

Reply Attention of Mary Flynn-Guglietti
Direct Line 416.865.7256
Internet Address mary.flynn@mcmillan.ca
Our File No. 242169
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EMAIL (clerk@toronto.ca)

Council of the City of Toronto
2nd Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Ms. Ulli S. Watkiss, City Clerk

Dear Mayor Tory and Members of Council:

**Re: City of Toronto Council Meeting of October 5, 2016
Item No. TE18.7
TOcore: Updating Tall Building Setbacks in the Downtown – City-Initiated
Official Plan Amendment and Zoning By-law Amendments**

We are the solicitors acting on behalf of 462 Wellington Inc. (“**462 Wellington**”), the owner of a property in the City of Toronto (the “**City**”), municipally known as 462 Wellington Street West, which is located in the City’s downtown (the “**Wellington Property**”). On September 7, 2016 the Toronto and East York Community Council (“**TEYCC**”) recommended that City Council adopt amendments to its Official Plan and to Zoning By-laws 438-86 and 569-2013 to establish minimum required front, side and rear lot line setbacks and minimum required separation distances for the tower portions of tall buildings.

The proposed amendments are of concern to 462 Wellington. In particular, the inclusion of minimum required front, side and rear lot line setbacks and separation distances in a zoning by-law mandates their rigid application whereas flexibility in the design of tall buildings and application of such parameters is required for appropriate development of tall building sites. Each potential tall building site brings with it unique considerations. Accordingly, the setbacks and separation distances required to achieve important planning principles, such as the protection of sky views, light, and privacy and the development potential of adjacent sites, will vary from site to site.

This need for flexibility and adaptation in the design of tall buildings is properly reflected in the application of the City’s Tall Building Design Guidelines (the “**TBDG**”) which set out similar performance standards for tall buildings to those put forward in the City’s proposed amendments. As per evidence adopted by the Ontario Municipal Board in its decision for 175-191 Dundas Street East and 235 Jarvis Street issued July 21, 2015 (PL141461), “slavish adherence” to the specific performance standards set out in the TBDG is not appropriate:

“[N]o development application is expected to adhere to all the guidelines. Rather, a development application should be “weighed” against the TBDG and, on balance a determination should be made as to whether the proposal meets the overall intent and spirit of the TBDG.” (at para 57)

Consequently, this need for flexibility should be reflected in any Official Plan policy relating to tall buildings. The City’s zoning by-law should not unnecessarily restrict and prevent such flexibility.

As a result, on behalf of our client we hereby object to the adoption of the proposed Official Plan and Zoning By-law Amendments in its present form and submit that continued use and application of the TBDG is the most appropriate form to provide direction for the development of tall buildings in the City. Alternatively, prior to the adoption of any such amendments, further consultation should take place to ensure that only amendments consistent with the flexible and adaptive application of the TBDG are implemented.

Yours truly,

plf: 

Mary Flynn-Guglietti

CC: 462 Wellington Inc., Domenic Gesualdi
462 Wellington Inc., Joe Gesualdi
IBIG Group, Randy Grimes
Cap Law, Ernest Cappellacci