

N. Jane Pepino, C.M., Q.C., LL.D.
Direct: 416.865.7727
E-mail: jpepino@airdberlis.com

June 13, 2016

File No. 119947

EMAIL

Toronto and East York Community Council
City Clerk's Office
Toronto City Hall
2nd Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Ellen Devlin, Committee Administrator (teycc@toronto.ca)

Dear Community Council Members:

**Re: Request for Deferral
Item TE17.14 - Toronto and East York Community Council Meeting: June
14, 2016
TOcore: Updating Tall Building Setbacks in the Downtown - City-Initiated
Official Plan Amendment and Zoning By-law Amendments**

We act on behalf of the parties listed in Schedule "A" to this letter.

We are writing with respect to the proposed changes to the City of Toronto Official Plan, former City of Toronto By-law 438-86 and City of Toronto By-law 569-2013 regarding policies and regulations for "tall buildings" in the Downtown.

Our clients are established developers with many successful completed projects in the Downtown and have an interest in the redevelopment and intensification of lands in the Downtown generally.

We received notice that this City-initiated request to amend the Official Plan and Zoning By-laws will be considered at the upcoming Toronto and East York Community Council ("TEYCC") meeting scheduled for June 14, 2016. Upon receiving the City's notice, we requested and received a copy of the proposed Official Plan Amendment (the "proposed OPA"). The Staff Report respecting this matter was released on June 6, 2016, one week prior to the TEYCC meeting, with no proposed Zoning By-law Amendments ("proposed ZBAs") attached for review.

As a result, there has been no opportunity for our clients and its consultants to thoroughly review and consider the implications of the proposed amendments and to provide detailed instructions to our office respecting same. We are therefore writing to request that consideration of the proposed OP and proposed ZBAs be deferred to a future meeting of the TEYCC in order to provide all interested stakeholders with an opportunity to make fully informed submissions to the City.

At this time, we are able to provide the following preliminary comments on behalf of our clients. Our clients' comments set out in this correspondence should be treated as preliminary. We anticipate further comments will be forthcoming.

The proposed OPA lacks clarity as to the application and implementation of the proposed policies. For example, it is unclear to us based on the current language, what is meant by a "tall building" as opposed to a mid-rise building or building element, and when the proposed policies will therefore be applied. We recognize that an Official Plan is intentionally a broad policy document but it needs, nevertheless, to be capable of clear interpretation.

The proposed OPA provides no transition provisions for properties which are, for example, the subject of current development applications, are matters currently before the Ontario Municipal Board on appeal, or which have received site specific development approvals but for which site plan approval and/or building permits are pending.

The transition provisions in the proposed ZBAs which exclude sites for which building permits have issued and certain yet to be identified sites for which site specific by-laws have been passed are inadequate. The transition provisions do not account for properties which are the subject of current development applications or for matters currently before the Ontario Municipal Board on appeal. Appropriate transition provisions should be incorporated in any by-law or official plan amendment adopted by Council to ensure that landowners may continue to rely on the policies and regulations in force at the time of commencing an application.

The proposed ZBAs appear to prescribe regulations which are to be applied uniformly and are compulsory in nature with no distinction made between certain areas within the Downtown, lot sizes and configurations or other area/site specific considerations.

The draft amendments in their current form raise significant concerns for our clients. Additionally, due to a lack of consultation on the draft amendments, there are also questions arising from same which cannot be addressed in the truncated period provided. We acknowledge that general consultation on these matters has taken place in the context of the City's TOcore initiative, however, no such consultation has occurred in respect of the actual proposed amendments with our client or many other affected landowners. Therefore our client objects to the approval on the proposed OPA and proposed ZBAs on the basis of insufficient notice and consultation.

A deferral and referral of this matter back to staff will also facilitate staff's consideration of our clients' preliminary comments respecting the proposed amendments and enable consultation with our clients and other stakeholders prior to a statutory public meeting.

We hereby also formally request that the undersigned be provided with notice of any meetings of Council, Community Council or any Community Consultation Meetings where reports related to the draft OPA and draft ZBAs are to be considered. Finally, we request that the undersigned be notified of any decision of City Council respecting the proposed OPA and proposed ZBAs.

Should you have any questions or require any further information, please do not hesitate to contact the undersigned or Sidonia J. Loiacono.

Yours very truly,

AIRD & BERLIS LLP

A handwritten signature in cursive script, appearing to read "N. Jane Pepino".

per. N. Jane Pepino, C.M., Q.C., LL.D.
NJP/SJL
cc Client
26372993.2

Schedule "A"

Cresford (Rosedale) Developments Inc.

1000 Bay Street Limited, owner of 984, 990 and 1000 Bay Street

VOX (Yonge Wellesley)Ltd., owner of 40 Wellesley Street East

42 Charles Street Limited, owner of 39 Hayden Street and 42 Charles Street East

50 Charles Street Limited, owner of 50-60 Charles Street East, 62-64 Charles Street East and 47and 61 Hayden Street

The Clover On Yonge Inc., owner of 587 – 599 Yonge Street, 2-4 Dundonald Street and 7 – 9 Gloucester Street

Y&G Limited Partnership, owner of 363-391 Yonge Street and 3 Gerrard Street East