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June 16, 2014

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Dear Community Council Members:

Re: **Proposed Official Plan Amendment (the "draft OPA"), TE33.8  
260-270 and 274-322 King Street West (the "Subject Lands")**

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We represent the Estate of Arthur Caplan and the Estate of Arthur and Harold Caplan, which together own lands municipally known as 184 Pearl Street and 14, 19 and 30 Duncan Street (the "Caplan Lands"). The Caplan Lands are situated directly to the north of the western portion of the Subject Lands.

At its meeting tomorrow, Community Council will be considering the staff recommendation that the draft OPA be approved to permit the development of two very tall buildings of 92 and 82 storeys on the Subject Lands. The purpose of this letter is to request that, for the reasons set out below, Community Council/Council not approve the draft OPA and direct that staff make changes to the draft OPA to lessen the impacts of the proposed development on the Caplan (and other) Lands. It is our submission that, in its present form, *the draft OPA should not be approved*.

**A. Impact on of the Draft OPA on the Caplan Lands**

***Background***

The Caplan Lands are currently developed with 4 storey buildings containing office and retail uses. Given the on-going proliferation of proposed and built tall residential towers in the immediate vicinity of the Caplan Lands, it is clear that the Caplan Lands are underdeveloped.

Accordingly, our client is participating in a block planning exercise (the "Block Plan") for the block bounded by Pearl Street, Duncan Street, Adelaide Street and John Street (the "Block") with other Block landowners and City planning staff. The purpose of the Block Plan, and any resulting official plan amendment tied to it, is to facilitate the construction of tall, mixed-use buildings, on the Caplan Lands and certain neighbouring lands.

As the Block Plan requires that these towers be optimally distributed on all of the lands to meet the City's urban design objectives, the position of the proposed mixed use building on the Caplan Lands (the "Caplan Tower") is fixed.

A concept plan for the Caplan Tower has already been prepared by our clients as a result of the Block Plan process.

### ***Impacts***

Given the unprecedented size and magnitude of development that would be permitted under the draft OPA, our clients' consultants anticipate that the proposed development will result in significant and adverse effects on the Caplan (and other) Lands, with respect to both the present and future uses. Those impacts include:

1. **Massing/sky view/ shadow impacts:** the proposed 92-storey (305 m.) building located opposite the Caplan Lands (the "Western Tower") is very wide, has a large floor plate and is located close to the northern property limit. This will, we understand, result in a loss of sky view and significant shadow and wind impacts. The full extent of these impacts cannot be known until we have been provided with the revised plans for the proposal.
2. **Traffic and servicing impacts:** all vehicular traffic for the proposed development will access the Western Tower from just one location on Pearl Street. This will result in a significant concentration of traffic in front of the Caplan Lands, which will impact on their function. Opportunities to spread some of this traffic to John Street through the existing garage entrance on the western block should be secured prior to any approval of the draft OPA.
3. **Compliance with City urban design requirements-** the proposed floor plate, separation distances and other detail elements of the Western Tower have not been confirmed at this time. Compatibility with the existing and planned context of the abutting lands still requires consultation and a rigorous compliance with the City's Urban Design Guidelines.

In summary, the Block Plan would see a mixed use tower on the Caplan Lands located directly north of the proposed 92-storey Western Tower, which would in turn dominate the Caplan Tower (in its fixed location) and subject it to significant shadowing. Moreover, virtually all of the parking, loading, garbage and service function of the western block will access Pearl Street immediately opposite the proposed Caplan tower. This would not be appropriate for the functioning of the Caplan Lands or the Block Plan.

Our clients are also concerned that, given the speed and secrecy in which the revisions for the proposed development plans have been made, the supporting traffic, servicing, shadow, wind and other studies are not yet available for review by planning staff, City departments, Council and affected and interested owners and residents. In our view, ***approval of the draft OPA in this circumstance is premature.***

## **B. Planning Policy Issues**

In their 8 November 2013 Refusal Report, City Planning staff referenced a wide range of planning policy issues as a basis for recommending refusal of the application. While some of these matters may have been addressed by the applicant, for example heritage preservation, many other planning issues remain, in the view of our consultants, outstanding. These outstanding items include:

1. **King Spadina Secondary Plan:** the Secondary Plan requires that new buildings be sited and massed to provide adequate light, view and privacy for neighbouring properties. New development is to achieve a compatible relationship with the built form context through the consideration of such matters as, building height, massing, scale, setbacks, step backs, roof line and profile and architectural character and expression. The previous proposed development did not meet these objectives and the draft OPA does not secure such compliance.
2. **City's Tall Buildings Design Guidelines:** to lessen shadow, wind and other impacts and to improve sunlight penetration and sky views, the Tall Building Guidelines require a minimum separation of 25 metres between towers or 12.5 metres from an abutting property line. Where taller buildings or larger tower floor plates are proposed, greater setbacks and separation distances proportionate to increases in building size and heights are to be provided under the Guidelines. A maximum tower floor plate size of 750 square metres is recommended to achieve these objectives; we understand that the proposed towers are significantly in excess of this floor plate size.
3. **Density, Height and Scale in a Surrounding Context:** staff, after having carried out an analysis of building heights, densities and scale in the East Precinct and in the downtown, concluded that the previous proposal was inconsistent and significantly in excess of others recent developments. As the draft OPA would allow a similar density, height and scale, these items remain a major concern in our view.
4. **Shadow/Wind Impacts:** in the absence of a Sun/Shadow analysis to support the draft OPA and revised development proposal, our consultants are unable to fully comment on any changes in these significant issues from the previous staff report. In the Refusal Report, staff commented that the shadows that result from the then three proposed towers, with significant floor plates that average over 750 square metres, together with the heights and separation distances proposed, created a solid wall of shadows in the early morning due to the sun's angle on the area to the north-west of the sites. Staff also commented that the segment from Pearl Street to south of Richmond Street West will experience a significant amount of shadows cast in the morning hours. On June 21st, the shadows impact John Street from Pearl Street to Adelaide Street West in the morning hours as well.

Staff further commented that, under strong or gusty wind conditions, higher than average ground level wind will be encountered. A detailed assessment would be required as the design of the buildings is finalized, with quantitative microclimate analysis undertaken to identify mitigation alternatives or building design modifications, if required. However, a cumulative assessment of wind conditions is required to fully evaluate pedestrian level wind conditions. With the development activity occurring along King Street West and John Street, it is necessary to understand the impacts that all the developments would have on wind conditions prior to approving the draft OPA.

### **Conclusion and Request**

Our client is concerned that the draft OPA will adversely impact the use and function of the Caplan Lands in their current use, and that it will further preclude the scale of development proposed on the Block. It will result in the negative impacts set out above without adequate planning justification.

Finally, given the many significant studies underway in this area in response to the proliferation of development, including the King Spadina Secondary Plan Review, we do not understand how staff can recommend a more intense form of development - a form of development staff opposed in the November 2013 Refusal Report - absent the completion of those studies and a more detailed review of the impacts that would result under the draft OPA.

As a result of the above-noted impacts and concerns, we hereby request that Community Council/Council:

1. not approve the draft OPA in its current form; and
2. direct staff to consult with our client and other stakeholders to determine an appropriate built form for the Subject Lands that would form the basis of a revised draft OPA.

Thank you in advance of for your consideration of our requests. Should you have any questions regarding the above please do not hesitate to contact the writer.

Yours very truly,

**Blaney McMurtry LLP**



Marc Kemerer  
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- c. P.Didur/P. Johnston/Client