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SENT VIA E-MAIL (pgmc@toronto.ca)

Chair and Members
Planning and Growth Management Committee
City of Toronto
10th Floor, West Tower
City Hall
100 Queen St W
Toronto ON M5H 2N2

Attention: Ms. Frances Pritchard,
Administrator

Dear Chair Milczyn and Members of the Committee:

**Re: Item No. PG22.3 - Official Plan Five-Year Review: Official Plan Amendment to Adopt
New Heritage and Public Realm Policies
Submissions filed on behalf of The Cadillac Fairview Corporation Limited**

Please be advised that we are the solicitors for The Cadillac Fairview Corporation Limited. Cadillac Fairview owns properties throughout the City of Toronto, some containing buildings with heritage designations and other sites without those designations.

On our client's behalf, we have reviewed the proposed Official Plan Amendment (Proposed Amendment No. 199) attached to the Planning Staff Report dated February 4th, 2013. Our client has serious concerns with both the proposed Official Plan Amendment itself and with the process used in bringing forward this Amendment in advance of other planning policies which are part of the current, on-going Official Plan Five-Year Review.

Generally, our client's primary concern is that the proposals from City staff appear to present "heritage" matters as being distinct from other aspects of the planning and development approval process (such as the importance of intensification in appropriate locations). As cases before the Ontario Municipal Board have repeatedly said, heritage is just one component of a planning process that needs to balance a number of different factors. Indeed, the Provincial Policy Statement, which is an over-arching document relating to Official Plans, makes it clear that no one element should be read in isolation from the other elements. The preamble to the Provincial Policy Statement makes it clear that the full range of planning policies (including heritage and intensification) are to be considered in their entirety.

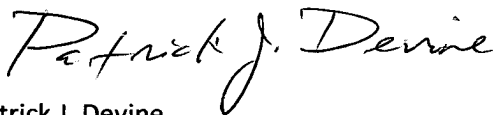
In addition, our client has been made aware of concerns raised by BILD based upon their detailed review of the proposed Official Plan Amendment No. 199 as conducted by experienced legal counsel and planning consultants. As will be noted in the BILD submission, some of these concerns are as follows:

1. The proposed "views" policy identifies many views as requiring protection (including skyline views) and gives limited direction on how to approach building design to account for such views. As is suggested by BILD's consultants, the result is that large areas of potential development in the City will be potentially liable to significant restrictions in order to protect views;
2. As noted in our introductory comments above, the primary thrust of the proposed Amendment is that where heritage policies are deemed applicable, these policies will pre-empt and predominate over other planning policies or public interest arguments. The entire tone of the proposed Amendment is that heritage policies should "trump" all other planning policies;
3. The apparent objective of the proposed Amendment is to facilitate the creation of further Heritage Conservation Districts. There is, in fact, a legal question as to whether an HCD designation can have the effect of controlling height and density, thereby prevailing over existing, approved zoning by-laws. This is a fundamental re-ordering of established planning law and would serve to undermine the legitimate, well-tested, fair and equitable approval process provided for under the *Planning Act*.

For these reasons and many others that will be advanced by BILD and other landowners, we strongly oppose the recommendations contained in the report dated February 4th, 2013. We would urge the Planning and Growth Management Committee to not adopt those recommendations.

Kindly accept this letter as our written submission in opposition to the proposed Official Plan Amendment. We hereby request that we be provided with notice of all further actions taken by either the Planning and Growth Management Committee or by City Council with respect to this matter.

Yours very truly,
Fraser Milner Casgrain LLP



Patrick J. Devine
PJD/ss

c.c. The Cadillac Fairview Corporation Limited

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