



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

**John A.R. Dawson**  
Direct Line: (416) 601-8300  
Direct Fax: (416) 868-0673  
Email: jdawson@mccarthy.ca

November 20, 2013

Mayor and Members of Council  
City of Toronto  
Toronto City Hall  
100 Queen Street West  
Toronto ON M5H 2N2

**Attention: Planning and Growth Committee**

Your Worship and Members of Council:

**Re: Official Plan / Municipal Comprehensive Review and  
Reference Number P:\2013\Cluster B\PLN\PGMd PG 13064 (the "Staff Report")  
Proposed Draft Official Plan Amendment No. 231**

We are the solicitors for 1147390 Ontario Limited and Queen's Quay Avante Limited in respect of the above-captioned matter. 1147390 Ontario Limited and Queen's Quay Avante Limited are the owners of the properties known municipally as 215 Lake Shore Boulevard East and 178-180 Queen's Quay East, respectively. Our clients have now had the opportunity to review the Staff Report and would like to provide preliminary comments thereon, including the proposed new policies.

A key issue for our clients are the proposed policies in the Staff Report directed towards managing the relationship between employment uses and residential and other sensitive uses. We submit that 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, on a basic policy level one would anticipate that given the Plan's existing direction on the environment that the new policies would promote environmentally responsible and sustainable activity. However, that is not the case here. The policies to which we refer, and discuss in greater detail below, are directed towards creating scope for an enterprise which is emitting contaminants to continue to do so.

Parts of the proposed official plan amendment which engender 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 which 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.

In the highly urban environment of this city, where any user of land should expect to have regard for the relative proximity of "sensitive uses", an enterprise which emits contaminants should not immediately and automatically be absolved of the responsibility to conduct environmentally responsible operations simply because an investment in improved process or pollution abatement has some sort of impact on profit maximization.

However, 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.

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. Please provide us with notice, on behalf of our clients, of any further consideration of the matters herein by any Community Council, Council or any Committee thereof.

Thank you for your attention in this regard.

Yours truly,



John A.R. Dawson

JAD/sy  
Encl.