



Davies
Howe
Partners
LLP

Lawyers

The Fifth Floor
99 Spadina Ave
Toronto, Ontario
M5V 3P8

T 416.977.7088
F 416.977.8931
davieshowe.com

Please refer to: **John M. Alati**
e-mail: johna@davieshowe.com
direct line: 416.263.4509
File No. 703180

October 5, 2016

By E-Mail Only to clerk@toronto.ca

Mayor and Members of Council
c/o City Clerk's Office
Toronto and East York Community Council
City Hall, 211d Floor
100 Queen Street West
Toronto, Ontario M5H 2N2

Attention: Ms. Ulli Watkiss, City Clerk

Dear Your Worship and Members of Council:

**Re: Item TE18.7: TOcore: Updating Tall Building Setbacks in the
Downtown - City-Initiated Official Plan Amendment and Zoning
By-law Amendments
Comments from CGIV Properties Inc.
154-158 Pearl Street and 166 Pearl Street/15 Duncan Street**

We are counsel to CGIV Properties Inc. ("CGIV"), an affiliated company of Conservatory Group. CGIV has an interest in the lands known municipally as 154-158 Pearl Street and 166 Pearl Street/15 Duncan Street (the "Subject Site").

On September 6, 2016, we wrote on behalf of Conservatory Group to express concerns with the proposed Official Plan and Zoning By-law Amendments pertaining to tall building setbacks in the Downtown (the "Proposed Amendments"). A copy of that correspondence is attached for ease of reference.

In addition to the concerns expressed in our earlier correspondence, we are writing now on behalf of CGIV to identify particular issues with the application of the Proposed Amendments to the Subject Site.

The Proposed Amendments do not appropriately address issues of transition arising in respect of existing and forthcoming official plan and zoning by-law amendment applications.

Specifically, CGIV is preparing to submit development applications in respect of the Subject Site, and is involved as a party to an Ontario Municipal Board hearing



Davies
Howe
Partners
LLP

and mediation process for other proposed developments within the same block. The transition provisions in the Proposed Amendments place too much emphasis on the precise application status of a particular site and fail to appropriately consider the applicable development context. This approach risks unduly restricting how properties on a given block may be used, and constitutes an inappropriate "first past the post" approach to planning.

The Proposed Amendments also continue to incorporate prescriptive and inflexible standards without sufficient justification. In particular, the proposed 12.5 metre setback to centre line of street and the proposed 25 metre setback between towers are unnecessary and unjustified in many instances. The proposed one size fits all approach will unduly curtail good planning at a significant number of potential redevelopment sites, particularly where there exists more than one potential tower site on a given block. We previously recommended that any amendments include policy - or location - specific criteria for alternative setbacks where appropriate, rather than applying the same policies and regulations across the entire Downtown; however, these revisions have not been made.

For the foregoing reasons, as well as those outlined in our previous correspondence, we encourage Council not to adopt the recommendations for the Proposed Amendments and refer the matter back to staff to consider a sufficiently flexible approach to tall building setback policies and regulations.

Yours truly,

DAVIES HOWE PARTNERS LLP

John M. Alati

JMA:KF

copy: Clients
Peter Swinton, PMG Planning Consultants



Davies
Howe
Partners
LLP

Lawyers

The Fifth Floor
99 Spadina Ave
Toronto, Ontario
M5V 3P8

T 416.977.7088
F 416.977.8931
davieshowe.com

Please refer to: **John M. Alati**
e-mail: johna@davieshowe.com
direct line: 416.263.4509
File No. 703180

September 6, 2016

By E-Mail Only to teycc@toronto.ca

Ms. Ellen Devlin
Secretariat, Toronto and East York Community Council
City Hall, 2nd Floor, West Tower
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Members of Toronto and East York Community Council

Dear Members of Community Council:

**Re: Item TE18.7: TOcore: Updating Tall Building Setbacks in the
Downtown - City-Initiated Official Plan Amendment and Zoning
By-law Amendments
Comments from Conservatory Group**

We are counsel to Conservatory Group and a number of associated companies and persons, including but not limited to, those set out in Attachment 1.

We have reviewed the supplementary staff report pertaining to the above-noted matter, dated August 31, 2016 (the "Supplementary Report"), alongside the initial staff report, dated May 26, 2016 (collectively, the "Staff Reports"). We are writing on behalf of our clients to reiterate and supplement the comments provided in our letter of June 13, 2016, which is attached hereto for ease of reference.

Our clients have an interest in several sites across the Downtown area on which a tall building is proposed. However, the concerns outlined in this and our earlier letter apply to the Downtown area as a whole.

The Supplementary Report does not adequately address the concerns outlined in our June 13, 2016 correspondence, and the recommendations contained therein should not be adopted as proposed.

The proposed official plan policies and zoning by-law standards (collectively, the "Proposed Amendments") do not appropriately address setback issues, and in fact, lead to a number of adverse consequences. They also do not appropriately



Davies
Howe
Partners
LLP

address issues of transition arising in respect of existing and forthcoming official plan and zoning by-law amendment applications.

The Proposed Amendments continue to incorporate prescriptive and inflexible standards without sufficient justification. In particular, the proposed 12.5 metre setback to centre line of street and the proposed 25 metre setback between towers are unnecessary and unjustified in many instances. The proposed one size fits all approach will unduly curtail good planning at a significant number of potential redevelopment sites. We previously recommended that any amendments include policy - or location - specific criteria for alternative setbacks where appropriate, rather than applying the same policies and regulations across the entire Downtown; however, these revisions have not been made.

Further, it is unclear why the City has chosen to implement the proposed setbacks through a zoning by-law when they are currently used in the existing Tall Building Guidelines. We submit that this restrictive and rigid approach will negatively impact the good planning of many sites and blocks across the Downtown area.

Notwithstanding the recent inclusion of transition provisions, the Proposed Amendments still lack clarity on how applications currently proceeding through the planning process will be treated. These provisions also do not adequately account for situations where a comprehensive block planning exercise is underway, but development applications may not have been submitted for all sites on the block that could accommodate a tall building.

For example, one of our clients has an interest in the two properties municipally known as 154-158 Pearl Street and 166 Pearl Street/15 Duncan Street in the King-Spadina area of the Downtown. Our client is preparing to submit development applications in respect of these properties, and is involved as a party to an Ontario Municipal Board hearing and mediation process for other proposed developments within the same block. The Proposed Amendments should include transition provisions that appropriately consider the development context of a particular site, regardless of its precise application status.

Finally, there are certain sites in the Downtown area that should not be subject to the Proposed Amendments because of the specific, unique circumstances of those sites. For example, one of our clients has proposed a tall building development at 100 Edward Street, 70 Edward Street and 636 Bay Street, and has been in discussions with City staff regarding this proposal for several years. In 2014, staff determined that our client should apply to the Committee of Adjustment ("C of A")



Davies
Howe
Partners
LLP

for variances from the applicable zoning by-law, as opposed to a zoning by-law amendment, to facilitate its proposed development. Staff then requested that a Site Plan Control application be filed, and the C of A application was set aside pending Site Plan Control review. Accordingly, the zoning of this site is in question; however, it appears that the proposed transition protocol may not recognize this site as no re-zoning application was filed.

Our client's consulting land use planner previously inquired with City staff as to the treatment of this site under the proposed new tower setbacks protocol, and requested that it be exempted from application of the new by-law. He did not receive a satisfactory response. We submit that this site should be identified as a property that will not be subject to the Proposed Amendments.

For the foregoing reasons, as well as those outlined in our previous correspondence, we encourage TEYCC not to adopt the recommendations for the Proposed Amendments and refer the matter back to staff to consider a sufficiently flexible approach to tall building setback policies and regulations.

Yours truly,

DAVIES HOWE PARTNERS LLP

John M. Alati

JMA:KF

copy: Clients
Peter Swinton, PMG Planning Consultants



Davies
Howe
Partners
LLP

Appendix 1: Conservatory Group Related Companies and Persons

Rainbow Developments Inc.

Rosedale Developments Inc.

Hollybar High Rise Development Ltd.

Holly Downs Developments Inc.

Antelope Hills Construction Ltd.

Fancy Dell Developments Inc.

B-Major Homes (Ontario) Inc.

Top of the Tree Developments Inc.

GCD Trustee Ltd.

Figtree Construction Ltd.

Misty Manor #2 Developments Inc.

Bay-Elizabeth Construction Ltd.

Smye Homes Ltd.

Marklib Investments 2

Granite Heights Developments Inc.

Winding Road Developments Inc.

Suelea Development Inc.

Kingbird Developments Inc.

2242148 Ontario Ltd.

Yolanda Flanders Developments Inc.

The Gates of Scarborough Town Centre Inc.



Davies
Howe
Partners
LLP

2308163 Ontario Inc.

Fawn Haven Construction Ltd.

Ambercroft Construction Ltd.

2297485 Ontario Ltd.

Treble Clef Construction (Ontario) Inc.

Damaris Developments Inc.

Jasamax Holdings Inc.

Ringley Construction Ltd.

Corey Sean Libfeld

Sheila Margery Royce

Nancy Claire Libfeld

Marich Developments Inc.

Soprano Developments Inc.

CG Acquisition Inc.

CGIV Properties Inc.