



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

June 13, 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 TE17.14: Final Report – 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.

The recommendations for tall building setbacks set out in the above-captioned staff report (“Staff Report”) 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.

The Staff Report does not provide sufficient justification for the proposed setback of 3 m to a lot line that abuts a street and 12.5 m to a centre line of street, lane or lot line, to be applied to all of the Downtown. In many cases, lower setbacks are appropriate. We agree with Staff at page 9 that projects have provided less than these setbacks where supported by Council or the Ontario Municipal Board (the “OMB”) on the basis of good planning reasons.

For example, the City has agreed to a 4.5 m setback (7.5 m lanes centre line setback) for a tall building proposed adjacent to row houses designated under the *Ontario Heritage Act* where development was not anticipated on those houses due to the heritage status. The City has also recently supported distance separations of 20 metres where tower floor plates have been reduced and block planning has



Davies
Howe
Partners
LLP

been done in a comprehensive manner. The OMB has approved reduced tower setbacks next to a low-rise main street area secured through area-specific Official Plan policies and next to a mid-rise residential rental building, which was recognized would not be redeveloped.

The Proposed Amendments should have policies to address these situations and other similar situations where particular site circumstances would limit or prevent development on adjacent lands. Thus, the Proposed Amendments should include policy - or location - specific criteria for alternative setbacks where appropriate, rather than applying the same policies and regulations across the entire Downtown. A one size fits all approach will lead to unintended consequences and curtail the ability to achieve good planning at a significant number of potential redevelopment sites.

Many Downtown sites are not appropriate for tall buildings; however the Proposed Amendments will negatively impact many of them. Numerous properties in the King-Spadina area have as-of-right permissions for 30 m height and 5.5 m setbacks. The Staff Report sets out that the 5.5 m setback was deemed appropriate for mid-rise buildings since the early 1990s (at page 7) and the Proposed Amendments are not meant to change those standards. However, the Proposed Amendments will downzone properties suitable for mid-rise buildings since the 12.5 m setback in the Proposed Amendments will start at a height above 24 m, therefore, any portion of a mid-rise building above this height will require a 12.5 m – rather than a 5.5 m – setback. The height starting-point for setbacks must be revisited.

The majority of Downtown properties have a height limit below 24 m. The Downtown Tall Buildings Guidelines, in addition to identifying the setbacks now proposed as by-law requirements, also identify streets which could have higher heights, what those heights could be, and streets that are appropriate for reduced setbacks (Canyon Form) and increased height. Other areas within the boundaries of the Proposed Amendments are also experiencing tall building development outside the scope of the Downtown Tall Buildings Guidelines and even buildings within the scope of the Guidelines have been approved at heights which vary from the Guidelines. If new setback *restrictions* are proposed in the zoning by-laws, the correlate *permissive* elements – like height and built form – should also be included.

Since such few properties in the Downtown permit tall buildings as-of-right, a zoning by-law amendment will be required in virtually all cases where a tall



Davies
Howe
Partners
LLP

building is proposed. The Proposed Amendments will not encourage as-of-right compliance; if anything the proposed setback changes indicate the need to update Downtown height standards concurrently.

The proposed amendments to By-laws 438-86 and 569-2013 were not included in the Staff Report and public agenda until two business days prior to the TEYCC public meeting where depositions can be made. We have serious concerns about TEYCC's consideration of a significant change to by-laws applicable to the whole of the Downtown where our clients have not been provided an opportunity to analyze and provide comment on the draft by-laws in advance of the TEYCC meeting.

For all these reasons, we encourage TEYCC not to adopt the recommendations for the Proposed Amendments and instead direct staff to undertake a study process to address unique conditions within the Downtown – including height and built form policies – and engage in a comprehensive consultation process with all affected parties. Our clients welcome an opportunity to continue its dialogue with the City and the industry to consider appropriate tall building setback policies and regulations.

Yours truly,

DAVIES HOWE PARTNERS LLP

John M. Alati

JMA:am

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.