planning, but is required in the five year review of the City's Official Plan.

It is respectfully submitted that the piecemeal approach that has been adopted by the City, namely introducing changes to the heritage, housing and employment lands policies separately, does not represent good planning. It discourages meaningful public participation in the planning process by precluding comments on the interrelatedness of proposed amendments to the Official Plan leaving such interpretation to occur on an application-by-application basis. Our clients urge the City to defer further consideration



CASSELS BROCK
LAWYERS

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of OPA 199 until the City has reviewed all parts of the plan; all proposed amendments have been introduced; and, all of the proposed amendments to the Official Plan have been considered by the City and the public in their entire context.

Yours truly,
Cassels Brock & Blackwell LLP

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