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**AIRD & BERLIS LLP**

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September 2, 2016

Our File No.: 103872

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](mailto: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**

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Aird & Berlis LLP represents King Financial Holdings Limited, the owner of properties known municipally as 323, 325, 327 and 333 King Street West (the “properties”).

These properties were the subject of a zoning by-law amendment application which was originally filed with the City in May, 2010. A revised proposal, for the development of a 47-storey mixed use building was submitted in February, 2012. Our client appealed from Council's non-decision on its application to the Ontario Municipal Board (the “Board”) in June, 2011. Subsequent to the appeal, our client and the City reached a settlement which was approved by the Board in May, 2013.

In light of this settlement, on behalf of our client, we request that the properties be exempted from the City's proposed Zoning By-law Amendments (“ZBAs”) and Official Plan Amendment (“OPA”) with respect to “tall buildings” setbacks in the Downtown.

The executed and Board approved Minutes of Settlement between our client and the City contained several conditions that are in the process of being completed by our client, including a site plan submission. Additionally, the conditions require the City to initiate a rezoning for the property at 321 King Street West, which rezoning would be circumscribed by the draft OPA and ZBLs. Because the conditions are still being met by our client and the City, the zoning by-law amendment for the properties has yet to be given a City By-law number. As such, the properties are not listed in the appendix to the City's proposed ZBAs.

We request that our client's properties be exempted from the draft OPA and ZBLAs. To fail to do so would result in the planning regime applicable to the properties changing fundamentally in the midst of our client and the City completing the planning process for

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this approved proposal, including a forthcoming site plan application. Such an outcome is neither fair nor reasonable.

In addition to our client's specific concerns in respect of its King Street properties, our client also has general concerns with the approach taken by the City in the draft OPA and ZBAs. In particular, the attempt to elevate guidelines to strict policy and zoning standards is inappropriate given the variable existing built form context found in the Downtown. Additionally, the strict application of these proposed instruments unduly limits intensification on smaller sites, inconsistent with Provincial policy and the City's own Official Plan which focuses growth in the Downtown. For this reason, our client objects to the compulsory language related to setbacks, separation distances, floor plates and other matters as contained in the instruments.

Finally, we note that as of the week prior to the September 7<sup>th</sup> meeting of TEYCC, the additional staff report on this matter had not been posted. The continued late posting of information by the City on a matter as far reaching as these proposed amendments is not reasonable given the number of stakeholders impacted. It certainly falls short of any reasonable consultation one would expect on a matter of this magnitude.

For these reasons, our client requests that the TEYCC refuse the staff recommendation and refrain from approving the draft instruments in their current form. In the alternative, our client requests the deferral of these instruments until: 1) meaningful consultation with landowners has occurred; 2) new transition policies are introduced; 3) the OPA is revised to address inconsistencies with existing in-force policies, vagueness of language (for example, what constitutes a "tower") and possibly overbroad application (for example, to mid-rise buildings over 24m in height); and 4) the draft ZBAs are revised to remove compulsory setbacks and/or to introduce guidance for the variation in site size, configuration and built context as found in the Downtown.

On behalf of our client, we will be in attendance at the TEYCC meeting on September 7<sup>th</sup> and will speak to the matter to answer any questions which may arise from this correspondence.

Yours truly,

AIRD & BERLIS LLP

  
per Eileen P. K. Costello  
EPKC/LD

c: Client

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