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September 28, 2016

DELIVERED BY EMAIL AND COURIER

Mayor and Members of Council
c/o City Clerk's Office
City of Toronto
13th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M4H 2N2

**Attention: Ms. Ulli S. Watkiss,
City Clerk**

Dear Ms. Watkiss:

**RE: City-Initiated Request to Amend the Official Plan and Zoning By-law
TOcore: Updating Tall Buildings Setbacks in the Downtown
City File No: 16-103066 SPS 00 OZ
Item No. TE18.7 to be considered by City Council on October 5, 2016
Davenport Development Inc.**

Please be advised that we are the solicitors for Davenport Development Inc., the owner of the land municipally known as 100 Davenport Road in the City of Toronto (the "**Property**").

We have reviewed the Final Report and Supplementary Report of the Director, Community Planning, Toronto and East York District dated May 27, 2016 and August 31, 2016, respectively. On behalf of our client, we are writing to express our client's objections to the proposed Official Plan Amendment and Zoning By-law Amendments (collectively, the "**Proposed Amendments**") as they apply to the Property.

Background

On December 9, 2015, we submitted an application to the City on behalf of the owner with respect to the Property to amend the applicable zoning for the Property, being the former City of Toronto General Zoning By-law 438-86, as amended by site-specific by-law 1331-2008 (the "**Rezoning Application**"). On February 19, 2016, Planning Staff issued a Refusal Report in respect of the Rezoning Application and subsequently, on March 10, 2016, City Council adopted the Refusal Report. On April 5, 2016, we filed an appeal with Ontario Municipal Board on behalf of our client with respect to the Rezoning Application pursuant to subsection 34(11) of the *Planning Act*.

Furthermore, on March 24, 2016, we submitted an application for an Official Plan Amendment (the "**OPA Application**"). The City made no decision with respect to the OPA Application within 180 days of its receipt. Accordingly, on September 21, 2016, the OPA Application was appealed to the Ontario Municipal Board pursuant to subsection 22(7) of the *Planning Act*.

Objections

The proposed transition provisions in the proposed Zoning By-law Amendments are not adequate or acceptable. Currently, the transition provisions apply to a list of identified Site-specific by-laws that would prevail over the provisions of the proposed Zoning By-law Amendments and all towers constructed pursuant to a building permit issued prior to October 4, 2016. There are no transition provisions with respect to sites with development applications under review by the City or development applications that are the subject of appeals before the Ontario Municipal Board, such as the current appeals in respect of the Property.

It is well-settled law that development applications must be reviewed and considered according to the policy and regulatory regimes in force and effect at the time of submission. Accordingly, it is inappropriate to require that existing applications and appeals, such as our client's appeals, adhere to new policies and regulations.

We respectfully encourage Council to ensure that appropriate transition provisions be incorporated within the Proposed Amendments to ensure that landowners may continue to rely on the policies and regulations in force and effect at the time of submission, consistent with the established law. Alternatively, we specifically request that the Property be exempted from the Proposed Amendments.

In addition to the specific objection with respect to the lack of appropriate transition provisions noted above, our client is generally concerned with the Proposed Amendments and its impact on planning in the Downtown. The Proposed Amendments, and the lack of flexibility therein, do not take into account the unique context of various area and specific sites within the *Downtown* and *Central Waterfront* which may warrant reduced setbacks. We submit that this "one-size-fits-all" approach is inappropriate given the varied contexts of all sites to which the Proposed Amendments apply.

Please accept this letter as notice of our client's objections to the Proposed Amendments. We respectfully request that we be notified of any further actions or decisions made by City Council respecting the above-noted Proposed Amendments.

If you have any questions or concerns about the matters discussed above, please contact the undersigned.

Yours very truly,

Devine Park LLP



Patrick J. Devine
PJD/SHL

cc: Davenport Development Ltd.