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Our File No. 60794.3

September 27, 2016

VIA EMAIL: [clerk@toronto.ca](mailto:clerk@toronto.ca)  
AND DIRECT COURIER

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

c/o Ulli S. Watkiss, City Clerk  
City Clerk's Office  
Toronto City Hall, 13th Floor  
100 Queen Street West,  
Toronto, ON M5H 2N2

Attention: Ulli S. Watkiss, City Clerk

Dear Sirs/Mesdames:

**RE: TOcore: Updating Tall Building Setbacks in the Downtown – City-initiated Official Plan Amendment and Zoning By-law Amendments – Final Report (the “Report”)  
City File Number: 16-103066 SPS 00 OZ**

We are counsel to Westerkirk Capital Inc. and are writing with respect to the Report and the potential impacts on their lands known municipally known as 18 Elm Street and 557 Church Street in the City of Toronto, (the “**Properties**”). The Properties are within Toronto’s Downtown boundaries identified in the Report and subject to the proposed amendments to the City’s Official Plan and Zoning By-laws (the “**Proposed Amendments**”).

**Concerns With Respect to the Proposed Official Plan and Zoning By-Law Amendments**

Our client is concerned with City staff recommendations set out in the Report and, in particular, the proposed Official Plan Amendment and Zoning By-laws as set out therein and adopted by Toronto and East York Community Council.

Fundamentally, we feel that the City's desire to convert the City's Tall Building Design Guidelines (the "**Guidelines**") into Official Plan policy and zoning by-law provisions is flawed. Among other things, the Report acknowledges but never truly considers the diverse nature of Toronto's Downtown neighborhoods and streets. It may be that, as the report suggests, "not every site in Downtown can accommodate a tall building", but potentially suitable sites should not be automatically subjected to a default rule established through a rigid numeric standard. Even if the Proposed Amendments will not serve as an absolute bar to some projects, such approach could have a chilling effect on the development industry, marginalize site, area and project-specific considerations and impose unnecessary limits on architectural creativity.

**Standards More Appropriate as Guidelines**

The Report stresses that the proposed setbacks have been part of the planning process in the City for a number of years and are in line with those found in the Guidelines currently used to assess viability of proposed tall building projects. We agree with this assessment and note that the current system has had the desired effect of having put a focus on reviewing tall building setbacks as part of planning applications, while retaining the flexibility necessary to account for the wide range of individual circumstances that exist in the downtown area.

The Report does not provide a satisfactory explanation as to why these setbacks have to now be elevated to the by-law status. A "codification" of a rigid numeric standard is both unnecessary and would create, despite the Report's statement to the contrary, a strong presumption of a site's unsuitability. Downtown's success has been built, in part, by flexibility and a recognition of the unique aspects of individual sites through thorough review and examination. The Proposed Amendments will unnecessarily retract from that flexibility.

**Recommend Referring Back to Staff for Further Consideration**

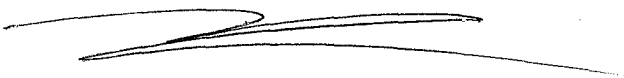
For the reasons outlined above, we respectfully request that the Council defer deliberations of the Proposed Amendment and the Report is referred back to the City staff for further considerations.

Please provide us with notice of any Council, committee and/or public meetings considering the Proposed Amendments.

We also request to be notified of any decisions in respect to the proposals.

Yours truly,

**BENNETT JONES LLP**



Andrew L. Jeanrie

cc. Westerkirk Capital Inc.

