

# DEVINE PARK LLP

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Matter No. S858-07

September 4, 2015

**DELIVERED VIA EMAIL** teycc@toronto.ca

Toronto and East York Community Council  
City of Toronto City Clerk's Office  
City Hall, 2nd Floor, West Tower  
100 Queen Street West  
Toronto ON M5H 2N2

**Attention: Ms. Rosalind Dyers, Administrator**

Dear Sirs/Mesdames:

**RE: 200 St. Clair Avenue West, Toronto  
Official Plan Amendment, Zoning By-law Amendment and Site Plan Application –  
Request for Directions Report  
Agenda Item TE10.11, September 8, 2015**

Please be advised that we are the solicitors for 200 St. Clair HoldCo Ltd., the owner of the lands known municipally as 200 St. Clair Avenue West in the City of Toronto (the "**Site**"), who is also the appellant with respect to the above-noted matter.

We have now had an opportunity to review the above-noted Request for Directions Report. It would seem, from our review, that the comments therein are based largely upon the City Planning staff's application of Official Plan Amendment No. 279, which amended Area Specific Policy No. 221. As you may know, our client appealed OPA No. 279 for a number of reasons set out in our appeal letter dated January 5th, 2015, a copy of which is attached. We note that our client filed its development applications a number of months prior to City Council's adoption of OPA No. 279. It has been our client's position that the site specific application should not be subject to the policies set out in OPA No. 279.

City staff has stated, in the Request for Directions Report, that

"The proposed building does not fit harmoniously into the context of this mid-rise *Apartment Neighbourhood*. The area context of the proposal does not support the proposed increase in height."

We strongly believe this is a mis-characterization of the area context as there clearly are a number of high-rise buildings in the immediate surrounding area, including but not limited to a 19-storey residential condominium building located at the southwest corner of Avenue Road and St. Clair Avenue West (155 St. Clair Avenue West), and an existing 14-storey building located at the southeast corner of Avenue

Road and St. Clair Avenue West (135 St. Clair Avenue West) which was also approved by the OMB for a 24 storey building in 2004. It seems City staff have conveniently chosen to ignore these buildings, which we feel should be appropriately considered when reviewing the height context for this area.

Also, City staff have not properly considered the extensive terracing and step-backs that have been incorporated in the design for the proposed residential building for the Site. Essentially, the tower portion has been set back extensively from Forest Hill Road and the northerly property boundary so as to minimize impact on the residential neighbourhoods to the north and northwest of the Site.

With respect to City staff's comments on privacy and shadow, we note that although they indicate concerns with these issues, there is no detailed analysis that has been provided. Our client has made extensive efforts to minimize any additional incremental shadow impact that its proposed development would cast on neighbouring properties and Glenn Gould Park.

It should also be noted that the Report neglects to mention that this matter has been set down for OMB mediation and that our client continues to reach out, both to the City and the surrounding community, in an effort to address legitimate concerns raised by City staff and area residents.

For the reasons set out above, we would respectfully ask that you do not accept the recommendations set out by City Planning staff but direct staff to negotiate with our client as part of the upcoming mediation process.

We thank you in advance for considering our request.

Yours very truly,  
**Devine Park LLP**



Jason Park  
JIP/ss

Enclosure

cc: Gregg Lintern, Director, Community Planning, Toronto and East York District  
David Driedger, Planner  
Stephen Bradley, City of Toronto, Legal Services Division  
200 St. Clair HoldCo Ltd.

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January 5, 2015

File No.: 527431-8

**DELIVERED VIA COURIER**  
**SENT VIA E-MAIL (teycc@toronto.ca)**City Clerk's Office  
City of Toronto  
Toronto and East York Community Council  
City Hall, 2nd Floor, West Tower  
100 Queen St W  
Toronto ON M5H 2N2

Attention: Rosalind Dyers, Administrator

Dear Sir/Madam:

**RE: Notice of Appeal to Ontario Municipal Board respecting City of Toronto Official Plan Amendment No. 279**  
**- Appeal filed on behalf of 200 St. Clair Holdco Ltd.**  
**- 200 St. Clair Avenue West, Toronto**  
**City of Toronto By-law No. 77-2015**  
**City of Toronto File No. 14 160427 STE 22 OZ**

We are the solicitors for 200 St. Clair Holdco Ltd., the owner of lands known municipally as 200 St. Clair Avenue West in the City of Toronto (the "Site")

Please accept this letter and the enclosed information as our Notice of Appeal of Official Plan Amendment No. 279 of the City of Toronto ("OPA 279") to the Ontario Municipal Board, as it pertains to the Site.

Our client filed objections with respect to OPA 279, in the form of letters dated August 11th, 2014 and December 3rd, 2014, addressed to Toronto and East York Community Council. Copies of these letters are attached to this appeal letter.

By way of background, on August 1st, 2014, our client submitted an application for Official Plan Amendment, Zoning By-law Amendment and Site Plan Approval, for the construction of a residential building on the Site, ranging in height from 8 to 15 storeys. The proposed development would contain a total of 130 units, including 10 grade-related townhouse units. The total gross floor area of the project would be 13,100 square metres. Our client's application was deemed to be complete on September 2nd, 2014.

The reasons for our client's appeal are as follows:

1. OPA 279 fails to recognize the transitional nature of the area adjacent to the Site and the fact that the Site is located at the easterly edge of the area covered for Area Specific Policy No. 221 (the area subject to OPA 279). It is our position that OPA 279 does not have proper regard to both the existing and planned context for this area.

It is noted that immediately east of the Site are highrise buildings, including a 19-storey residential condominium building, located at the southwest corner of Avenue Road and St. Clair Avenue West (155 St. Clair Avenue West) and a 14-storey office building located at the southeast corner of Avenue Road and St. Clair Avenue West (135 St. Clair Avenue West). It is also noted that, in 2004, the Ontario Municipal Board approved a 24-storey building for the lands at 135 St. Clair Avenue West. Further, Avenue Road, between St. Clair Avenue West and Lonsdale Road, is characterized by high-density, highrise apartment buildings that are well in excess of the 9-storey height limit set out in OPA 279.

In addition, west of the Site, the Ontario Municipal Board has recently approved a 12-storey residential building for lands known municipally as 213, 215, 217, 219 and 223 St. Clair Avenue West, in addition to a 9-storey mixed-use building at 282 St. Clair Avenue West.

It is our position that the 9-storey height limit that is imposed on the Site in OPA 279 is completely arbitrary and does not reflect the existing and approved built form context along St. Clair Avenue West in this area.

2. Also, the additional built-form policies contained in OPA 279, in many respects, conflict with the City's own approved Design Guidelines for Mid-Rise and Tall Buildings which, in our opinion, should be applicable in light of the transitional nature of the Site.
3. As noted in our letter of objection dated December 3rd, 2014, the additional Policy 1(i), which was first recommended in the City's Supplementary Report dated November 18, 2014 and which sets a new shadow test of "no new net shadows on Glen Gould Park between 10:00 a.m. and 4:00 p.m. on September 21" is highly prejudicial and unfair in relation to properties immediately abutting Glen Gould Park, such as the Site. We strongly believe that the intention of this provision is to thwart our client's development proposal for the Site, which was filed prior to Toronto and East York Community Council's consideration of the Final Report from the Director, Community Planning, Toronto and East York District, dated July 15th, 2014 concerning OPA 279. Also as noted in our December 3rd, 2014 letter, we are not aware of any other City of Toronto Official Plan policy, general, area-specific or site-specific, that would require such a high test to be met with respect to shadow impacts on neighbouring parks.
4. Such other reasons that are set out in our letters of objection dated August 11th, 2014 and December 3rd, 2014.

In accordance with the requirements for filing an appeal, please be advised as follows:

1. This appeal relates to the entirety of OPA 279, as it relates to the Site;
2. Enclosed is a completed OMB Form A1 and a solicitor's cheque in the amount of \$125.00, payable to the "Minister of Finance, Province of Ontario", being the requisite Ontario Municipal Board appeal fee.

If you have any questions with respect to this appeal, kindly contact the writer at your earliest convenience.

Yours very truly,  
**Dentons Canada LLP**

  
Jason Park  
JIP/ss

Enclosures

c.c. 200 St. Clair Holdco Ltd.

August 11, 2014

File No.: 527431-8

**SENT VIA E-MAIL** (taycc@toronto.ca)

Chairman and Members  
Toronto and East York Community Council  
City of Toronto  
2nd Floor, West Tower, City Hall  
100 Queen St W  
Toronto ON M5H 2N2

Attention: Ms. Ros Dyers, Secretariat

Dear Sirs/Mesdames:

**RE: 200 St. Clair Avenue West, Toronto**  
**Final Report - St. Clair Avenue West - Review of Area-Specific Policy 221 – Proposed**  
**Official Plan Amendment No. 279**  
**Letter of Objection**

Please be advised we are the solicitors for 200 St. Clair HoldCo Ltd., the owner of lands known municipally as 200 St. Clair Avenue West in the City of Toronto (the "**Site**").

By way of background, on August 1st, 2014 our client submitted applications for Official Plan Amendment, Zoning By-law Amendment and Site Plan Approval for the construction of a residential building on the Site, ranging in height from 8 to 15 storeys. The proposed development would contain a total of 130 units, including 10 grade-related townhouse units. The total gross floor area of the project would be 13,100 square metres.

We have now had an opportunity to review the July 15th, 2014 report from the Director, Community Planning, Toronto and East York District, to the Toronto and East York Community Council concerning the review of Area-Specific Policy No. 221 and the proposed Official Plan Amendment No. 279 which is contained in Attachment 3 to that report.

Please be advised that although our client believes that Area-Specific Policy No. 221 should be reviewed and amended in light of the current land use planning context and the significant investment the City has made in the transportation infrastructure serving the area, our client does not support the specific recommendations contained in the City's staff report nor the policies in proposed OPA No. 279, as they relate to the Site.

In our opinion, proposed OPA 279 fails to recognize the transitional nature of the area adjacent to the Site. The Site is located at the easterly edge of the area covered by Area-Specific Policy No. 221, (the area subject to proposed OPA No. 279) – an area where a very different built form has been approved than that contemplated in proposed OPA No. 279. Immediately east of the Site are high-rise buildings, including a 19-storey residential condominium building located at the south-west corner of Avenue Road and St. Clair Avenue West (155 St. Clair Avenue West), and a 14-storey office building located at the south-east corner of Avenue Road and St. Clair Avenue West (135 St. Clair Avenue West). We note that, in 2004, the Ontario Municipal Board approved a 24-storey building for the lands at 135 St. Clair Avenue West. Further, Avenue Road, between St. Clair Avenue West and Lonsdale Road is characterized by high-density, high-rise apartment buildings. Even west of the Site, the Ontario Municipal Board has recently approved a 12-storey residential building for lands known municipally as 213, 215, 217, 219 and 223 St. Clair Avenue West, and a 9-storey mixed-use building at 282 St. Clair Avenue West.

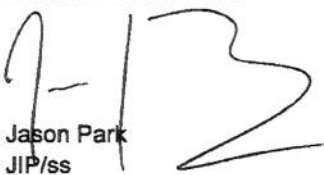
It is our respectful position that imposing a 9-storey height limit on this Site is arbitrary and does not reflect the existing and approved built form context along St. Clair Avenue West in this area. Further, we disagree with the additional built-form policies contained in proposed OPA No. 279 as, in many respects, they conflict with the City's approved guidelines for mid-rise and tall buildings which, in our opinion, would both be applicable in light of the transitional nature of the Site.

For the reasons outlined above, we would ask the Committee to not recommend approval of the proposed OPA No. 279 in its current form to City Council; rather, we ask that this Amendment be returned to City staff for further review, and consultation with our client. If the Committee, despite our concerns, intends to recommend adoption of proposed OPA No. 279 at this time, we would respectfully ask that our client's Site be removed from this proposed OPA, and also from Area-Specific Policy No. 221.

Thank you for your consideration of this request. We would also appreciate receiving notice of any decision and/or future public meetings with respect to this matter.

If you have any questions regarding the above, please do not hesitate to contact the undersigned at 416.863.4786.

Yours very truly,  
**Dentons Canada LLP**

  
Jason Park  
JIP/ss

c.c. The Goldman Group

December 3, 2014

File No.: 527431-8

**SENT VIA E-MAIL (teycc@toronto.ca)**

Chairman and Members  
Toronto and East York Community Council  
City of Toronto  
2nd Floor, West Tower  
City Hall  
100 Queen St W  
Toronto ON M5H 2N2

Attention: Ms. Ros Dyer, Secretariat

Dear Sirs/Mesdames:

**RE: 200 St. Clair Avenue West, Toronto  
Supplementary Report - St. Clair Avenue West - Review of Area Specific Policy No. 221  
Proposed Official Plan Amendment No. 279  
Further Letter of Objection**

Please be advised that we are the solicitors for 200 St. Clair HoldCo Ltd., the owner of the lands known municipally as 200 St. Clair Avenue West in the City of Toronto (the "**Site**").

By way of background, on August 1st, 2014, our client submitted an application for Official Plan Amendment, Zoning By-law Amendment and Site Plan Approval for the construction of a residential building on the Site, ranging in height from 8 to 15 storeys. The proposed development would contain a total of 130 units, including 10 grade-related townhouse units. The total gross floor area of the project would be 13,100 square metres.

In our letter dated August 11th, 2014, we noted our client's objection to proposed Official Plan Amendment No. 279 and recommended that this proposed Amendment be returned to City staff for further review, and consultation with our client.

At its meeting of August 12th, 2014, Toronto and East York Community Council deferred consideration of the Final Report from the Director, Community Planning, Toronto and East York District, dated July 15th, 2014, with respect to this matter, to the December 4th, 2014 meeting of the Toronto and East York Community Council.

We have now had an opportunity to review the Supplementary Report with respect to this matter, and the revised draft proposed Official Plan Amendment No. 279 that is included as Attachment 1 to the



Supplementary Report. We note that a new built-form policy has been added [Policy 1(i)], which states as follows:

The building will preserve the existing sunlight access conditions such that it will cast no new net shadows on Glen Gould Park between 10 a.m. and 4 p.m. on September 21st.

In our opinion, the test of "no new net shadows on Glen Gould Park between 10 a.m. and 4 p.m. on September 21st" is highly prejudicial and unfair in relation to the properties immediately abutting Glen Gould Park. Further, we question the timing of the inclusion of this policy in light of our client's submission of complete applications for the Site on August 1st, 2014. We also note that we are not aware of any other Official Plan policy, general, area-specific, or site-specific, that would require such a high test to be met with respect to shadow impacts on neighbouring parks.

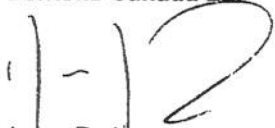
Additionally, we would note that this policy has been included without any consultation with our client despite the fact that the Site is immediately adjacent to Glen Gould Park, on the west. Our client finds this to be very surprising especially considering we specifically requested further consultation in our letter of August 11<sup>th</sup>, 2014 and the prejudicial and unfair impact of this policy on our client's development applications.

For these reasons, and the reasons set out in our letter of August 11th, 2014, we strongly object to the adoption of proposed OPA No. 279, as drafted, and would ask Community Council to not recommend approval of this Amendment. At the very least, if Community Council recommends approval of OPA No. 279, it should remove the Site, in its entirety, from both the proposed OPA and also from area-specific policy No. 221, as originally requested in our August 11<sup>th</sup>, 2014 letter.

Thank you, once again, for your consideration of this request. We would continue to appreciate receiving notice of any decision and/or future public meetings with respect to this matter.

If you have any questions regarding the above, please do not hesitate to contact the undersigned at 416.863.4786.

Yours very truly,  
**Dentons Canada LLP**



Jason Park  
JIP/ss

c.c. 200 St. Clair HoldCo Ltd.