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Delivered by Email

The Mayor and Members of Toronto City Council
City of Toronto
2nd Floor, City Hall
100 Queen Street W
Toronto, ON M5H 2N2

Attn: Ms. Ulli S. Watkiss, City Clerk

Dear Mayor Tory and Members of Council:

**Re: TOcore: Updating Tall Building Setbacks in the Downtown – City initiated OPA and Zoning By-law Amendments
Municipality File No.: 16-103066 SPS 00 OZ
Item TE18.7 on the Toronto and East York Community Council, September 7, 2016 Agenda**

We act on behalf of Krugarand Corporation, owner of the property municipally known as 80 Bloor Street West, Toronto (“the Property”). The Property is located north of Bloor Street West, east of Bellair Street, west of Bay Street, and south of Critchley Lane. Our client submitted a rezoning application (the “Application”) for the Property on October 9, 2013 for a 68 storey mixed-use building (City File No. 13 248425 STE 27 OZ) and was deemed complete by City staff on December 3, 2013. City staff is currently reviewing the Application. Various meetings with the local councillor and staff took place prior to and after the submission of the Application.

We have reviewed the Final Staff Report dated May 27, 2016; Supplementary Report dated August 31, 2016; draft Official Plan Amendment (the “draft OPA”) and draft Zoning Amendments for By-law 436-86 and 569-2013 (the “draft ZBAs”) with respect to the above-referenced matter. Our client has a direct interest in this matter and has serious concerns with the draft OPA and draft ZBAs as the Property is located within the boundaries subject to the draft planning instruments. The draft OPA and draft ZBAs will have a negative impact on all tall building sites including our client’s development site. For the reasons set-out below, we request that Council not approve the draft OPA and draft ZBAs. In the alternative, should Council choose to approve the draft instruments, based on the status of the Application, we request that the Property be exempt from the draft OPA and draft ZBAs.

CONCERNS

Tall Buildings Guidelines – Current Policies

Currently, direction on how to evaluate tall buildings and their appropriateness are established in the City of Toronto’s Tall Building Design Guidelines, 2013 and the Downtown Tall Buildings:

Vision and Supplementary Design Guidelines, 2012 (collectively the “Guidelines”). These are guidelines not meant to determine where tall buildings are permitted but rather to assist with the implementation of Official Plan policy to help ensure that tall buildings, where they are permitted, fit within their context and minimize their local impacts. In particular, the Tall Building Design Guidelines specifically state that, “The Guidelines are intended to provide a degree of certainty and clarity of common interpretation, however, as guidelines; they should also be afforded some flexibility in application, particularly when looked at cumulatively.” Furthermore it states that, “In considering whether to permit a tall building on a site-by-site basis, many other planning issues must first be taken into account, including, but not limited to, the site context and availability of adequate infrastructure, public transit, parks, community and cultural services and facilities, schools, and child care facilities. If it is determined that a tall building is supportable, and represents “good planning”, these Guidelines will then apply.”

The intention of the Guidelines including the setbacks are meant to be flexible and each development site to be looked at in the context of the neighbourhood and on a site-by-site basis. The setback requirements in the draft instruments are a reflection of what is set-out in the Guidelines. The draft ZBAs impose rigid and restrictive setbacks to all tall building sites in the downtown with no distinction of site characteristic, lot size, use, adjacent properties, etc. The City is using a “one-size-fits-all” approach with no clear justification that these setbacks would be appropriate for all tall building sites. There is no consideration that for some sites, based on its location, site layout, site design or use different setbacks (i.e. smaller setbacks) would be more desirable and appropriate. This one-size-fits-all approach is inappropriate and does not represent good land use planning practice.

Furthermore, the draft instruments and the staff reports do not clearly define or describe what constitutes a tall building. Some mid-rise buildings may also be captured by these instruments which is not the City’s intent and would further hinder mid-rise type developments in the Downtown.

In terms of creativity, the provisions in the draft ZBAs will restrict or limit architectural creativity for a development site. It is our respectful recommendation that the setbacks for tall buildings in the Downtown should maintain as guidelines to provide the City and developers guidance and direction on minimizing local impacts and provide flexibility and creativity on a site by site basis.

Transitional Provisions

The proposed transition provisions discussed in the Final and Supplementary Staff reports are unfair and unacceptable. There should be further consideration for sites where development applications have been submitted and deemed complete by the City and these situations should be grandfathered. There were enormous efforts put forward by our client, the local councillor, City staff, and our client’s consultants prior to and after the Application submission and our client is concerned that the draft OPA and draft ZBAs will impose further restrictions on their Application that is currently being reviewed by City staff. It would be inappropriate to apply these new draft policies and zoning provisions on our client’s Application when it was submitted in 2013.

Staff Report

The Final Staff report states that the policies and performance standards are a starting point in updating the Downtown planning framework and ensuring that future growth positively contributes to the liveability, sustainability and health of Toronto's Downtown. With such restrictions on development for tall buildings in the Downtown, this may limit the ability of developers/architects developing creative solutions and designs of such sites.

Based on the foregoing, we request that Council not approve the draft OPA and draft ZBAs and that the proposed setbacks for tall buildings in the Downtown remain guidelines. In the alternative, should Council choose to proceed with approving the draft instruments, we request that the Property be exempt from the draft OPA and draft ZBAs.

Additionally, we ask to be notified of any future meetings and/or decision of Committee, Community Council and Council respecting the draft OPA and ZBAs as noted matter.

Should you have any questions do not hesitate to contact the undersigned.

Best regards,

BORDEN LADNER GERVAIS LLP



Sean Gosnell

cc: Marilyn Toft, Secretariat Contact
Ellen Devlin, TEYCC, Committee Administrator
client

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