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**TE12.11.13**

December 8, 2015

**Via Email and Courier**

Mayor and Members of Council  
Toronto City Hall,  
10th Floor, West Tower  
100 Queen Street West  
Toronto, ON M5H 2N2

Your Worship and Members of Council:

**Re: Proposed St. Lawrence Heritage Conservation District and Heritage Conservation District Plan**

We are the solicitors for Great West Life Realty Advisors Inc. ("GWLRA") respecting its property known municipally as 33 Yonge Street ("33 Yonge"). On behalf of our client, and for the reasons set out below, we object to the inclusion of 33 Yonge in the proposed St. Lawrence Heritage Conservation Neighbourhood District (the "District") and object to the entirety of the proposed Heritage Conservation District Plan (the "Plan") as it applies to 33 Yonge. We therefore respectfully request that 33 Yonge be removed from both the District and Plan.

GWLRA's consultant on matters of built heritage, E.R.A. Architects Inc. ("E.R.A."), has provided correspondence to Toronto and East York Community Council (and presumably through it to City Council) which includes a comprehensive analysis which sets out the conclusion that 33 Yonge ought not to form part of the District. The comparative analysis set out on pp 30-36 of 33 Yonge Street Background Report dated December 10, 2014 prepared by E.R.A., which forms part of that correspondence (identified as TE12.11.4) would be sufficient and compelling in this respect even in the absence of the balance of that report.

To over-simplify, and thus not do justice to E.R.A.'s analysis, 33 Yonge is and has been directly associated with the shift of Toronto's commercial core towards the area now called the Financial District and does not directly relate to the District's cultural heritage value and attributes.

Accordingly, it should not form part of the District or be governed by the Plan.

Beyond being inappropriate in its application to 33 Yonge, the Plan raises other concerns. It is required to conform to the Official Plan and does not. It does not appropriately address the mandatory requirements of policy 3.1.5.31, which provides as follows:

31. Heritage Conservation District studies and plans shall, among other things:
  - a) be conducted in accordance with Council adopted guidelines and terms of reference;

- b) include protocols for amendment and periodic review; and
- c) include provisions addressing the relationship between the Heritage Conservation District Plan and the Official Plan and provincial policy within the context of the Heritage Conservation District Plan's directions for *conserving* cultural heritage values and character of the Heritage Conservation District, its attributes, and the properties within it, including but not limited to identifying any required changes to the Official Plan and zoning by-law.

Most notably in this respect, the Plan includes no protocols for amendment or review and insufficiently addresses the relationship of the Plan to the Official Plan and provincial policy.

Another problem with the Plan is that it could be argued to have extra-territorial effect, which is inappropriate and illegal, Section 7 of the Plan could be argued to incorporate the Official Plan policies respecting the development of properties adjacent to heritage properties into the Plan by reference. But such policies are in force and operational: there is no need to make such policies part of the Plan unless the intent is to vest the Plan with extra-territorial jurisdiction.

Finally, we note that the Plan vests design directions, which are typically engaged as guidelines and thus capable of flexibility in application, with policy status. Given the legal effect of Heritage Conservation District Plan, this means that such will oft-times necessarily be applied as immutable standards. Given the inherent relationship of heritage conservation to architecture, and especially in the context of "non-contributing" buildings, the lack of flexibility is likely to engender sub-optimal results from both a land use planning and a heritage conservation perspective.

In the event the Council does not choose to remove 33 Yonge from the District and Plan we respectfully request that neither the District or Plan be approved and instead that they be remitted back to staff for further discussions with our client. If the District and Plan were to be approved as recommended by Toronto and East York Community Council GWLRA would be compelled to object.

Thank you for your attention in this regard. Should you wish to discuss any of the matters set out herein or the District or Plan more generally please do not hesitate to contact us.

Yours truly,



John A.R. Dawson

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