CC8.10.1

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RUSH

July 6, 2015

By Email

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City Clerk
Toronto City Council
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Toronto ON M5H 2N2
Att'n Marilyn Toft

Mayor & Members of Council,

RE: Item CC8.10: 387 - 403 Bloor Street east and 28 Selby Street
Letter of Objection from MTCC 1021: 409 - 419 Bloor St. E.

I am a lawyer retained by the residents of MTCC 1021, a 16 story residential condominium located immediately east of the proposed application. I have just received a copy of a Planning Report dated July 3, 2015 (the "Report"), which is to be considered by City Council on July 7, 2015 – allowing only one (1) business day for review by my clients.

The Revised Proposal is for a building of 52 stories located just 6 metres from the building occupied by my clients, despite the Tall Building Guidelines which call for a 25 metre separation distance between Tall Buildings. To say that this application "does not fully meet the Tall Building Guidelines" is a gross understatement – it virtually ignores them.

According to Page 15 of the Report, tall buildings were also approved at the intersection of Bloor & Parliament. However, I understand that these buildings were approved following extensive consultation with their neighbours, and with their support

With respect to the proposed separation distance of 6 metres to the east property line, the Report states that:

- "this condition is not ideal"
- "It will result in a reduction of light and sky view for a small number of units located within the mid-portion of the west elevation from the 12th -16th stories"

Council should not approve an application which even its planners admit is not ideal.

A letter submitted by David Butler, a planner retained by the residents, to Planning Staff (Attachment 1), provides planning evidence that the Revised Proposal will also reduce privacy, light and sky view for terraces located on the 5th, 6th and top floors of MTCC 1021, and that there are windows on the northwest corner of the building occupied by my clients (Attachments 2 (a), (b) & (c)). Mr. Butler requested City Planning to provide a list of recent approvals of tall buildings with separation distances of 6 metres or less, but none have been provided.

A previous proposal for redevelopment was considered by members of the Design Review Panel on November 13, 2014. In their review (Attachment 3), the participating members made frequent reference to the appropriate tower separation distance of 25 metres. They specifically stated that the applicant should work out a deal with MTCC 1021:

> "Without an agreement, you will need to pay much stronger adherence to the tall building guidelines"

Requested Action:

1. Defer consideration of this application to the next meeting of Council - or, in the alternative;

2. Add a request that the OMB withhold its Order approving the Zoning By-law amendment appeal pending confirmation that MTCC 1021 has settled its differences with the applicant.

Please let me know if you have any questions.

Yours truly,
Macdonald Sager Manis LLP

Ronald M. Kanter

Per: Ronald M. Kanter
RMK/RK

cc: David Samor, Councillor Tam-Wong's Office
Mark Crawford, City Solicitor
Kim Kovar, Aird & Berlis
AJ Goulding, MTCC 1021
Blair Kissick, MTCC 1021
David Butler, Butler & Associates

THE BUTLER GROUP CONSULTANTS INC.
Land Planning Services

June 22, 2015

Ms. Jennifer Renaud
Planner, Community Planning
City of Toronto
100 Queen Street West
Toronto, Ontario
M5H 2N2

Re: Application for Rezoning for 395-403 Bloor Street West

Dear Ms. Renaud

As you are aware, I am providing planning consulting services to MTCC 1021, a residential condominium located at 409 Bloor Street East which abuts the lands subject to a rezoning application for a fifty-two (52) story tower proposed for 395-403 Bloor Street East.

It is my understanding that City Planning staff are presently reviewing revised plans dated April 10, 2015, and that you will be preparing a report for City Council's consideration at its meeting to be held on July 13, 2015. It is expected that a City position will be taken at this meeting that will be discussed at the Ontario Municipal Board Pre-Hearing Conference scheduled for July 16, 2015. There has been no public meeting held with respect to the revised plans, and my client has not had any opportunity to depute on the City's position at Community Council. Consequently, my client had no previous opportunity to comment on this proposal.

The purpose of this letter is to generally summarize the discussion that we had at our meeting held on June 16, 2015, and to re-iterate some of my concerns related to the subject application.

At our meeting, I asked numerous questions about the subject application and focused my discussion on the interface along the westerly side of MTCC 1021. My chief planning concern is the proposed 6 metre building setback as well as balconies located at the 18th, 19th and 20th floors. It is my planning opinion that the close proximity of this building results in impacts related to privacy and shadowing. I showed you photographs (attached) of existing terraces at the 5th level and rooftop level (17th floor) as well as main living room windows located at the northwest corner of the building (409 Bloor Street East).

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I note that in the City Planning Preliminary Report on the application dated January 21, 2013 that one of the issues to be resolved (Issue 10 states: "Other built form and massing issues including, but not limited to: sky view, light penetration, privacy with respect to window separation to the properties to the east and west, and wind mitigation").

We reviewed the shadow studies provided by the applicant and concentrated on the June shadows. It is my understanding that the as-of-right zoning for the subject lands would not cause any shadow on the rooftop terrace of 409 Bloor Street East, but would likely cause some shadow on the lower terraces.

The proposed balconies on the 18th, 19th, and 20th floors will be located approximately 4.5 metres from the easterly property line of the subject site. In my opinion this close proximity is too tight and will result in unacceptable overview on the upper terrace of 409 Bloor Street East. It is my recommendation to City staff that these balconies be removed from the plans. We also discussed the need for possible new screening to be provided to assist with this privacy concern. You indicated that this would likely be a private matter between the applicant and MTCC 1021. While I agree with you on this point, it nonetheless demonstrates in my opinion the adverse impact that the proposed building will have on 409 Bloor Street East.

Under the existing CR zoning, a 5.5 metre setback is required and the applicant will no doubt argue that at 6 metres they comply. The CR zoning also has a 30 metre height limit and the applicant is seeking up to 175.8 metres. The CR zoning has a density limit of 4 f.s.i. and the subject application is seeking 17.42 f.s.i. In my opinion, the proposed height and density is a dramatic increase over the zoning by-law and the side yard separation needs to be increased.

In my opinion, the intent of the City's Tall Building Guidelines is to increase separation distances between towers particularly with building heights over 50 storeys. The minimum suggested setback would be 12.5 metres on the applicant's property for this development. I note that the west side yard setback adjacent to the office building is approximately 12 metres. You agreed to provide me with a list of recent approvals of tall buildings with separation distances of 6 metres or less.

I also asked to review the wind study prepared by the applicant. You indicated that the consultants were providing additional information at your request. I would appreciate being able to review a final wind study when it is available in order to understand any impacts that may occur on my client's terraces.

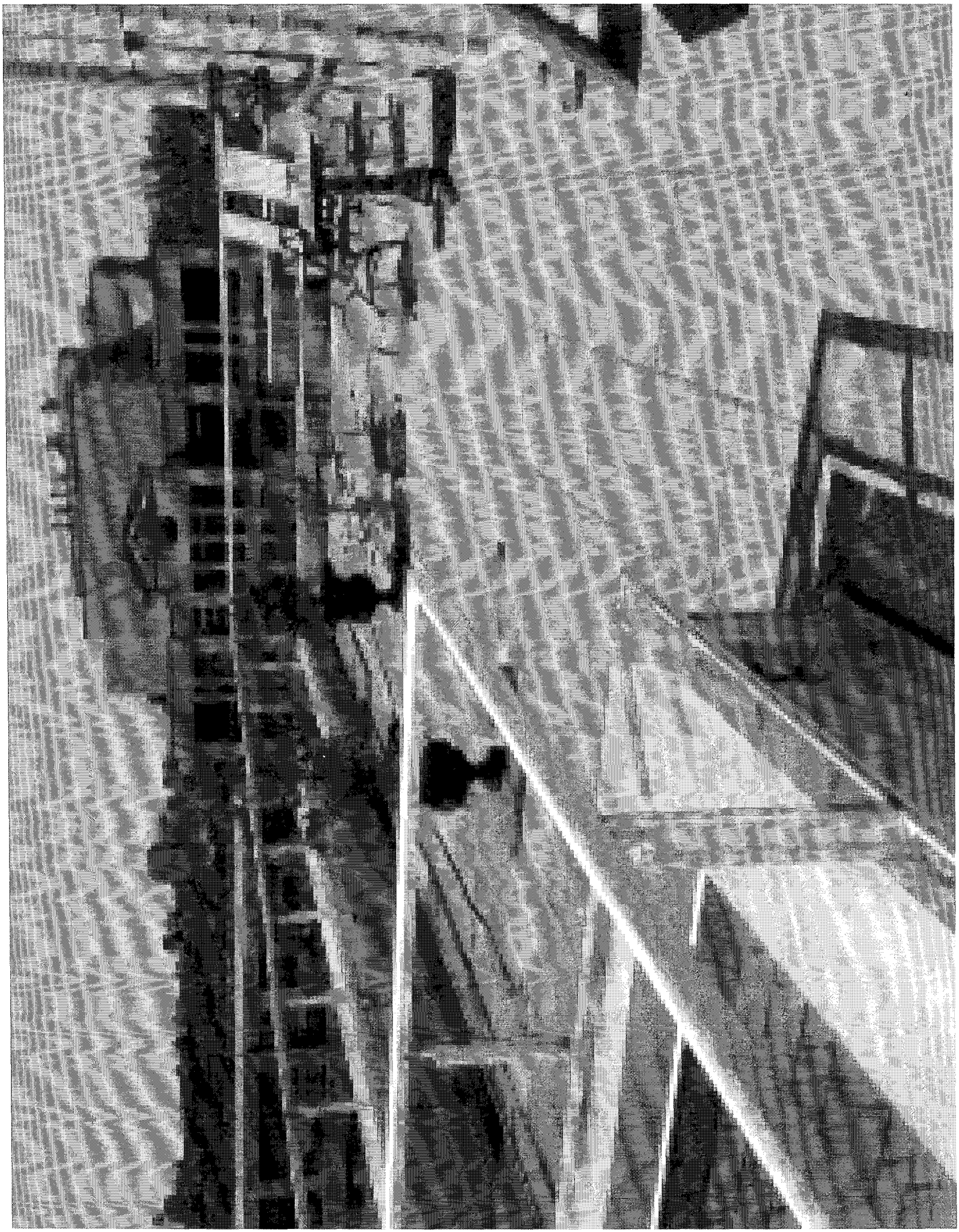
While I understand that there is some pressure to have a City position for the OMB Pre-Hearing Conference scheduled for July 16, 2015, there is no reason why the OMB needs to approve this development on July 16, 2015.

My clients would appreciate City Planning staff listening to their concerns and to have further dialogue and negotiations with the applicant so that the interface between buildings is as successful as possible. I look forward to further discussions with you and thank you for your time and assistance to date.

Yours very truly
THE BUTLER GROUP CONSULTANTS INC.

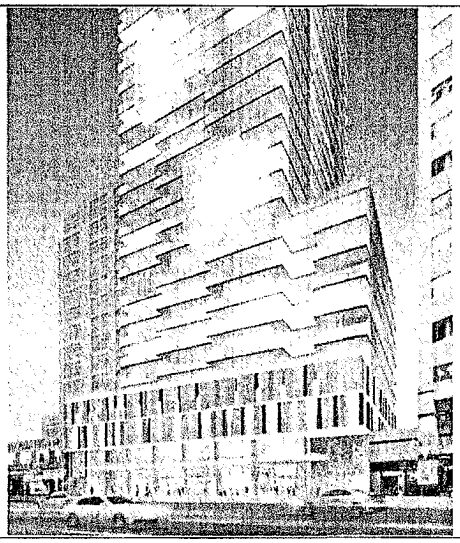
David A. Butler, MCIP, RPP
President

CC: AJ Goulding & Blair Kissick, MTCC 1021
Ron Kanter, Macdonald Sager Manis LLP
Councillor Wong-Tam
Kim Kovar, Aird & Berlis LLP



ATTACHMENT # 3

387-395 Bloor Street East	
Design Team	Page + Steele | IBI Group Architects
Review	First Review
Application	Rezoning
City Staff	Rong Yu, Urban Design Jennifer Renaud, Community Planning Paul Maka, Heritage Preservation
Conflict of Interest	B. Hollingworth, IBI Group
Participating Members	J. McMinn, M .Leckman, J. Melvin, J. Lobko, M. Graham
Vote	n/a (no quorum)



Introduction

City staff outlined the area context, history and area policy priorities and sought Panel's advice on the following issues:

- Scale of base building on Bloor Street East, especially in relation to the adjacent heritage building
- Scale of base building on Selby Street in relation to the recent application at 592 Sherbourne Street
- Tower Separation
- Articulation and quality of materials

The applicant described the design rationale and responded to questions from the Panel.

Panel did not have quorum for this project. The review was held with five members providing advice for consideration during design development.

Chairs Summary

New higher density developments, on Bloor Street East, have the potential to dramatically improve the neighbourhood. These improvements would come in the form of massing and planning responsive to a high-quality public realm, well-scaled street edges on Bloor and Selby Streets, appropriate tower separation, imaginative engagement of heritage resources, and well-deployed, well-crafted materiality.

Panel was unanimous in concluding the proposal for 387 Bloor Street East did not meet these objectives – ones that would apply to any development, but are in a more critical spotlight given the heightened importance of Bloor Street to Toronto.

To Panel, the scale of the building base on Bloor Street did not successfully respond to the heritage context; the scale of the massing on Selby Street did not respond to the existing context nor to the emerging one; the tower separation distances did not meet the 25m objective nor provided any mitigating design strategies; and the articulation and quality of materials were significantly under-developed and unresponsive for such a significant site. Panel looks forward to a redesigned proposal that recognizes the sensitivities and limitations of this important site.

Related Commentary

With close proximity to the subway, and being within the Downtown, Members acknowledged the site was appropriate for intensification. However, they did not support the proposed built form relationships, and also raised questions about the proposed articulation. In re-examining the proposal, the applicant was encouraged to meet more of the tall building guidelines with respect to tower separation, placement, and floor-plate with a view to creating a healthy living environment for building occupants as well as for people experiencing the building at-grade.

Scale of base building on Bloor Street East, especially in relation to the adjacent heritage building

Several Members noted that the quality of pedestrian realm along this section of Bloor Street is already challenged with respect to sunlight and general amenity. Following this, they expressed a desire to see a greater attempt to enhance this condition through the proposed redevelopment.

Members were supportive of the proposed material palette and pattering, suggesting it tied in well with neighbouring buildings. There was a sense, however, that more could be done to relate the podium to the neighbouring heritage building in a more convincing way, including re-examination of the datum line, and breaking down the overall scale to support smaller retail tenancy.

Scale of base building on Selby Street in relation to the recent application at 592 Sherbourne Street

Members were more enthusiastic about the Selby Street built form relationships, with several members suggesting it established a good scale, was well articulated, and had a good mix of uses. On the whole however, there was a strong sentiment that the entire scheme – including the Selby frontage - would be improved if the neighbouring parking-lot was included in the land assembly so that the entire built form could be redistributed. One Member indicated they did not find the Selby frontage convincing, and that it would be improved by providing more space around it (i.e. increasing the separation distances).

Tower Separation

While recognizing other developments have been approved with the minimal separation distances proposed, Members of the Panel felt strongly that these previously approved distances were deficient to the point where they should not be emulated in new developments. Emphasizing this point, Panel noted that the standards for tower separation – including objectives related to privacy, skyview and daylighting – have long been

embedded within the City's Tall Building Guidelines and are well known. One member commented that the floor plate looks "immense", and that the issue of tower separation would be improved by providing a more slender tower. The following additional comments on the issue of separation were provided by another Member:

- I am not sure that the bachelor units in this proposal [those with minimal separation distances] represent the quality of housing we want to create in this city
- I am nervous about what I see here
- I appreciate the adjacent building is owned by a condominium corporation, but I encourage you to work out a deal with them [develop the sites comprehensively]
- Without an agreement, you will need to pay much stronger adherence to the tall building guidelines
    - The issue of fairness is important in relation to property rights
    - Currently, this is a "going back to the drawing board" proposition.

Articulation and quality of materials

As a general approach to applications of similar scale and intensity, Members are of the opinion that is appropriate to comment on the architectural expression of the building at the rezoning stage. However, despite this, they felt it appeared too early to comment much on the expression of this proposal. One Member indicated that it felt too early to comment on the expression, while another – pointing to the floor to ceiling glass within the renderings – suggested the expression wasn't ringing true. Comments relating to the building envelope are summarised further below

Pedestrian Realm

Members felt the development had an obligation to make substantially greater open space provisions given the proposed density and lack of existing parks and open space. One Member described the current on-site open space allocation as meager.

Site Plan Design

The applicant was encouraged to provide a more seamless and enjoyable sequence to the bike parking area. This comment was provided in recognition that a significant number of residents in this proposal would be likely to walk or ride, rather than to drive, and that this priority modal-split should be accommodated in the design.

Sustainability

The applicant was encouraged to push the design significantly further than currently proposed. Specific comments and suggestions included:

- A dual shoot is OK (for sorting garbage), but tri-sorters are now common
- The proposal will need to address the Bird Friendly Guidelines
- The all-glass façade will present a challenge for thermal performace
    - we have to be responsible about the type of envelopes that are being brought forward