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File No. 702439

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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, ON
M5H 2N2

Attention: Members of Toronto and East York Community Council

Dear Councillors:

**Re: Item No. TE18.7
Final Report – TOcore
Updating Tall Building Setbacks in the Downtown
City-Initiated Official Plan and Zoning By-law Amendments
Comments from Adelaide Street Lofts Inc.**

We are counsel to Adelaide Street Lofts Inc., the owner of 263 Adelaide St. West (the "Site"). We are writing in response to the recently released draft report for TOcore and its treatment of the block bounded by Adelaide St. West, Duncan St., Pearl St. and John St. These are the lands subject to OPA 297.

On April 11, 2012, our client filed a zoning by-law application to permit a new, mixed-use building at the Site. The application is now before the Ontario Municipal Board. A pre-hearing has been scheduled for this autumn.

In addition, the Site is also subject to City-initiated OPA 297 which addresses, amongst other matters, the tower separation distances on the lands bounded by Adelaide St. West, Duncan St., Pearl St. and John St.

Our client supported OPA 297.

While OPA 297 was appealed to the Ontario Municipal Board by another party, the appeal was denied and OPA 297 remains in force and effect.



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On June 14, 2016, Toronto and East York Community Council (“TEYCC”) considered a report which proposed significant changes to the tall building setbacks in the above-referenced staff report which include proposed amendments to the Official Plan and By-laws 438-86 and 569-2013. At the June 14th public meeting, the TEYCC adjourned the matter until its next meeting on September 7, 2016.

We have reviewed the draft official plan amendment and the draft zoning by-law amendments included in staff’s report of August 31, 2016 (the “TOcore OPA” and “TOcore ZBLAs”, respectively). Based on the language of the draft instruments, it appears staff’s intent was to exclude the lands subject to OPA 297 from the operation of the both the TOcore OPA and TOcore ZBLAs.

However, due to some potential technical issues in the wording of the exemption language, our client is concerned that the lands subject to OPA 297 will not be exempt from operation of the TOcore OPA and TOcore ZBLAs. As a result, we offer the following suggested revisions which we hope will not be controversial:

- In respect of the TOcore OPA, paragraph B vi) provides that:

“Any Area Specific Official Plan Amendment within the Central Waterfront Secondary Plan Area will prevail over this Site and Area Specific Policy.”

Given the recent adoption of OPA 297, we suggest paragraph B vi) be modified as follows so as to explicitly exempt the lands subject to OPA 297:

“Official Plan Amendment 297 and any Area Specific Official Plan Amendment within the Central Waterfront Secondary Plan Area prevail over this Site and Area Specific Policy.”

- In respect of the TOcore ZBLAs, the instruments provide the following exemption language:

By-law 438-86

*X(6) None of the provisions of this exception 12(2) X shall apply to prevent the erection or use of a tower permitted by the **following by-laws**:*

...

(tt) 2015-1175 - Respecting the lands bounded by John Street to the west, Adelaide Street West to the north, Duncan Street to the east and Pearl Street to the south



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By-law 569-2013

3. (4) *None of the provisions of this 600.10.10 Building Setback Overlay District "A" shall apply to prevent the erection or use of a tower permitted by the **following site specific by-laws:***

...

(tt) 2015-1175 - Respecting the lands bounded by John Street to the west, Adelaide Street West to the north, Duncan Street to the east and Pearl Street to the south.

The exceptions identified in the draft TOcore ZBLAs refer to approved site specific zoning by-law amendments. In each of these cases, those zoning by-law amendments permit a particular building (or buildings) that would otherwise contravene the TOcore ZBLAs.

Conversely to those examples, the two exceptions above reference By-law 2015-1175. This by-law is not a zoning by-law and does not "permit" a tower on the lands subject to OPA 297. Rather, By-law 2015-1175 was the by-law passed by Council approving OPA 297.

As a result, there is significant concern that the TOcore ZBLAs may not provide the intended relief for the lands subject to OPA 297.

Consequently, we offer the following suggested revision. Instead of the above-noted exceptions (which are tied to language associated with approved zoning by-law amendments), the TOcore ZBLAs should include the following provisions:

By-law 438-86

(8) None of the provisions of this exception 12(2) X shall apply to the lands bounded by John Street to the west, Adelaide Street West to the north, Duncan Street to the east and Pearl Street to the south.

By-law 569-2013

3. (6) *None of the provisions of this 600.10.10 Building Setback Overlay District "A" shall apply to the lands bounded by John Street to the west, Adelaide Street West to the north, Duncan Street to the east and Pearl Street to the south.*

We have also addressed this letter to the authors of the most recent staff report and, should they deem it advisable, invite them to contact the undersigned to discuss the content of this letter.



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Yours truly,

DAVIES HOWE PARTNERS LLP

A handwritten signature in blue ink, appearing to read 'A. Platt'.

Aaron Platt

IB:am

copy: Robert Glover & Roxy Shiell, Bousfields
Sarah Phipps, *City of Toronto*
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Clients