
AIRD & BERLIS LLP

Barristers and Solicitors

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September 2, 2016

Our File No.: 134179

BY EMAIL

Toronto and East York Community Council
City Clerk's Office
2nd floor, West Tower, City Hall
100 Queen St. W.
Toronto, ON M5H 2N2Attention: Ellen Devlin, Committee Administrator (teycc@toronto.ca)

Re: TEYCC Agenda Item 18.7
To Core: Updating Tall Building Setbacks in the Downtown – City
Initiated Official Plan Amendment and Zoning By-law Amendments

Aird & Berlis LLP represents Main and Main Urban Realty LP, the owner of numerous properties located in the Downtown, including but not limited to: 663-665 King St. W. and 69-73 Bathurst; 647 King St. W. and 58-60 Stewart; 689 King St. W.; and 367-369 King St. W. Our client's current holdings, and its broader interest in the area, are directly impacted by the proposed Official Plan Amendment ("OPA") and Zoning By-law Amendments ("ZBLAs") contained in Attachments 2 and 3 of the above-referenced report.

The purpose of this correspondence is to advise Toronto and East York Community Council of our client's objection to and concerns with the proposed amendments with respect to "tall buildings" setbacks in the Downtown area of the City. We attended the City's community consultation meeting on July 19th and have reviewed the proposed ZBLAs and OPA in detail with our client and its consultants. We offer the following comments on behalf of our client.

The proposed ZBLAs define "tower" as any portion of a building enclosing a storey higher than 24 metres above average grade. It is our understanding that the setback requirements of the proposed ZBLAs would be triggered for buildings taller than 24 metres or approximately 6 storeys. This would apply then to buildings in a mid-rise form which typically do not raise the land use planning impacts which the OPA and ZBLAs purport to address. The proposed required setbacks are mandatory in nature and do not account for differences between certain areas within the Downtown, lot sizes and configurations or other area/site specific considerations.

The proposed setbacks are unrealistic in the context of infill development and would effectively sterilize many proposed development sites within the Downtown, contrary to provincial and City policies aimed at promoting intensification in this area of the City.

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The proposed OPA lacks clarity as to the application and implementation of the proposed policies. For example, it remains unclear to us 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.

Neither the OPA nor the ZBLAs provide appropriate transition policies for properties which are the subject of current development applications, appeals to the Ontario Municipal Board (the “Board”) or matters awaiting a decision from the Board. Additionally, the lack of transition would capture site plan applications for dozens of rezoning applications which are in process, including many which were the result of recent Council approval or settlements. Appropriate transition provisions should be incorporated in any instrument 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, consistent with established caselaw.

In our client’s opinion, the proposed OPA and ZBLAs in their current form do not represent good planning. We request that Toronto and East York Community Council refuse the recommendation to adopt the OPA and ZBLAs in their current form. Should the proposed OPA and ZBLAs be adopted by Council, our client will appeal Council’s decision to the Board.

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

Yours truly,

AIRD & BERLIS LLP


Eileen P. K. Costello

per
EPKC/LD

c: Client
Louis Tinker, Bousfields Inc.

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