



# STAFF REPORT ACTION REQUIRED

## 700 Bay St and 77 Gerrard Street West – Residential Rental Demolition and Conversion Application under Municipal Code Chapter 667 – Final Report

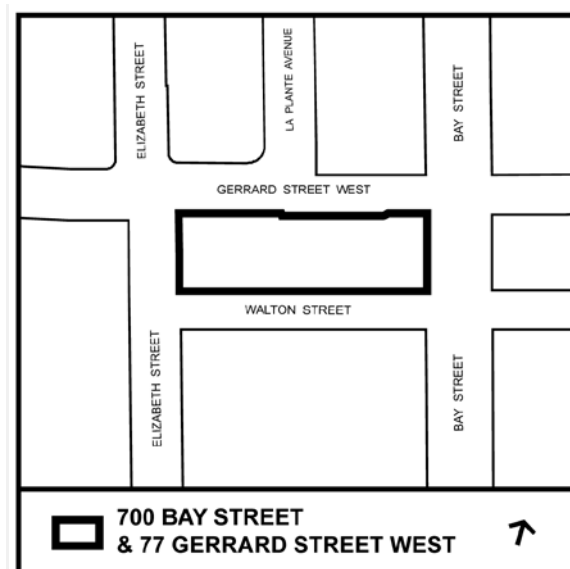
<b>Date:</b>	October 26, 2015
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 27 – Toronto Centre-Rosedale
<b>Reference Number:</b>	14-222794 STE 27 RH

### SUMMARY

This application proposes the conversion of residential rental units at 77 Gerrard Street West and 700 Bay Street (Lucliff Place). Specifically, the application proposes to convert 22 three-bedroom residential rental units into 22 two-bedroom units. The applicant also proposes to replace these three-bedroom units with similar sized units in a proposed addition on the west side of the existing building, which is subject to a related Zoning By-law Amendment application. Tenant relocation and assistance is proposed to be provided to the tenants of the 22 affected units.

The related Zoning By-law Amendment application for the addition received conditional approval by the Ontario Municipal Board on September 4, 2015.

This report recommends approval of the application for residential demolition and conversion subject to conditions.



## RECOMMENDATIONS

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### The City Planning Division recommends that:

1. City Council approve the application to convert the 22 existing three-bedroom residential rental units located at 700 Bay Street and 77 Gerrard Street West pursuant to Municipal Code Chapters 667 subject to the following conditions which provide for the replacement of rental housing as conditionally approved by the Ontario Municipal Board on September 4, 2015:
  - a. the owner shall provide and maintain two-hundred and twenty-three (223) existing dwelling units on the site as rental housing for a period of at least 20 years, from the date of the Zoning By-Law being in force and effect, with all the associated facilities and amenities of the buildings to be secured for the rental housing units;
  - b. the owner shall provide and maintain, in a proposed addition on site, twenty-two (22) three-bedroom replacement residential rental units as rental housing for a period of at least 20 years as shown on plans dated October 2, 2015. These rental replacement units shall all be replaced at not less than 87.5 square meters, with each bedroom having an external and operable window, with any revisions to be to the satisfaction of the Chief Planner, and of which at least 12 shall have midrange rents for the first 10 years;
  - c. the owner shall provide and maintain two-hundred and twenty-two (222) new rental units on the site as rental housing for the period of at least 20 years, with no application for demolition or conversion for a period of at least twenty years from the date of first occupancy;
  - d. the owner shall provide tenant relocation assistance including, an extended notice period, financial assistance beyond the minimums of the *Residential Tenancies Act* and the right to return to a replacement rental unit or the unit they previously occupied at 80% of their rent, for the eligible tenants to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - e. the owner shall provide a Construction Mitigation Plan, including rent mitigation measures and a respite room, to the satisfaction of the Chief Planner, Executive Director, City Planning Division;
  - f. the owner shall provide a Tenant Communication Plan to the satisfaction of the Chief Planner, Executive Director, City Planning Division;
  - g. the owner shall enter into and register one or more Section 111 Agreement(s) to secure the conditions outlined in (a), (b), (c),(d), (e) and (f) above and as described in the zoning by-law amendment conditionally approved by the Ontario Municipal Board, September 4<sup>th</sup>, 2015, to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and,
  - h. the owner shall enter into and register, a Section 118 Restriction under the Land Titles Act (to the satisfaction of the City Solicitor) agreeing not to transfer or

charge those parts of the lands, comprising the 22 replacement rental units, without the written consent of the Chief Planner and Executive Director, City Planning Division or their designate, to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands until such time as the City Solicitor determines that its registration on title is no longer required to secure the provisions of the Section 111 Agreement.

2. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue preliminary approval to the application under Municipal Code Chapter 667 after the following has occurred:
  - a. satisfaction or securing of the conditions in Recommendation 1;
  - b. after the Zoning By-law amendment approved in principle by the Ontario Municipal Board of September 4<sup>th</sup>, 2015 has come into full force and effect;
  - c. after the execution and registration of a Section 37 Agreement pursuant to the *Planning Act* securing the conditions in Recommendations 1 (a-g) and any other required conditions of the Zoning By-law Amendment;
  - d. The issuance of the Notice of Approval Conditions for site plan approval by the Chief Planner or her designate, pursuant to Section 114 of the City of Toronto Act, 2006.
3. City Council authorize the Chief Building Official to issue a Section 111 permit under Municipal Code Chapter 667 after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval referred to in Recommendation 2, and no earlier than the issuance of the first building permit for the superstructure for the development as provided for in the Zoning By-law approved by the OMB in principle on September 4<sup>th</sup>, 2015.
4. Authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreements.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **Decision History**

The application was appealed to the Ontario Municipal Board (OMB) on May 21, 2015. Council approved the basis for settlement of the OMB appeal at its meeting of July 7, 8 and 9, 2015. The settlement, as presented to the OMB, proposed to construct a new 31-storey residential addition to the west end of the site, 4 additional stories on top of the existing building and 8 additional stories of commercial office space on top of the eastern, commercial portion of the site. Additionally, the appellant proposed to secure the tenure of the existing and additional new residential rental units, to provide additional indoor amenity space for all the tenants of the new and existing units, to replace the three-bedroom units and to a Construction Mitigation and Tenant Communication Plan.

(<http://www.toronto.ca/legdocs/mmis/2015/cc/bgrd/backgroundfile-82021.pdf>) The OMB has determined that the Section 111 matters will deal with the tenants' concerns (<https://www.omb.gov.on.ca/ecs/CaseDetail.aspx?n=PL150428>).

With respect to the rental demolition and replacement matters, Council's requirements for settlement of the appeal of the redevelopment, to satisfy the Official Plan policy on rental demolition included that:

Prior to the issuance of the first above-grade building permit for the proposed development, the owner shall provide a contribution in the amount of \$3,000,000 to be indexed in accordance with City practice and secured by way of a letter of credit. These funds shall be used in accordance with Official Plan policy 5.1.1 for park improvements, streetscape improvements, new affordable housing and a rental abatement program for a portion of the dwelling units in the existing and/or new building with the final allocation to be determined in consultation with the Ward Councillor and to the satisfaction of Chief Planner and Executive Director, City Planning.

And, that:

City Council authorize the City Solicitor, in the event that the proposal is approved by the Ontario Municipal Board, to advise the Board that the development application should not be approved without the full replacement of the 24 existing rental dwelling units to the satisfaction of the Chief Planner and Executive Director, City Planning.

On September 4, 2015, the OMB issued the decision to approve the settlement in principle and to withhold the order for 90 days to allow the parties to return to Council for approval of the Section 111 permit and the details of the Construction Mitigation and Tenant Communication Plan.

This property has not been the subject of a previous application for demolition or conversion of any rental units over the previous five year period.

## **ISSUE BACKGROUND**

### **Proposal**

This application for a Section 111 permit proposes to convert 22 three-bedroom residential rental units of high-end (10) and mid-range (12) rents to two-bedroom plus den units. As a result of the 31-storey addition to the west elevation of the building, existing bedroom windows in each of these three-bedroom units will be removed, resulting in the space becoming a den, rather than a bedroom. Additionally, three two-bedroom units on the top three floors will lose a secondary western window in one bedroom but will not be converted in the process.

The 22 three-bedroom replacement rental units, 222 additional new rental units and additional rental amenity space are proposed in the new additions. The owner is proposing to replace the converted units at 97% of rentable GFA. The applicant is proposing an additional 222 residential rental units to be secured which brings the total number to 467 residential rental units.

Four additional stories are approved to be added to the top of the existing residential portion of the building, proposing to containing renovated and additional amenity spaces, a rebuilt pool and change area, storage lockers, outdoor amenity space and additional residential units.

The applicant has proposed to supply 1,541 square metres of indoor and outdoor amenity space for all of the rental units on the site.

### **Site and Surrounding Area**

The site is generally rectangular in shape, occupying the block between Bay Street and Elizabeth Street. The existing building is mixed use and currently contains 223 rental residential units, approximately 16,341 square metres of office space and 1,700 square metres of ground floor retail space. The total site area is 3,207 square metres. The existing building is predominantly 25-storeys in height, but has a small 3-storey base portion on the western part of the site that is the location of the approved 31-storey tower. Surrounding uses include:

- North: Directly to the north of the site is a vacant property that was previously a residence for nearby hospital staff. North on Bay Street, there are a number of high rise condominium buildings. To the north west of the site is College Park.
- East: Directly to the east of the site on Bay Street is a surface parking lot that has recently been approved for a 43 storey residential rental building. Continuing east there is the Eaton Chelsea hotel as well as the "Aura" development, a 78-storey residential condominium building.
- West: Immediately to the west of the site is the Hospital for Sick Children, continuing west is University Avenue and Mt. Sinai Hospital.
- South: Directly to the south of the site is the new research centre for the Hospital for Sick Children as well as the Enwave plant and vent stack. Continuing further south on Bay Street are retail uses such as the Atrium on Bay, mixed-use institutional and retail uses as well as residential rental properties and City Hall.

### **Provincial Policy Statement and Provincial Plans**

Section 2 of the *Planning Act* sets out matters of provincial interest, which include the adequate provisions of a full range of housing and the orderly development of safe and healthy communities.

The Provincial Policy Statement (PPS), 2014, provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required to be consistent with the PPS.

## **Official Plan**

### **Section 3.2.1 Housing Policy**

This redevelopment proposal and demolition application is subject to the Official Plan's Housing policies, in particular Sections 3.2.1.6. and 3.2.1.5.

Firstly, Section 3.2.1(5) provides that significant new development on sites containing 6 or more rental units, where the existing rental units will be kept in the new development, will secure the tenure of buildings where there are affordable or midrange rents, and may also secure improvements to the existing buildings at no extra cost to the tenants.

Proposals involving the demolition or conversion of 6 or more units of rental housing shall not be approved by Council unless all of the rental housing units have rents that exceed mid-range rents at the time of application. Approvals should provide for their replacement with at least the same number, size and type of rental housing units. The rental housing is to be maintained as rental housing with no condominium registration, with rents similar to those in effect at the time the application is made, for a period of at least 10 years. An acceptable tenant relocation and assistance plan is required, addressing: the right to return to occupy one of the replacement units at similar rents; the provision of alternative accommodation; and other assistance to lessen hardship.

### **Rental Housing Demolition and Conversion By-law**

The Rental Housing Demolition and Conversion By-law (885-2007), established Chapter 667 of the City's Municipal Code and implements the City's Official Plan policies protecting rental housing. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the City of Toronto Act. Proposals involving the loss or conversion of six or more residential units, by size, type or number, wherein one or more of the units affected are rental, require the submission of a Section 111 application. Council may refuse an application, or approve the conversion with conditions that must be satisfied before permits are issued under the *Building Code Act*.

A related application such as a rezoning, triggers the requirement for an application under Chapter 667 for rental demolition; and typically City Council decides on both applications at the same time. Unlike *Planning Act* applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB. In this case, the development's zoning by-law amendment which also provides for Section 37 community benefits and both have been approved at the Ontario Municipal Board.

### **Site Plan Control**

The related Zoning By-law Amendment application is subject to Site Plan Control. The applicant has not yet submitted a Site Plan Control application.

### **Reasons for Application**

A Rental Housing Demolition and Conversion Application under Section 111 of the City of Toronto Act (Chapter 667 of the Municipal Code) is required to permit the conversion of the 22 existing three-bedroom units to two-bedroom plus den units in the existing building which contain a total of 12 rental dwelling units at mid-range rents.

## Community Consultation

A community meeting on the related Zoning By-law Amendment application was held on March 2, 2015 and tenants were amongst those invited to the meeting. At a round table discussion on rental housing, tenants listed a variety of concerns regarding their units and the application in general including:

- The adequacy of services for new residents;
- The flight paths of the hospital helicopters and the proximity of the Enwave exhaust stack;
- The accessibility of new units;
- The length and type of construction, including loss of amenity for tenants in units not directly adjacent construction;
- Loss of parking;
- Dust, noise and vibration during construction;
- The rights of tenants during the process;
- The difficulties of the current rental market; and
- Current maintenance issues of the building including recent loss of bike parking, renovations to the parking garage and asbestos in units.

Chapter 667 requires City Planning to hold a community consultation meeting to consider matters under the by-law and the impact on tenants prior to the submission of a report to Community Council. A meeting was held with the tenants to deal with both the conversion of units and the proposed construction on August 11, 2015.

A refined version of the plans that reflected the settlement between the appellant and Council was presented to the tenants. Tenants clearly expressed concerns related to:

- noise, vibration and dust (asbestos) from construction impacts and what that means for sensitive populations (seniors, work-from-home, shift workers) throughout the entire building (sound carries from floor-to-floor);
- current disruptions to services, parking and elevators in particular;
- stairwells inaccessible from street-level to go up (important when elevators are underserved);
- loss of amenity during construction (parking/pool/gym);
- notice periods for units that will be directly impacted by construction (adjacent), for construction phasing (periods of demolition, construction

adjacent and construction on top of building), and possible service disruptions (heat, power, water, parking);

- general displeasure with the planning process and lack of consultation with the tenants (OMB appeal, notices, etc);
- above guideline increases for rents (now and in the future); and
- harassment potential for tenants who take complaints to the management.

Four tenants attended the OMB prehearing and expressed to the member the importance of their residence as a community and the importance of an adequate construction mitigation plan and communication for the tenants through this process.

### **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions.

### **COMMENTS**

#### **Provincial Policy Statement**

The proposal is consistent with the PPS as the replacement of three-bedroom mid-range rental units provides for intensification while retaining valuable housing options.

#### **Rental Housing**

The conversion of 22 existing residential rental three-bedroom units from floors 3-25 to 22 two-bedroom units falls under the jurisdiction of Chapter 667 and Official Plan Housing policy 6. The additional residential density added to the site also falls under the Official Plan's Housing policy 5.

Lucliff Place is a rental building subject to the *Residential Tenancies Act*, which has provisions for tenants who suffer from loss of enjoyment during periods of construction or renovation. The intent of the Housing policies and mitigation measures is to supplement the provisions of the *Residential Tenancies Act* and to encourage tenants to stay in their homes throughout the construction process, while providing mitigation for those with special needs.

There are approximately 25 tenants in the building that have tenancies longer than 20 years at this time.

The following discusses the proposal that the owner has proposed to replace the rental units and to provide mitigation to the tenants of both the units to be converted and other tenants affected by construction through this process.

#### Replacement Rental Housing

The owner has agreed to replace the 22 rental units between floors 4-26 of the existing building at 97% of rentable GFA. These units presently being 92.1 square metres and being replaced at 89.4 square meters. They have proposed that the remainder of the new units shall also be rental and that all units will have access to the replaced and proposed new amenity spaces.



The gym and pool in the existing building will be renovated and replaced and upgraded to create a total of 1541 square metres or amenity space.

The existing rental units (223), the replacement rental units (22) and additional new rental units (222) will all be secured as rental housing for at least twenty years with no allowance for applications for condominium registration during this period.

#### Further Details of the Replacement Rental Housing

The zoning by-law and Section 37 agreement specify the minimum requirements as follows:

- that the 22 rental replacement units shall all be replaced at not less than 87.5 square meters, with each bedroom having an external and operable window;
- There will be 276 parking spaces for the use of the rental tenants;
- All replacement and new units shall have laundry facilities provided en-suite; and
- All units will have access to the indoor and outdoor amenity spaces.

All of the facilities mentioned above, except parking, shall be provided to the tenants of the rental units at no additional cost.

#### Tenant Relocation and Assistance Plan

The proposal goes beyond the minimum requirements of the *Residential Tenancies Act* by increasing the 4 months notice period for tenants that construction will begin. Tenants directly adjacent the construction will be offered the following:

*Households of the three bedroom units:* offered either: \$2,500 moving allowance, and 3 times rent, and an extra month for every 5 years of tenancy, 2 months for every 10 years, 3 months for every 20 years and special needs households receiving an extra \$3,000.

Or:

For the construction that is at the same floor, or one floor above or below to be able to stay in unit at 50% rent. After the unit is "converted" the rent will be reduced to 80% of what it was previously for that tenant.

These tenants will have the right to return to a new three-bedroom unit (with a \$2,500 move-in allowance) at a slightly higher rent or may return to the original unit at the 80% of the previous rent.

*Households of the two-bedroom units:* offered either: \$2,000 moving allowance, and 3 times rent, and 1 month for every 10 yrs of tenancy, 2 months' for every 20 years, and special needs receiving an extra \$3,000 (tenants of units with windows to be removed will have the same sliding scale as the 3 bedroom units).

Or:

For the construction that is at the same floor, or one floor above or below to be able to stay in unit at 60% rent. Units with affected windows will have the 50% reduction during construction. Tenants with over 30 years of tenancy in the building will be offered the same package as the three-bedroom units, regardless of unit type or location.

#### Tenant Construction Mitigation and Communication Plan

Tenants of units adjacent to those 22 units having their windows removed (one removed) shall be offered a discount of 15% of their rent while construction is on the same floor, and 10% while construction is either a floor above or a floor below.

Tenants of units two removed from the construction (i.e. adjacent to the one removed units noted above) shall be offered a 10% discount while construction is on the same floor and 5% while on the floor above or below the unit.

All tenants of units directly underneath the addition construction will be offered a 30% rent discount while concrete work is being done on the floor above them.

For the tenants who use the amenities, they will be offered a 50 dollar rebate to their rent for the duration of the closure of the amenity spaces.

*Respite Room:* A one bedroom unit on the lower floors, away from the new construction will be appointed with wifi and casual use, including a "quiet room" free to all the tenants of the existing building as a respite room. This will be made available from 5 months prior to above grade construction.

*Alternate access:* Stairwells that exit to the street will be installed with two-way maglocks with key-card/fob access for both ingress and egress.

*Hours of Construction:* Construction will be done between the hours of 7am and 5pm on weekdays, with possible exceptions for Saturdays.

#### *Tenant Communications:*

- Contact information for noise and construction related issues will be provided to the tenants and tenants may expect a response within 2 business days.
- Interruption of services (water, electrical) will be preceded by 48 hours notice, unless it is an emergency.
- Interruption of services (parking, access, sidewalk construction or hoarding) will be preceded by a week's notice.
- Tenants who will be receiving rent reductions or returns will be informed by a letter the month prior to the abatement beginning with the expected end

date, and will be informed a month prior to the finish of the abatement period.

- All tenants shall receive a newsletter, at least quarterly, detailing the progress of the construction and any anticipated changes. Electronic versions will be posted on a "blog".
- Service interruption notices will be posted in the lobby of the building.
- The rental office will have the full construction strategy and the current plans for construction stages available during regular hours,
- A quarterly meeting will be held with tenants to update them and hear questions and concerns.

### Rent Provisions

The 12 mid-range rental replacement units will have rents secured according to the City's standard practices. Rents for tenants moving in during the first 10 years shall be no more than 1.5 times the average market rent for the mid-range units. For all returning tenants, the initial rents shall be based on their last rent paid with permitted annual rent guideline increases that would have otherwise occurred during the intervening period until the new units are available for move-in. There would also be a 4% increase representing a new building allowance, unless the mid-range rent threshold is lower for those units, then that limit would apply.

Annual increases are limited to the provincial rent guideline increase and above-guideline increases if applicable, during this first 10 year period. For any tenant who remains after the tenth year, these protections will continue until the earlier of when they move out or the 20<sup>th</sup> year of the new building's occupancy, followed by a 3 year phase-in to unrestricted market rent.

Commencing in the 11<sup>th</sup> year, any new tenants may be charged market rents, unrestricted by the owner's agreement with the City.

For all tenants who choose to return to a converted unit, their new rent will be 80% of what their rent was prior to construction.

The replacement proposal, including tenant assistance, meets the Official Plan policy and generally is consistent with the City's standard practices. The Zoning By-law Amendment provides for securing these matters in a Section 37 Agreement. The Council directions for a settlement directed that the OMB be requested to withhold their order until such time as a zoning by-law and Section 37 Agreement with rental housing provisions has been entered into. The OMB decision requires the City to provide a By-law and Section 37 Agreement within 90 days of the Board decision.

## **Conclusion**

Staff is recommending that Council approve the conversion of 22 residential rental units conditional on the applicant: providing the replacement rental housing and tenant assistance as outlined in this report; and entering into a Section 111 agreement to the satisfaction of the Chief Planner to secure these conditions and which is consistent with the provisions of the Zoning By-law as approved by the Ontario Municipal Board; and consistent with the rental housing provisions of the Section 37 Agreement.

## **CONTACTS**

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## **SIGNATURE**

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Gregg Lintern, MCIP, RPP  
Director, Community Planning,  
Toronto and East York District

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## **ATTACHMENTS**

Attachment 1: OMB Order  
Attachment 2: Zoning By-Law

Attachment 1: OMB Order

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** September 4, 2015

**CASE NO(S):**

PL150428

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	KS 700 Bay Street Inc.
Subject:	Application to amend Zoning By-law No. 438-86 - Neglect of the City of Toronto to make a decision
Existing Zoning:	CR
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit a new 45 storey residential apartment tower addition
Property Address/Description:	700 Bay Street & 77 Gerrard Street West
Municipality:	City of Toronto
Municipality File No.:	14 222791 STE 27 OZ
OMB Case No.:	PL150428
OMB File No.:	PL150428
OMB Case Name:	KS 700 Bay St Inc. v. Toronto (City)

**Heard:** August 25, 2015 in Toronto, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

KS 700 Bay Street Inc.

Eileen Costello

City of Toronto

Ray Kallio

## **DECISION OF THE BOARD DELIVERED BY J. de P. SEABORN**

[1] KS 700 Bay Street Inc. (“Applicant”) seeks approval of two site specific zoning by-law amendments to facilitate re-development at a property located at 700 Bay Street (“Bay”) and 77 Gerrard Street West (“Gerrard”). The first amendment relates to City of Toronto (“City”) Zoning By-law No. 438-86 (“in-force By-law”) and the second relates to the City’s new comprehensive Zoning By-law No. 569-2013 (“new By-law”). At the commencement of the hearing (which was scheduled as a pre-hearing, notice of which was given by the Applicant (Affidavit of Service, Exhibit 1)), Ms. Costello and Mr. Kallio advised that the appeal was resolved between the parties and draft by-laws (Exhibits 8A and 8B) were filed in support of the agreement reached as well as the terms of the settlement as directed by City Council. The parties jointly requested that the by-laws be approved but that the Board’s Order be withheld to permit time for staff to finalize the detail associated with each by-law. In addition, the parties have agreed upon a contribution toward public benefits under s. 37 of the *Planning Act* (“Act”), however that agreement is not executed and is intended to provide for (among other matters) securing specified rental housing matters, including new affordable housing and a rental abatement program and a tenant relocation and assistance plan. The terms of the settlement, described below, also include construction mitigation and tenant communication plan.

[2] In support of the by-laws for which approval is sought and the settlement reached with the City, John Hunter, qualified to provide opinion evidence in the discipline of land use planning, provided background evidence and explained the policy context for the proposal and significant changes made by the Applicant to the project, which ultimately resulted in City Council supporting the re-development, subject to several key terms (Document Book, Exhibit 2, Settlement Terms, p. 257). Four participants (Geoffrey Gladdy, Joan Santiago, Choi Wong and Eden Harnum) appeared at the hearing, each of whom live in the residential portion of the building at 77 Gerrard Street West, known as LuCliff Place. They raised some issues and requested clarification with respect to certain aspects of the re-development; however, each was fair and balanced in their testimony and appreciative of Mr. Hunter’s detailed explanation of the proposal, as revised.

[3] The Applicant is proposing to re-develop the existing residential (with some commercial and retail space) building, known as LuCliff Place. LuCliff Place is a 24-storey mixed use building situated at the corner of Gerrard and Bay Streets and extends almost to Elizabeth Street. It includes 223 rental suites, office space and groundfloor retail, with underground parking for cars and bicycles. The original proposal was to introduce a 45-storey residential apartment tower at the west part of the site, blending the new construction with the existing building. The additional height was planned along the Elizabeth Street side of the building, with the existing ground floor commercial and retail space proposed for re-configuration. Additional amenity space also formed part of the proposal. Following discussion with City staff and public consultation, the Applicant made significant changes to the proposal (as shown in Exhibit 6). As a result of the changes, City Council endorsed the project, subject to a series of settlement terms (Exhibit 2, p. 257) which are an integral part of the agreement reached between the City and the Applicant.

[4] The revised proposal, reflected in the proposed by-law amendments provided by Mr. Hunter in draft, significantly reduces the overall additional height and instead provides for increased height for office space across the Bay Street portion of the site. The maximum height on the west side will now be 31 storeys, an eight storey office addition will be added on the east side of the existing program and a four storey residential addition will be included on the mid portion of the existing building. The settlement terms include: the height restrictions; maximum floor space index of 19.08 times the area; restrictions on setbacks and floorplate for the tower addition on the west side; designated and updated loading area; securing the rental tenure for at least 20 years; additional indoor amenity space; an application under s. 111 of the *City of Toronto Act* in respect of rental housing which will incorporate a tenant relocation and assistance plan, replacement of all existing three bedroom units being converted to two bedroom units and a construction mitigation and tenant communication plan.

[5] The participants had varying concerns, many of which were provided in the form of questions for the Applicant and the City. One common theme however was the

importance of community at LuCliff Place and in this regard Ms. Santiago indicated that the proposed construction mitigation plan and tenant communication plan were important aspects of the City's settlement terms. Ms. Harnum emphasized the importance of the rooftop amenity area as it exists today and had questions about the bicycle spaces and the need to renovate the loading dock. She also underscored the importance of protecting the health of residents and is concerned about the potential for asbestos in the building given its age. Ms. Wong is concerned that the renovation will block one of her windows in her existing apartment. Mr. Gladdy indicated that he felt the project was proceeding too quickly, without enough notice to the tenants and expressed concern with respect to existing noise pollution, potential of asbestos in the building and the impact of an adjacent smoke stack.

[6] It was Mr. Hunter's opinion that the planning instruments are consistent with the Provincial Policy Statement 2014, conform to all applicable provincial plans and conform to the policies contained in the City's Official Plan. In recommending the planning instruments, Mr. Hunter emphasized that regard should be had to the decision of Council which is detailed and takes into account the significance of protecting rental housing, assistance to tenants and provides for a s. 37 agreement, as well as the settlement terms summarized above. I adopt and rely upon Mr. Hunter's opinion and the joint request of Ms. Costello and Mr. Kallio that the direction of Council be implemented by the Board. Many of the issues raised by the participants will be addressed by the detailed settlement terms. Other concerns are unrelated to the re-development, *per se*. City Council has considered the matter and on this basis and in light of the agreement reached, an approval of the project, as revised, represents the public interest.

[7] The decision of the Board is to allow the appeal in part, but withhold the Order. The draft by-laws (Exhibit 8A and 8B) are approved, subject to refinement following a final review by staff, working in conjunction with the Applicant and consistent with the direction of City Council dated July 7, 2015 (Exhibit 2, pp. 254-259). The parties will advise the Board within 90 days of the date of this decision when the Board's Order, with the agreed upon By-laws attached and confirmation that the s. 37 agreement is executed, can be issued.



*“J. de P. Seaborn”*

J. de P. SEABORN  
VICE CHAIR

If there is an attachment referred to in this document,  
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**Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario

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## **Attachment 2: Zoning By-Law**

Authority: Ontario Municipal Board Decision issued on \_\_\_\_\_, \_\_\_\_\_, and Order issued \_\_\_\_\_, \_\_\_\_\_, in Board File No. PL150428

### **BY-LAW NO. --2015**

#### **To amend Zoning By-law 569-2013, as amended, With respect to the lands known municipally as, 700 Bay Street and 77 Gerrard Street West**

Whereas authority is given to Council pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, to pass this By-law; and,

AND WHEREAS the Ontario Municipal Board, by its Decision issued on \_\_\_\_\_, \_\_\_\_\_, and Order issued \_\_\_\_\_, \_\_\_\_\_, in Board File No. PL150428, approved amendments to the former City of Toronto Zoning By-law No. 569-2013, as amended, with respect to the lands;

AND WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law under Section 34 of the *Planning Act*, authorize increases in the *height* or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or matters as are set in the by-law;

Whereas Council has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

NOW THEREFORE pursuant to the Order of the Ontario Municipal Board, By-law No. 569-2013, the General Zoning By-law of the City of Toronto, as amended, is further amended as follows:

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Map 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions.
3. Zoning By-law No. 569-2013, as amended, is further amended by rezoning the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines from CR 6.0 (c2.0; r6.0) SS1 (x1317) and CR 7.8 (c2.0; r7.8) SS1 (x1317) to CR.
4. By-law No. 569-2013, as amended, is further amended by removing the Policy Overlay 1 overlay and Height overlay shown on the Zoning By-law Maps in Section 995 that apply to the lands shown on Map 1.
6. Zoning By-law No. 569-2013, as amended, is further amended by deleting 12(2)111, 12(2)132, and 12(2)260 of By-law No. 438-86 from 900.2.0 Exception No. 1317 that apply to the lands shown on Map 1.

7. Zoning By-law No. 569-2013, as amended, is further amended by adding 900.11.10 Exception Number XX so that it reads:

**Exception CR XX**

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- A. On 700 Bay Street and 77 Gerrard Street West, if the requirements of this By-law [Clerks to insert By-law No.] are complied with, none of the provisions of 4.5.40.10(1), 4.5.40.10(5)(A), 4.5.40.10(5)(B), 4.5.40.10(6), 4.5.40.10(7), 4.5.40.60(1), 4.10.40.10(1), 4.10.40.50(1), 4.10.40.50(2), 4.10.40.60(1), 4.10.40.60(2), 4.10.40.60(5), 4.10.40.70, 4.10.90.1, 4.10.90.40(3), 4.10.100.10(1), 200.5.1(3), 200.5.1.10(2), 200.5.1.10(12), Table 200.5.10.1, 200.15.1(1), 200.15.10, 220.5.1.10(8), 220.5.10.1, 220.5.20.1, 230.5.1.10(7), 230.5.1.10(9), Table 230.5.10.1(1), 230.5.10.1(2), 230.5.10.1(5), 230.40.1.20, 995.10.1 and 995.20.1 apply to prevent the erection or use of a **mixed use building** if the **building** or **structure** complies with B to O below.
- B. The **lot** comprised of those lands outlined by heavy lines on Map 1 of By-law No. [Clerks to insert By-law No.].
- C. No portion of any **building** or **structure** to be erected or used on the **lot** shall extend beyond the lines delineated by the heavy lines on Map 2 of By-law No. [Clerks to insert By-law No.].
- D. Despite (C), Canopies, awnings, building cornices, balconies, lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, underground garage ramps, landscape and green roof elements, wind mitigation and public art features may extend beyond the heavy lines shown on Map 2.
- E. The height of any **building** or **structure** on the **lot** must not exceed the maximum height permitted as indicated by the letter “H” as shown on Map 2 of By-law No. [Clerks to insert By-law No.], measured vertically from the Canadian Geodetic Datum elevation of 97.08 metres to the highest point of the building roof shown on Map 2.
- F. Despite subsection (E), mechanical equipment such as, but not limited to, heating or cooling towers/heating or cooling tower stacks, stair enclosure, window washing equipment, chimney stacks, makeup air units, emergency generator, garbage chute or elevator overruns, parapets, lightning rods, exhaust stacks or a fence, wall or structure enclosing such elements, lighting fixtures, ornamental elements, trellises, landscape elements and elements of a green roof, partitions dividing outdoor recreation areas, wind mitigation features and walls or structures enclosing mechanical equipment may extend above the *heights* indicated on Map 2.

- G. Notwithstanding any of the provisions of By-law 569-2013, for the purposes of the building on the **lot**, the **gross floor area** for non-residential uses shall be calculated in accordance with the definition of **non-residential gross floor area** in By-law 438-86 of the former City of Toronto.
- H. Notwithstanding any of the provisions of By-law 569-2013, for the purposes of the building on the **lot**, the **gross floor area** for residential uses shall be calculated in accordance with the definition of **non-residential gross floor area** in By-law 438-86 of the former City of Toronto.
- I. **Parking spaces** must be provided on the **lot** in accordance with the following:
- (a) 190 **parking spaces** for residents of the building;
  - (b) No exclusive **parking spaces** are required for visitors of the **dwelling units**;
  - (c) 68 **parking spaces** for **public parking** shall be provided and maintained on the **lot**, and notwithstanding the definition of **gross floor area**, the floor area of the **public parking** facility and uses **ancillary** thereto shall be excluded from the calculation of **gross floor area**
  - (d) **Drive aisles** shall be provided with a minimum width of 5.39 metres except where a **drive aisle** is designated to operate one-way and does not provide direct access to an adjacent **parking space** it may be provided with a minimum width of 3.35 metres;
  - (e) **Parking spaces** shall be provided with a minimum length of 5.6 metres and a minimum width of 2.6 metres except that up to 28 **parking spaces** may be provided with a minimum length of 5.5 metres;
  - (f) A maximum of 3 of the **car-share parking spaces** may be used to reduce the minimum resident parking required by four (4) **parking spaces** for each **car-share parking space**; and,
  - (g) **Parking spaces, car-share parking spaces** and **drive aisles** existing as of the date of enactment of this bylaw shall be deemed to comply with the minimum size requirements otherwise required by By-law No. 569-2013;
- J. 40.10.20.100(7) and 40.10.20.100(10) shall not apply to the **public parking**.
- K. **Bicycle parking spaces** shall be provided and maintained on the *lot* in accordance with the following minimum requirements:
- i. 300 **bicycle parking spaces** shall be provided for the **dwelling units** on the **lot**;
  - ii. 20 **bicycle parking spaces** shall be provided for visitors of the **dwelling units** on the **lot**;

- iii. **30 bicycle parking spaces** shall be provided for the non-residential use on the **lot**; and,
  - iv. **Bicycle parking spaces** may be provided in horizontal, stacked or vertical positions;
- L. **Amenity space** shall be provided in accordance with the following:
- i. A minimum of 1,136 square metres of indoor residential **amenity space** shall be provided on the **lot** in a multi-purpose room or rooms at least one of which contains a kitchen and a washroom; and,
  - ii. A minimum of 405 square metres of outdoor residential **amenity space** shall be provided on the **lot**.
- M. None of the provisions of this By-law or By-law No. 569-2013 shall apply to prevent a **temporary sales office** on the **lot**.
- N. One Type “G” **loading space** and one Type “B” **loading space** shall be provided on the **lot**.
- O. For the purposes of this By-law, all bolded words and expressions have the same meanings as defined in By-law No. 569-2013, as amended, with the exception of the following:
- i. “**temporary sales office**” means a building, structure, facility or trailer on the **lot** used for the purpose of the sale or lease of **dwelling units** or non-residential use to be erected on the **lot**;
  - ii. “**car-share parking space**” means a **parking space** exclusively reserved and signed for a car used only for car-share purposes and such car-share is for the use of at least the occupants of the building.
- P. Except as otherwise provided herein, the provisions of By-law No. 569-2013, as amended, shall continue to apply to the **lot**.

Enacted and passed on month ##, 20##.

Name,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)





**APPENDIX 1**  
Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* and the owner with conditions providing for indexing escalation of both the financial contributions, and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above-grade building permit for the proposed development, the owner shall provide a contribution in the amount of \$3,000,000 to be indexed in accordance with City practice. These funds shall be used in accordance with Official Plan policy 5.1.1 for park improvements, streetscape improvements, new affordable housing and a rental abatement program for a portion of the dwelling units in the existing and/or new building with the final allocation to be determined in consultation with the Ward Councillor and to the satisfaction of Chief Planner and Executive Director, City Planning.
2. The Owner shall provide the full replacement of the 22 existing rental dwelling units to the satisfaction of the Chief Planner and Executive Director, City Planning.