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August 31, 2016

**VIA EMAIL**

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

Attn: Ellen Devlin, Committee Administrator

Dear Community Council Members:

**Re: Item TE 18.7 - Toronto and East York Community Council Meeting:  
September 7, 2016  
TOcore: Updating Tall Building Setbacks in the Downtown - City-Initiated  
Official Plan Amendment No 352 ("OPA 352") and draft Zoning By-law  
Amendments**

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

We are writing with respect to the City initiated Official Plan Amendment No. 352 ("OPA 352") and proposed amendments to former City of Toronto By-law No. 438-86 and City of Toronto By-law No. 569-2013 (collectively the "ZBAs") regarding policies and regulations for "tall buildings" in the Downtown.

On June 13, 2016 we wrote to you on behalf of a number of our clients and expressed concerns regarding OPA 352 and the ZBAs available at that time. On behalf of our clients, we attended the public consultation meeting held on July 19<sup>th</sup>, 2016 and received a copy of revised versions of the ZBAs presented by City Planning at that meeting.

We had understood that a Supplementary Staff Report with final versions of the ZBAs and possibly OPA 352 would be made available for comment in advance of the Community Council meeting scheduled for September 7<sup>th</sup>. No such report has been released to the public and it's not clear what versions of these instruments are intended to be the subject of this statutory public meeting.

Our clients and their consultant teams have reviewed the latest available version of OPA 352 and the ZBAs and we are writing to advise of the following concerns:

1. The Official Plan is a policy document and should not include matters which are better suited as zoning regulations and/or urban design guidelines. For example, OPA 352 as drafted, is focussed on achieving certain defined tower setbacks as opposed to introducing policies which seek to achieve adequate light, view and privacy between residents within facing buildings.
2. OPA 352 lacks clarity as to the application and implementation of the proposed policies. For example, it is unclear, based on the current policy language, what is meant by a "tall building" as opposed to a mid-rise building or building element. We recognize that an Official Plan is a broad policy document but it needs, nevertheless, to be capable of clear interpretation.
3. In terms of development within the Downtown, tower setbacks and separation distances are often site-specific by nature, and do not lend themselves to a single one-size-fits-all numerical standard. The Staff Report recognizes that exceptions have been made in the past to reflect site specific characteristics and acknowledges that "exceptions will continue to be considered where it is justifiable". However, the ZBAs as currently drafted do not recognize or permit site specific considerations or the circumstances under which such considerations may be justified. For example, the standardized setback and separation distances mandated by the ZBAs, do not take into consideration whether the towers are offset from each other, angled away from one another, the existence of blank/end walls, adjacency to uses other than residential or potential development in the balance of the block. In our submission, this will unnecessarily restrict appropriate development in the Downtown.
4. The ZBAs recognize the base and point tower building typology and do not take into account tall mid-rise buildings, such as buildings between the 24.0 metre threshold and 14 storeys. Buildings which are taller than 24.0 metres, but take on a mid-rise typology, should not be subject to the proposed regulations as this could impose structural challenges and yield an undesirable building massing. It is also unclear how the height of 24.0 metres was determined to be an appropriate threshold for a building to be considered a tower. This approach contradicts both the City's Mid-Rise Guidelines and the Tall Building Design Guidelines.
5. The application of tall building setbacks to any portion of a building over 24 metres is also contrary to the Mid-Rise Guidelines which specify a 5.5 metre setback for the upper portions of a mid-rise building (above the street wall) up to 36 metres. Furthermore, the setbacks proposed in the ZBAs are contrary to the City's Downtown Tall Building Design Guidelines which permit Canyon Form buildings with high street walls on certain High Streets and Secondary High Street that are characterized by such built form.
6. The ZBAs are also unclear and/or lack certain details. For example, while the Staff Report indicates that certain projections (such as balconies) are permitted within the setback area, the draft instruments do not appear to permit such encroachments. If balconies are not intended to be permitted encroachments, then this would be a departure from the City's Tall Building Design Guidelines.

7. Both the lack of any transition provisions in OPA 352, and the proposed transition provisions in the ZBAs are unacceptable. As drafted, a list of identified site specific By-laws would prevail over the provisions of the ZBAs. In addition, the ZBAs would not apply to towers constructed pursuant to a building permit issued prior to July 11, 2016. These transition provisions do not account for sites, for example, with development applications which are the subject of appeals before the Ontario Municipal Board or properties for which current applications are at various stages of the planning approval or building permit process. Furthermore, sites where official plan and zoning by-law amendment applications have been approved (and are in full force) but where minor variance applications, site plan approval and/or building permit applications are being processed, would (as currently drafted) be subject to the provisions of OPA 352 and the draft ZBAs. Appropriate transition provisions should be incorporated to ensure that landowners may continue to rely on the policies and regulations in force at the time of commencing any application.
8. As noted above, the ZBAs contain provisions stating that certain identified site specific by-laws will prevail over the ZBAs. Based on our review, even after applying staff's methodology for determining the site specific by-laws which ought to prevail, this list is incomplete. We request the ZBAs be revised to include those site specific By-laws listed in Schedule "B" to this letter.

We also formally request that our clients listed in Schedule "A" to this correspondence and the undersigned be provided with notice of any meetings of Council, Community Council or any Community Consultation Meetings where reports related to OPA 352 and the ZBAs are to be considered. Finally, we request that our clients listed in Schedule "A" and the undersigned be notified of any decision of City Council respecting OPA 352 and the ZBAs.

Should you have any questions or require any further information, please do not hesitate to contact the undersigned or Sidonia Loiacono at [sloiacono@airdberlis.com](mailto:sloiacono@airdberlis.com).

Yours very truly,

AIRD & BERLIS LLP



Kim M. Kovar  
KMK/SJL/jt/mn

cc: Clients

## SCHEDULE "A"

Site Address	Owner/Client Name and Address
171 Front Street West (151 Front Street West and 20 York Street) and others	Allied Properties REIT 1700-134 Peter Street Toronto, ON M5V 2H2
51-65 Ontario Street and 102 Berkeley Street	Bel-East Inc. 778 King Street West Toronto, ON M5V 1N6  Bel-Ontario Inc. 778 King Street West Toronto, ON M5V 1N6
431 Richmond Street West	Bel-Three Property Management Ltd. 778 King Street West Toronto, ON M5V 1N6
39-47 Camden Street West	Camden House Inc. 778 King Street West Toronto, ON M5V 1N6
364 Adelaide Street West	Capitol Buildings Properties Inc. 366 Adelaide Street West, Suite 605 Toronto, ON M5P 2S9
366 Adelaide Street West	Capitol Buildings Properties Inc. 366 Adelaide Street West, Suite 605 Toronto, ON M5P 2S9
380 Adelaide Street West	Capitol Buildings Properties Inc. 366 Adelaide Street West, Suite 605 Toronto, ON M5P 2S9
58-62 Spadina Avenue	Capitol Buildings Properties Inc. 366 Adelaide Street West, Suite 605 Toronto, ON M5P 2S9

	Carttera Management Inc. 501-20 Adelaide Street East Toronto, ON M5C 2T6
481 University Avenue	Daypart Inc. 4576 Yonge Street, Suite 700 Toronto, ON M2N 6N4
306, 310, 314, 320 and 326 Davenport Road	Designers Walk Inc. 2489263 Ontario Inc. and 2463190 Ontario Inc. 168 Bedford Road, 2 <sup>nd</sup> Floor Toronto, ON M5R 2K9
387-421 Bloor Street East & 28 Selby Street	Yorkville East Developments Inc. 3100 Steeles Avenue East, Suite 601 Markham, ON L3R 8T3
200 Dundas Street East, 241-251 Jarvis Street and 280 George Street	Dundas Square Gardens Inc. 3100 Steeles Avenue East, Suite 601 Markham, ON L3R 8T3
92 Peter Street	92 Peter Street Inc. 3100 Steeles Avenue East, Suite 601 Markham, ON L3R 8T3
40-46 Spadina Avenue	Forty-Six Spadina Avenue Limited 366 Adelaide Street West, Suite 605 Toronto, ON M5P 2S9
231 Richmond Street East	George Richmond Inc. 778 King Street West Toronto, ON M5V 1N6
48-54 Power Street and 113-135 Parliament Street	Great Gulf (Power) Limited 3751 Victoria Park Avenue Toronto, ON M1W 3Z4
20-26 Lombard Street and 25 Richmond Street East	Richmond Victoria Limited Partnership 3751 Victoria Park Avenue Toronto, ON M1W 3Z4
355 King Street West	Greenland 355 King Street West Development Company Limited 77 King Street West, Suite 3610 Toronto, ON M5K 2A1

111 Bathurst Street	Harhay Construction Management Ltd. and associated companies 540 Richmond Street West Toronto, ON M5V 1Y4
604-618 Richmond Street West	The Harlowe Inc. 778 King Street West Toronto, ON M5V 1N6
1) 79 Shuter Street 2) 81 Shuter Street 3) 85 Shuter Street	Hyde Park Homes Limited and associated companies including:  1) ZC Investments Ltd. 2) HPH (81 Shuter) Limited 3) HPH (85 Shuter) Limited  7 King Street East, Suite 911 Toronto, ON M5C 3C5
452-458 Richmond Street West	L Richmond Corp. 778 King Street West Toronto, ON M5V 1N6
234 Simcoe Street and 121 St. Patrick Street	Lanterra 234 Simcoe Realty Limited 2811 Dufferin Street Toronto, ON M6B 3R9
75 The Esplanade	CarHar3 – Esplanade GP Inc. 540 Richmond Street West Toronto, ON M5V 1Y4
951-971 Bay Street and 36 Wellesley Street West	Lanterra Developments (The Britt) Limited 2811 Dufferin Street Toronto, ON M6B 3R9
501-521 Yonge Street, 6-8 Alexander Street & 23 Maitland Street.	501 Yonge Developments Limited 2811 Dufferin Street Toronto, ON M6B 3R9
5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street and lands on the east side of St. Luke Lane (11 Wellesley Street West and 155 St. Luke Lane)	Lanterra Developments (Bay Wellesley) Limited 2811 Dufferin Street Toronto, ON M6B 3R9

348-354A Yonge Street and 2-4 Elm Street	Longevity Properties Limited 192 Spadina Avenue, Suite 301 Toronto, ON M5T 2C2
364-370 Yonge Street and 3-5 Walton Street	Mang Investments Limited and 2348398 Ontario Inc. 192 Spadina Avenue, Suite 301 Toronto, ON M5T 2C2
203-219 Jarvis Street	Manga Hotels (Toronto) Inc. 3279 Caroga Drive Mississauga, ON L4V 1A3
317 Adelaide Street West	Max and Greta Holdings and Morris Glick Alter Ego Trust 366 Adelaide Street West, Suite 605 Toronto, ON M5P 2S9
110 Spadina Avenue	Max and Greta Holdings and Morris Glick Alter Ego Trust 366 Adelaide Street West, Suite 605 Toronto, ON M5P 2S9
300 Bloor Street West	Bloor Street United Church and Northrop Development Incorporated 400 Brunel Road Mississauga, ON L4Z 2C2
230 Oak Street	Oak Heights Apartments Inc. and Dravidian Management Limited 54 Berkeley Street, Suite 304 Toronto, ON M5A 2W4
237 to 245, 281 Queen Street East, 348-384 Richmond Street East, 12 Brigden Place and 125 Sherbourne Street	WAM Development Group Suite 1770, 121 King Street West Toronto, ON M5H 3T9
485-539 King Street West	Westbank Project Corp. 501-1067 West Cordova Street Vancouver, B.C. V6C 1C7

316 Bloor Street West	316 Bloor Street West Toronto Developments Ltd. 2700 Dufferin Street, Unit 34 Toronto, ON M6B 4J3
500 Lake Shore Blvd. West	Concord Adex Developments Corp. 23 Spadina Avenue Toronto, ON M5V 3M5
590 King Street West	738489 Ontario Limited 329 Spadina Avenue, 2 <sup>nd</sup> Floor Toronto, ON M5T 2E9
740 Dundas Street East	2279573 Ontario Inc. 11 Church Street, Suite 200 Toronto, ON M5E 1W1
186-188 Jarvis Street	1418297 Ontario Limited 11 Church Street, Suite 200 Toronto, ON M5E 1W1
600 King Street West	1572654 Ontario Inc. 22 St. Clair Avenue East, Suite 1400 Toronto, ON M4T 1L7
422-424 Wellington Street West	Wellington House Inc. 778 King Street West Toronto, ON M5V 1N6



**Schedule "B"**

**TOcore: Updating Tall Building Setbacks in the Downtown (OPA and ZBAs)**  
 List of By-laws omitted from list of Prevailing By-laws

<b>Municipal Address</b>	<b>Owner</b>	<b>By-law Nos.</b>	<b>Notes</b>
481 University Avenue, 210 Dundas Street West, 70 Centre Avenue and 137 Edward Street	Davpart Inc.	By-law 1051-2014	
46-62 Spadina Avenue and 378 Wellington Street West	Forty-Six Spadina Ave. Limited	By-law 490-2010	
951-971 Bay Street and 36 Wellesley Street West	Lanterra Developments (The Britt) Limited	By-law 1043-2013	
5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street and lands on the east side of St. Luke Lane (now collectively known in 2014 as 11 Wellesley Street West and 155 St. Luke Lane)	Lanterra Developments (Bay Wellesley) Limited	By-law 1063-2014 (this one wasn't missed but there's a typo in the address to correct)	CITY'S DRAFT BY-LAW address to be corrected: from "25 to 25" to "5 to 25" Wellesley Street West, etc.

Municipal Address	Owner	By-law Nos.	Notes
424-460 Adelaide Street East	Larino Holdings Inc.	By-law 811-2015	
501-521 Yonge Street, 6-8 Alexander Street & 23 Maitland Street	501 Yonge Developments Limited	By-law 139-2014	
343 & 355 King Street West and 119 Blue Jays Way	Greenland 355 King Street West Development Company Limited	By-law 1041-2010	
381-411 Richmond Street East	Crossbreak Diversified Limited	By-law 927-2002	
224 King Street West	224 King West Inc.	By-law 385-2012	
103-111 Bathurst Street	Harhay Construction Management Ltd.	By-law 494-2014(OMB)	