

September 16, 2016

124706

BY EMAIL

Ellen Devlin
Administrator
Toronto and East York Community Council
Toronto City Hall, 2nd Floor West Tower
100 Queen Street West
Toronto ON M5H 2N2

Dear Ms. Devlin:

Re: Final Report – TOcore: Updating Tall Building Setbacks in the Downtown City Initiated Official Plan Amendment and Amendments to By-law 438-86 and to By-law 569-2013
Item: TE17.14 deferred June 14, 2016
Item: 18.7 September 7, 2016
Council Consideration at its Meeting October 5 & 6, 2016

I am writing further to my letter dated June 14, 2016, copy of which is attached, submitted on behalf of 2017919 Ontario Limited (Manufacturer's Life Insurance Company) the owner of lands municipally known as 351-369 Lake Shore Boulevard East (the "subject lands").

Please accept this letter as an addendum to our letter dated June 14, 2016 and as part of our written submission pursuant to Section 34(19) of the *Planning Act*.

For the reasons set out below, we request that the proposed Official Plan Amendment 352 and the implementing zoning by-law amendments should not apply to the subject lands given the status of the Central Waterfront Secondary Plan and on-going OMB hearing/mediation process of which the subject lands are a part.

Background

The new Official Plan for the City of Toronto, and Official Plan Amendment 257 to the Official Plan for the former City of Toronto, the Central Waterfront Secondary Plan [OMB Case No. PL030514] and Zoning By-law 1174-2010 [OMB Case No. PL1011093] are appealed to the Ontario Municipal Board.

On June 23, 2016 the Ontario Municipal Board convened a settlement hearing at which modifications to Official Plan Amendment 257 and to By-law 1174-2010 were presented

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to the Board by the City on behalf of various public and private landowners within the Keating Channel Precinct West.

This settlement hearing did not include the subject lands of our client for which approval has been deferred by the Ontario Municipal Board.

By its oral decision, the Ontario Municipal Board decided to partially approve with modifications, further portions of Official Plan Amendment 257 to the Official Plan for the former City of Toronto, insofar as it applied to various parcels in the Keating Channel Precinct West excluding the subject lands of our client.

In addition, the appeals of those various landowners against Zoning By-law 1174-2010 were allowed in part. With respect to the subject lands of our client, Zoning By-law 1174-2010 as it existed when adopted by Council on August 27, 2010 is deferred pending a further hearing.

The Order presented by the City to the Ontario Municipal Board further indicates that the coming into effect of these partial approvals shall be strictly without prejudice to and shall not have the effect of limiting the jurisdiction of the Board to consider and approve modifications, deletions or additions to unapproved sections, tables, definitions, maps, schedules and associated text of Official Plan Amendment 257 or Zoning By-law 1174, on a general or site specific basis as the case may be with respect to our client's subject lands.

The Decision/Order of the Board has been withheld pending further notice from the City Solicitor as to finalization of related agreements by the City with the parties to the settlement.

Supplementary Staff Report dated August 31, 2016 and Revised Draft Official Plan Amendment 352 to the Official Plan of the City of Toronto and Revised Amendment to Zoning By-law 439-86 and Revised Amendment to Zoning By-law 569-2013

Official Plan Amendment 352

Proposed Official Plan Amendment 352 amends Chapter 7, Site and Area Specific Policies of the new Official Plan to incorporate all of the lands described in Area Specific Policy 517. Map 517 includes the subject lands of our client and substantial portions of the lands which are within the Central Waterfront Secondary Plan.

Amendment 257 to the Official Plan for the former City of Toronto, the Central Waterfront Secondary Plan has not at this time been incorporated into the new Official for the City of Toronto. When all of the relevant portions of Amendment 257 have been disposed of by the Ontario Municipal Board, the City will at that time request that the new Official Plan be modified to insert the Central Waterfront Secondary Plan, as approved, into the new Official Plan as Secondary Plan Area 31.

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By Decision/Order 0956 issued by the Ontario Municipal Board April 15, 2005 the motion of the City of Toronto for consolidation, in whole or in part, of certain appeals to the New Official with the hearing of the appeals to the Central Waterfront Secondary Plan, Amendment 257 to the Official Plan of the former City of Toronto, was granted.

The Decision of the OMB settlement hearing June 23, 2016 deals solely with the partial approvals of Amendment 257 to the Official Plan of the former City of Toronto and it does not at this time deal with related appeals to the new Official Plan.

Proposed Official Plan Amendment 352, Area Specific Policy 517, Section B (vi) indicates that “Any Area Specific Official Plan Amendment within the Central Waterfront Secondary Plan will prevail over this Site and Area Specific Policy”.

We have two comments on this clause.

Firstly, the Central Waterfront Secondary Plan is not at this time part of the new Official Plan.

Secondly, there are no Area Specific Official Plan Amendments within the Keating Precinct of the Central Waterfront Secondary Plan which have been adopted by Council.

Official Plan Amendment 388 to the Official Plan of the former City of Toronto is the only amendment to Official Plan Amendment 257, the Central Waterfront Secondary, which has been adopted by Council which affects the Keating Precinct. It is not an area specific policy amendment to the new Official Plan.

OPA 388 deals with global issues within the waterfront planning area. OPA 388 remains before the Ontario Municipal Board as part of its ongoing hearing process. There have been no partial approvals of OPA 388. All of the approvals within the Central Waterfront Secondary Plan have been partial approvals with or without modifications to OPA 257.

Accordingly Official Plan Amendment 352 to the new Official Plan should not apply to the Keating Precinct lands within the Central Waterfront Secondary Plan. All of these matters are either before the OMB and have been resolved or shall in future be resolved by the OMB through its consolidated hearing process.

Zoning By-law 1174-2010

Zoning By-law 1174-2010 is the Keating Channel Precinct West Zoning By-law. By-law 1174-2010 amends By-law 438-86 to establish Exception Section 12(1) (482) pertaining to the Keating Channel Precinct West.

The proposed Amendment to Zoning By-law 438-86 for Tall Buildings cites Zoning By-law 1174-2010 as a prevailing by-law. At our request By-law 1174-2010 as originally adopted by Council remains deferred and under appeal with respect to the subject lands of our client.

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For the same reasons that OPA 352 should be modified to exclude the Keating Precinct of the Central Waterfront Planning Area, corresponding modifications should be made to the proposed text and mapping of the proposed Amendment to Zoning By-law 438-86 to exclude the subject lands of our client and this waterfront planning area.

By-law 569-2013

Because the subject lands of our clients, in accordance with Section 1.5.7 and Zoning By-law Map in Section 990.10 of By-law 569-2013 are not lands subject to By-law 569-2013, it is not appropriate to add a new section 600.10 Building Setback Overlay District Map which purports to regulate the subject lands of our client in direct conflict with regulation 1.5.7 of By-law 569-2013 which also is before the Ontario Municipal Board.

Conclusions

The Proposed Official Plan Amendment 352 and the implementing zoning by-law amendments should not apply to the subject lands of our client.

We are requesting, therefore, that all technical and stylistic modifications which are necessary to effect this exemption be made in consultation with the City Solicitor and that these modifications be reported at the time of Council's consideration of these matters at its meeting October 5, 2016 so that an appropriate determination can be made by Council pursuant to section 34(17) of the *Planning Act*.

If it will assist, we would be pleased to meet with planning staff and the City Solicitor to review the points set out in this letter prior to their final reports to Council in October.

Yours truly,

AIRD & BERLIS LLP



Christopher J. Williams

- c. 2017919 Ontario Limited
- c. Gregg Lintern, Director Community Planning, Toronto and East York District
- c. Robert Robinson, City Legal Services
- c. Ms. N Jane Pepino C.M., Q.C., LL.D
- c. Ms. Sidonia Loiacono
- c. Alan Leibel
- c. Cynthia MacDougall

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June 14, 2016

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Dear Ms. Devlin:

**Re: Final Report – TOcore : Updating Tall Building Setbacks in the Downtown
City initiated Official Plan Amendment and Zoning By-law Amendments
Item: TE17.14**

We act for 2017919 Ontario Limited (Manufacturers Life Insurance Company) the owner of lands municipally known as **351 -369 Lake Shore Boulevard East** (the “subject lands”).

Please accept this letter as our written submission pursuant to Section 34(19) of the *Planning Act*.

The subject lands are located with the Keating Channel Precinct West portion of the Central Waterfront Secondary Plan , Official Plan Amendment No.257 to the Official Plan for the former City of Toronto. The subject lands are regulated by Zoning By-law 438-86 as amended by By-law 1174-2010.

The new Official Plan for the City of Toronto, Official Plan Amendment 257 to the Official Plan [OMB Case No. PL030514] for the former City of Toronto and Zoning By-law 1174-2010 [OMB Case No. PL101093] are appealed to the Ontario Municipal Board.

The subject lands are excluded from the regulations of By-law 569-2013.

The proposed City Initiated Official Plan Amendment for TOcore indicates that:

(vi) Any Area Specific Official Plan Amendment within the Central Waterfront Secondary Plan Area will prevail over this Site and Area Specific Policy.”

June 14, 2016

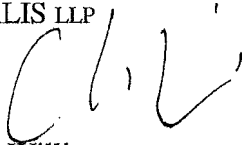
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The Proposed City initiated Amendment to Zoning By-law 438-86 , however, does not at this time exclude the subject lands from the proposed Zoning Amendment regulations pertaining to tall buildings.

Accordingly, the boundaries of the lands subject to the proposed Zoning By-law should be modified to delete the subject lands which are within the Central Waterfront Secondary Plan Area, and Zoning By-law 1174-2010 should be included within the list of site specific zoning by-laws to be excluded from the proposed zoning regulations.

Yours truly,

AIRD & BERLIS LLP



Christopher J. Williams

c. 2017919 Ontario Limited (Manufacturers Life Insurance Company)

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