

Barristers and Solicitors

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February 18, 2015

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BY EMAIL

[teycc@toronto.ca](mailto:teycc@toronto.ca);

Toronto and East York Community Council  
City Hall, Second Floor, West Tower  
100 Queen Street West  
Toronto ON M5H 2N2

Dear Chair and Members of Toronto and East York Community Council

**Re: Item TE4.12 Request for Direction Report  
309 Cherry Street (the “subject lands”)  
203405 Ontario Limited (“our client”)  
Zoning Amendment Application  
File 131809 STE 30 OZ**

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Aird & Berlis LLP acts for 203405 Ontario Limited. Our client is an owner of the subject lands.

### **Background**

We made application on behalf of our client for an Amendment to Zoning By-law 438-86 on March 5, 2012 which was acknowledged as a complete application on March 8, 2015.

Our client also has appellant status with respect to Zoning By-law 1174-2010, the Keating Channel Precinct West Zoning By-law and with respect to Official Plan Amendment 388 both of which are currently before the Ontario Municipal Board pending a hearing.

Our client has continued to actively participate in the Port Lands Acceleration Initiative (PLAI) projects, including the Port Lands Framework Plan and the Cousins Quay/Villiers Island Precinct Plan. Twice through the course of the PLAI process, at the request of the City and Waterfront Toronto, our client agreed to keep their zoning by-law amendment application held in abeyance by City staff in order to respond to specific PLAI milestone dates (by letters circulated on May 23, 2012 and on December 11, 2013) and twice these milestones were not met. Our client has been waiting for two and a half years for their application to be considered.

**February 18, 2015**

**Page 2**

At the risk of sounding repetitive, in our letter dated December 11, 2013 we advised the Director of Community Planning, Toronto and East York District that our client was prepared to keep their zoning by-law amendment application held in abeyance by City staff until the end of the first Quarter of 2014 in recognition of the fact that our client and their consultants were actively engaged with the City and Waterfront Toronto in the Port Lands Acceleration Initiative, including an ongoing precinct planning exercise. In September 2014 we again wrote the Director and requested confirmation that the staff had indeed resumed active processing of our client's application.

In September 2013 we advised the City Solicitor, in response to the City's circulation of a Draft Procedural Order dealing with the organization of the Central Waterfront Secondary Plan hearings, that our client would stand down its participation at the OMB to that of a watchdog brief pending the completion of the Cousins Quay/ Villiers Island precinct planning exercise which had been targeted for completion by the end of the first quarter of 2014, prior to the next phase of the Central Waterfront OMB Hearings. Our client's decision was made with a clear expectation of an implementing zoning by-law for their property at 309 Cherry Street being passed by Council at that time.

As a result of the repeated delays, and with no apparent other option(s), on October 31, 2014 our client appealed its private amendment application.

**Request for Direction Report, Item TE4.12 : TEYCC February 18 2015**

We have received Notice and reviewed the staff report which will be considered by the Toronto and East York Community Council at its meeting February 18, 2015.

Recommendation (1) of the report recommends that City Council direct the City Solicitor request that the Ontario Municipal Board not schedule a hearing on our client's appeal of its zoning amendment application for 309 Cherry Street.

We reserve our right to review and respond to any Notice of Motion filed before the Ontario Municipal Board with respect to any such deferral to ensure our client's rights to a fair hearing on the merits of their application are not prejudiced in the context of the ongoing proceedings relating to the Central Waterfront. It is important that the schedule of our client's application be considered concurrent with the settlement of other waterfront appeals.

Our client's application for an Amendment to the Zoning By-law was submitted in March 2012 to be included as part of and in the context of the Port Lands Acceleration Initiative. Our client's application has continually had regard to the broader municipal initiatives. Our client's zoning amendment application includes regulations pertaining to the use of a holding zone designation pending implementation of the final flood mitigation measures.

Notice of Approval to Proceed with the Undertaking pursuant to Section 9 of the Environmental Assessment Act for the Environmental Assessment for the Don Mouth

February 18, 2015

Page 3

Naturalization and Port Lands Protection Project EA File No . EA 03 03 02 was approved by the Minister of Environment and Climate Change and approved by Order in Council dated January 28 , 2015. In addition the 2014 Lower Don Lands Master Plan Addendum and ESR was completed and filed on public record in accordance with the Municipal Class EA requirements.

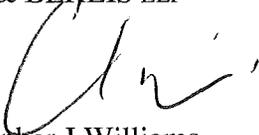
There is no impediment in Council considering our client's application concurrent with the municipal undertakings under the Environmental Assessment Act.

Our client is disappointed that the Request for Direction Report filed with Community Council has taken such a position on the timing of our client's application. As previously represented to our client by City staff, we believed that our client's rezoning application would be reviewed concurrent with the PLAI process and not ahead of or behind the process.

We respectfully request that Council direct staff to carry out a concurrent processing of our client's application in the context of the ongoing municipal undertakings.

Yours truly,

AIRD & BERLIS LLP



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- c. Alfredo Romano
- c. Elsa Fancello

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