



March 4, 2013

VIA EMAIL pgmc@toronto.ca

**Planning and Growth Management Committee
City of Toronto, City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2**

RE: ITEM NO. PG21.1 New Draft City-wide Zoning By-law

Dear Committee Members:

On behalf of the Toronto Region of the Ontario Restaurant Hotel & Motel Association (ORHMA), I would like to take this opportunity to acknowledge the hard work of the city's zoning by-law project team. Through an ongoing dialogue with city staff our regional working group has been able to secure relief to some concerns emerging from various provisions of the city-wide draft Zoning By-Law (ZBL). Nevertheless, several outstanding issues of concern remain and we are asking that the committee defer a decision on the provisions described below.

ORHMA's Toronto Region believes the ZBL provisions are punitive to the restaurant industry's ability to grow and in fact run counter to city council's recently adopted economic development growth plan which seeks to align and harmonize city policies (including zoning by-law regulations) so that they "create a more attractive climate for business and investment."

Restaurant Patios

Zoning By-law 1156-2010 (repealed) introduced significant changes affecting patios. ORHMA expressed concern regarding the introduction of a rear patio prohibition and a 40 metre regulation on elevated patios. Following discussions with city staff, a prohibition on rear yard patios has been replaced with a requirement that the patio be no less than 30 metres from a residentially zoned property and that the area of the patio be no greater than 30 square metres.

While the reversal on the rear yard prohibition is commendable, the 30 metre separation distance will in effect be a prohibition, given the physical context of many main street locations relative to adjacent residential properties. For example, most of the category SS1 and SS2 areas of the city have a separation distance between residential zoned properties and commercial areas that is often the width of a lane way (approximately 6 metres.)

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Our industry would support a consideration of setback provisions for patios being a function of the size of the patio as suggested at a recent meeting by Councillor Milczyn. In other words, the larger the patio the greater the setback. In any event the setbacks should not serve to virtually prohibit restaurant rear patios.

Legal Non-Conforming Rights

Zoning By-law 1156-2010 (repealed) was criticized by a number of stakeholders regarding the lack of clear information on how existing conditions would be treated following the adoption of the new city-wide bylaw. ORHMA expressed the same concerns with respect to “grandfathering” language in the ZBL and in response staff introduced new language in the draft ZBL.

Subsequent to these changes, ORHMA secured legal advice that gives us concern that legal non-conforming rights are being diminished significantly in the ZBL - in particular, the treatment of buildings in the event of a voluntary rebuild or involuntary (e.g. fire) damage or destruction. It is our view that the ZBL as written works to remove legal non-conforming rights through the “back door”. This is unacceptable to industry operators and if not negotiated out will give ORHMA no choice but to appeal.

In closing, ORHMA’s Toronto Region would like to continue engaging the city’s zoning by-law project team as we believe these issues can be resolved. To that end, we ask the committee to defer a decision on the provisions outlined above so that we may have more time to engage city staff without which an appeal would be the only available remedy.

Sincerely,



Tony Elenis
President & CEO