
AIRD & BERLIS LLP

Barristers and Solicitors

Sidonia J. Loiacono
Direct: 416.865.7763
E-mail: sloiacono@airdberlis.com

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File Nos. 116052 and 110544

EMAIL

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

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**

We act on behalf of the parties listed in 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.

Our clients are established developers with many successful completed projects in the Downtown and have an interest in the redevelopment and intensification of their lands and in the Downtown generally.

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. Our clients' properties are occupied by existing building(s) which, if OPA 352 and the ZBAs are adopted, would result in the existing buildings being defined as a tower (any portion of a building enclosing a storey higher than 24.0 m above average grade). Furthermore, the existing buildings would not comply with OPA 352 and the ZBAs.

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 October 4, 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.

We also note that there have been a number of zoning by-law amendments, approved by the City, within the block bounded by our clients' existing landholdings, which provide for the development of a series of towers, all of which would be considered tall buildings in accordance with OPA 352 and the ZBAs, and none of which would meet the proposed setback requirements or the tower separation requirements of OPA 352 and the ZBAs. We therefore request that that OPA 352 and the ZBAs exempt our clients' lands at 111 Peter Street and 215 Spadina Avenue.

2. 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.
3. 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.
4. 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.
5. 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.

6. 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.
7. 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.

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.

Yours very truly,

AIRD & BERLIS LLP



Sidonia J. Loiacono

SJL

Encl.

cc Clients

Lindsay Dale-Harris, Bousfields Inc.

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Schedule "A"

Site Address	Owner/Client Name and Address
111 Peter Street	PETER STREET TORONTO GP INC. Attn: Max Rosenfeld 1400-130 King St. W., P.O. Box 240 Toronto, ON M5X 1C8
215 Spadina Avenue	CRESTPOINT REAL ESTATE (215 SPADINA) INC. Attn: Max Rosenfeld 1400-130 King St. W., P.O. Box 240 Toronto, ON M5X 1C8

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