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File No. 702979

September 6, 2016

By E-Mail Only to teycc@toronto.ca

Ms. Ellen Devlin
Secretariat, Toronto and East York Community Council
City Hall, 2nd Floor, West Tower
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Members of Toronto and East York Community Council

Dear Members of Community Council:

**Re: Item TE18.7: TOcore: Updating Tall Building Setbacks in the
Downtown - City-Initiated Official Plan Amendment and Zoning
By-law Amendments
Comments from 1373365 Ontario Ltd.**

We are counsel to 1373365 Ontario Ltd., the owner of the property municipally addressed as 212 Dundas Street East.

We have reviewed the supplementary staff report pertaining to the above-noted matter, dated August 31, 2016 (the "Supplementary Report"), alongside the initial staff report, dated May 26, 2016 (collectively, the "Staff Reports"). We are writing on behalf of our client to reiterate and supplement the comments provided in our letter of June 13, 2016, which is attached hereto for ease of reference.

While our client has yet to submit a formal application, it is our client's intention to do so in the near future, and as such, our clients have an interest in the outcome of the above-noted Official Plan and Zoning By-law Amendment, with respect to potential impacts it may have on our clients' lands at 212 Dundas Street East.

We are of the opinion that the Supplementary Report does not adequately address the concerns outlined in our June 13, 2016 correspondence, and the recommendations contained therein should not be adopted as proposed. The proposed official plan policies and zoning by-law standards (collectively, the "Proposed Amendments") do not appropriately address setback issues, and in fact, lead to a number of adverse consequences. They also do not appropriately address



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issues of transition arising in respect of existing and forthcoming official plan and zoning by-law amendment applications.

The Proposed Amendments continue to incorporate prescriptive and inflexible standards without sufficient justification. In particular, the Proposed Amendments do not provide sufficient justification for the proposed setback of 3 m to a lot line that abuts a street and 12.5 m to centre line of street, lane or lot line, to be applied to all of the Downtown. In many cases, such as our clients' lands, smaller setbacks may be appropriate. In particular, Official Plan Amendment 82 identifies particular blocks in which tall buildings will be allowed (including our clients' lands), and prohibits them on other properties. The Site has a unique configuration due to the curvature of Dundas Street at that location, which may result in consideration of lesser setbacks than what is proposed. The Site is also adjacent to lands that prohibit tall buildings. As such, allowing reduced setbacks will not compromise the principle behind the Proposed Amendments, which is to ensure appropriate distance separations between towers.

Notwithstanding the recent inclusion of transition provisions, the Proposed Amendments should include transition provisions that appropriately consider the block development context of a particular site, regardless of its precise application status.

Finally, it is unclear why the City has chosen to implement the proposed setbacks through a zoning by-law when they are currently used in the existing Tall Building Guidelines. We submit that this approach is unduly restrictive and will restrict the good planning of many sites and blocks across the Downtown area.

For the foregoing reasons, as well as those outlined in our previous correspondence, we encourage TEYCC not to adopt the recommendations for the Proposed Amendments and refer the matter back to staff to consider a sufficiently flexible approach to tall building setback policies and regulations.

Yours truly,

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June 13, 2016

By E-Mail Only to teycc@toronto.ca

Ellen Devlin
Secretariat, Toronto and East York Community Council
2nd floor, West Tower, City Hall
100 Queen St. W.
Toronto, ON M5H 2N2

Attention: Members of Toronto and East York Community Council

Dear Members of Community Council:

Re: Item TE17.14: Final Report – TOcore: Updating Tall Building Setbacks in the Downtown - City-Initiated Official Plan Amendment and Zoning By-law Amendments Comments from 1373365 Ontario Ltd.

We are counsel to 1373365 Ontario Ltd., owner of lands at 212 Dundas Street East, east of George Street, in the Garden District neighbourhood (the "Site").

The Garden District neighbourhood has recently been the subject of considerable study by City planning staff, culminating in the adoption of the area-specific Official Plan Amendment No. 82 ("OPA 82"). OPA 82, as adopted, permits the development of a mixed-use tall building on the Site. Our client therefore takes an interest in the proposed tall building setbacks set out in the above-captioned staff report ("Staff Report").

The recommendations in the Staff Report should not be adopted as proposed since the official plan policies and zoning by-law standards (collectively, the "Proposed Amendments") do not appropriately address setback issues, and in fact, lead to a number of adverse consequences.

The Staff Report does not provide sufficient justification for the proposed setback of 3 m to a lot line that abuts a street and 12.5 m to centre line of street, lane or lot line, to be applied to all of the Downtown. In many cases, such as the Site, smaller setbacks may be appropriate. In particular, OPA 82 identifies particular blocks in which tall buildings will be allowed (including the Site), and prohibits them on other properties. The Site has a unique configuration due to the curvature of Dundas Street at that location, which may result in consideration of lesser setbacks than what is proposed. The Site is also adjacent to lands that prohibit tall buildings. As such, allowing reduced



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setbacks will not compromise the principle behind the proposed OPA and Rezoning, which is to ensure appropriate distance separations between towers. In a similar situation in the Church and Wellesley area, the OMB has recently approved reduced tower setbacks next to a low-rise area secured through area-specific Official Plan policies.

We agree with Staff at page 9 that projects have provided less than the proposed setbacks where supported by Council or the Ontario Municipal Board on the basis of good planning reasons. Thus, the Proposed Amendments should include policy- or location- specific criteria for alternative setbacks where appropriate, rather than applying the same policies and regulations across the entire Downtown. A one size fits all approach will lead to unintended consequences and curtail the ability to achieve good planning at a significant number of potential redevelopment sites.

The Proposed Amendments also do not contemplate a scenario where a tall building could be proposed next to properties which cannot be redeveloped for a tall building. In these instances, reduced setbacks are often supported by the City. For example, the City has agreed to a 4.5 m setback for a tall building proposed adjacent to row houses designated under the *Ontario Heritage Act* where development was not anticipated on those houses due to the heritage status. The Site is also located adjacent to heritage row houses designated “apartment neighbourhoods”, which are unlikely to be redeveloped.

The Proposed Amendments should have policies to address these situations and other similar situations where particular site circumstances would limit or prevent development on adjacent lands.

In fact, since such few properties in the Downtown permit tall buildings as-of-right, a zoning by-law amendment will be required in virtually all cases where a tall building is proposed. As By-laws 438-86 and 569-2013 currently limit the height on the Site to 12 m, any setback limitations above 24 m serve no purpose, unless higher height permissions are also approved. The Proposed Amendments will not encourage as-of-right compliance; if anything the proposed setback changes indicate the need to update Downtown height standards concurrently.

The proposed amendments to By-laws 438-86 and 569-2013 were not included in the Staff Report and public agenda until two business days prior to the TEYCC public meeting where deputations can be made. We have serious concerns about TEYCC’s consideration of a significant change to by-laws applicable to the whole of the Downtown where our client has not been



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provided an opportunity to analyze and provide comment on the draft by-laws in advance of the TEYCC meeting.

For all these reasons, we encourage the Committee not to adopt the recommendations for the Proposed Amendments. Our client welcomes an opportunity to have a dialogue with the City and the industry to consider appropriate tall building setback policies and regulations.

Yours truly,

DAVIES HOWE PARTNERS LLP

A handwritten signature in blue ink, appearing to read 'John M. Alati', written over the typed name.

John M. Alati

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JMA:IB

copy: Client
Peter Swinton, PMG Planning Consultants