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**AIRD & BERLIS LLP**

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September 2, 2016

Our File No.: 133660

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 458728 Ontario Limited, the owner of the lands known municipally as 147 Spadina Avenue. Additionally, our client through its affiliated companies also owns other sites in the immediate area (collectively, the “properties”).

We are writing with respect to the City’s proposed Zoning By-law Amendments (“ZBLAs”) and Official Plan Amendment (“OPA”) with respect to “tall buildings” setbacks in the Downtown area of the City. We attended the City’s community consultation meeting on July 19<sup>th</sup> and have now reviewed the proposed ZBLAs and OPA in detail. 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. 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. They also do not account for development proposals with mid-rise buildings which may reach the 24m height nor the fact that many existing heritage buildings have higher floor to ceiling ratios which can result in overall greater building heights when those heritage buildings are incorporated into a redevelopment proposal.

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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Furthermore, the properties are located on Spadina Avenue which, according to Map 3 of the City of Toronto's Official Plan has a 36 metre right of way., the City's proposed OPA and ZBLAs would hinder our client's ability to pursue development applications on the properties despite the fact that Spadina Avenue is a major street which can accommodate and where one might expect tall buildings.

Neither the OPA nor the ZBLAs provide transition positions for properties which are the subject of current development applications. 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.

In our client's opinion, the proposed OPA and ZBLAs do not represent good planning. We request that Toronto and East York Community Council decline to support the staff recommendation to adopt the OPA and ZBLAs in their current form and instead direct staff to undertake further consultation prior to amending the draft instruments to identify the concerns states here and by other stakeholders.

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

Yours truly,

AIRD & BERLIS LLP

*per* Eileen P. K. Costello  
EPKC/LD

c: Larry Saltsman

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