

# DEVINE PARK LLP

PLANNING AND DEVELOPMENT LAWYERS

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Matter No. F001-01

June 9, 2017

**DELIVERED BY EMAIL (teycc@toronto.ca)**

Toronto and East York Community Council  
2nd Floor, West Tower, City Hall  
100 Queen Street West  
Toronto ON M5H 2N2

**Attention: Ms. Ellen Devlin,  
Committee Administrator**

Dear Chair Wong-Tam and Members of Community Council:

**RE: Item No. TE25.18  
- Nos. 859-861 Eglinton Avenue West and 875 Eglinton Avenue West  
- Inaccuracies in Planning Report dated May 16, 2017**

Please be advised that we are the solicitors for Upper Village Investments Limited and Bateg Investments Limited, the owners of the above-noted properties, which are the subject of the Zoning By-law Amendment application referenced in the Request for Direction Report dated May 16, 2017. For many very strong and cogent reasons, we disagree with a number of the statements made in the staff report. However, from my experience, I recognize that debating these matters before Community Council is not a productive use of time. Rather, we will continue to engage, as Recommendation No. 2 of the staff report indicates, in ongoing dialogue with City staff to address the issues outlined in that report.

Nonetheless, for present purposes, there are two key inaccuracies in the report which need to be corrected. These are as follows:

**1. Name of Owner**

On Page 25, in Attachment No. 4, being the "Application Data Sheet", it shows the owner of the property as being "Metrolinx". As we noted in our written submission to TEYCC on October 11, 2016, this is not correct. The owners of the property are as noted above. In the spirit of co-operation with the City and Metrolinx, our client has entered into an agreement with Metrolinx to allow the subject properties to be used in an interim basis for construction staging purposes relating to the construction of the Forest Hill Station on the Eglinton-Crosstown LRT. But, ownership of the properties still remains with my clients.

## **2. Inaccurate Statements regarding Current Zoning of the Property**

In the May 16, 2017 staff report, in the third full paragraph on Page 10, and in a number of places throughout the report, it is stated that a portion of the subject property, at the corner of Eglinton Avenue West and Bathurst Street, is subject to Zoning By-law No. 569-2013. This is also not correct. In that regard, enclosed please find a copy of a letter dated October 12, 2016 which was delivered to Mr. David Driedger, the planner then dealing with the application. As this letter and enclosures make clear, the subject property, in its entirety, is excluded from the application of Zoning By-law No. 569-2013. Staff did not respond to this letter, so we assumed the matter had been resolved. Therefore, we were surprised to that the inaccuracy continues in the Request for Direction Report. If staff have any questions, I would ask that they contact me directly.

Should any further information be required with respect to this matter, kindly contact either the writer or my colleague, Michael Cook, at your earliest convenience.

Yours very truly,

**Devine Park LLP**



Patrick J. Devine

PJD/mp  
Enclosure

cc: Councillor Joe Mihevc (by email – [councillor\\_mihevc@toronto.ca](mailto:councillor_mihevc@toronto.ca))

cc: Upper Village Investments Limited and Bateg Investments Limited

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Matter No. F001-01

October 12, 2016

## DELIVERED VIA EMAIL

City Planning  
Toronto and East York District  
18<sup>th</sup> Floor, East Tower, City Hall  
100 Queen Street West  
Toronto ON M5H 2N2

**Attention: Mr. David Driedger,  
Planner**

Dear Mr. Driedger:

**RE: Rezoning Application  
- Nos. 859-861 Eglinton Avenue West (including 2020 Bathurst Street) and  
875 Eglinton Avenue West  
City File No. 16 198806 STE 21 OZ**

As you know, we are the solicitors for Upper Village Investments Limited and Bateg Investments Limited (the "**Owners**") with respect to a rezoning application for the properties municipally known as 859-861 Eglinton Avenue West (which includes 2020 Bathurst Street) ("**861 Eglinton**") and 875 Eglinton Avenue West ("**875 Eglinton**") (collectively, the "**Site**"). We are writing to you in response to your inquiries as to why, as part of the rezoning application for the Site, a draft zoning by-law amendment to City-wide Zoning By-law 569-2013 ("**New ZBL**") was not provided, particularly with respect to 861 Eglinton. Further, we note on page 8 of the August 8, 2016 Preliminary Report for the Site, a reference is made to "a portion" of the subject site being subject to Zoning By-law 569-2013. We presume that this is meant to reference 861 Eglinton.

Our response to the inquiry and Preliminary Report is that the Site, including 861 Eglinton, is not subject to the New ZBL. When the New ZBL was first adopted, the City excluded 875 Eglinton from the application of the New By-law and accordingly depicted it on Zoning By-law Map 366 with diagonal hatching and the label, "See Former City of York By-law No. 1-83". However, it appears that 861 Eglinton was inadvertently identified as being subject to By-law 569-2013 on Zoning By-law Map 366.

Accordingly, we appealed By-New ZBL on behalf of the Owners on the basis that the whole Site, and not just 875 Eglinton, should be excluded from the New ZBL. On February 3, 2016, the Ontario Municipal Board issued an Order which, amongst other things:

- Approved, with respect to the Site, Article 1.5.7 which specified that all lands in the City of Toronto are subject to the New ZBL, except those that are depicted on the Zoning By-law Map in Section 990.10 of the New ZBL; and

- Excluded the Site (including 861 Eglinton) from the application of the New ZBL by depicting the Site in Section 990.10, Zoning By-law Map 366 with diagonal hatching and the label, "See Former City of York Bylaw No. 1-83".

Relevant excerpts from the Order are attached to this letter for your ease of reference. Given this Order of the Ontario Municipal Board, it has therefore been confirmed that no part of the Site, and including, 861 Eglinton, is subject to the New ZBL. Accordingly, no draft zoning by-law amendment for the New ZBL is required.

If you have any questions respecting the above or would like to discuss this further, please do not hesitate to contact me.

Yours very truly,

**Devine Park LLP**



Patrick J. Devine

PJD/SHL

Enclosure

cc: Chris Drew

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** February 3, 2016

**CASE NO(S):** PL130592

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant(s):	Multiple Appellants
Subject:	By-law No. 569-2013
Municipality:	City of Toronto
OMB Case No.:	PL130592
OMB File No.:	PL130592
OMB Case Name:	Bahardoust v. Toronto (City)

**BEFORE:**

C. CONTI	)	Tuesday, the 2 <sup>nd</sup>
MEMBER	)	
	)	
M. SILLS	)	Day of February, 2016
MEMBER	)	

**THIS MATTER** having come before the Board on September 17, 2015, for a motion brought by the City for an Order of the Board partially approving a portions of By-law 569-2013, pursuant to Subsection 34(31) of the *Planning Act*;

**AND THE BOARD** after having considered the affidavit evidence of Klaus Lehmann, the submissions of Counsel for the City of Toronto and responses to the motion from a number of parties, issued an oral decision allowing the motion as modified by the responses and directed that the By-law be amended in accordance with the responses to the motion;

**AND THE BOARD** having received the required amendments, is satisfied that it would be appropriate for it to issue an Order for the declarations sought in accordance with Attachment 1 to this Order;

**THE BOARD** so Order.

A handwritten signature in black ink, appearing to read "Jeanne Hage". The signature is fluid and cursive, with a period at the end.

SECRETARY

If there is an attachment referred to in this document,  
please visit [www.elfto.gov.on.ca](http://www.elfto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario

Website: [www.elfto.gov.on.ca](http://www.elfto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248



**ATTACHMENT 1**  
**Ontario Municipal Board**  
**Commission des affaires municipales de l'Ontario**

**IN THE MATTER OF** Section 34(19) and 34(31) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

Subject:	By-Law No. 569-2013
Municipality:	City of Toronto
OMB Case No.:	PL130592
OMB File No.:	PL130592

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**BEFORE:**

)  
)  
)      September 17, 2015

**THIS MATTER** having come before the Board for a motion on September 17, 2015, and having heard submissions of the Parties,

**THE BOARD ORDERS** that the following regulations of City of Toronto By-law 569-2013 are approved and are in full force and effect as of May 9, 2013 for the properties listed in Appendix 1 and shown outlined in red on the Maps in Appendix 2 to this Order:

- a) Articles 1.5.1, 1.5.4, 1.5.5, 1.5.6, 1.5.7 and 1.5.8
- b) the definition of "Former General Zoning By-law" in regulation 260 of Chapter 800, and
- c) portion of the Zoning By-law Map in Section 990.10

**AND THE BOARD ORDERS** that the coming into effect of the above portions of By-law 569-2013 shall be

- a) without prejudice to the rights of any party,
- b) shall not have the effect of limiting the resolution of any appellant's appeal, or any party's right to seek to amend portions of By-law 569-2013,

- c) shall not affect the exempt status of any other lands which are not the subject of this Order, depicted on the Zoning By-law Map in Section 990.10 with diagonal hatching and the name of one of the Former General Zoning By-laws, and which may or may not be the subject of an appeal of By-law 569-2013, and
- d) the jurisdiction of the Board to consider and approve amendments to the unapproved regulations in the By-law;

**AND THE BOARD ORDERS** that notwithstanding anything ordered above, the City has not conceded that any portions of By-law 569-2013 that have not come into effect are properly under appeal and the City reserves the right to bring motions or take any other action to have the breadth and scope of any appeal determined by the Board at a future date;

**AND THE BOARD ORDERS** that notwithstanding anything ordered above, the Board hereby retains jurisdiction to consider and approve modifications to any regulations approved herein as may be appropriate to dispose of any of the outstanding appeals before the Board, in accordance with the *Ontario Municipal Board Act*, R.S.O. 1990, c. O.28;

**AND THE BOARD ORDERS** that it may be spoken to in the event some matter should arise in connection with the implementation of this Order.



## Appendix 1

### List of Properties

		150 East Liberty Street	
182	Mark Piel	361 The West Mall and 24 Eva Road	C168
183	Patrick J. Devine	21 to 25 Price street	K591
184	Patrick J. Devine	3250 and 3300 Bloor Street West	C173
184	Patrick J. Devine	5775 Yonge Street	J465
184	Patrick J. Devine	333 King Street East	L640
184	Patrick J. Devine	1544 Dundas Street West	H423
184	Patrick J. Devine	1340- 1360 Danforth Road	N768
185	Mark Piel	475 to 505 Ellesmere Road	N737
185	Mark Piel	95 Barber Greene Road	J549
185	Mark Piel	1921 Eglinton Avenue East	O772
186	Patrick J. Devine	1 and 7 Yonge Street	L651
187	Patrick J. Devine	283 Adelaide Street West	H438
188	Patrick J. Devine	295 Adelaide Street West, 100 to 104 John Street	H438
189	Patrick J. Devine	10 Park Lawn Road and 2200 Lakeshore Boulevard West	D213
190	Patrick J. Devine	1,3,5 and 7 St. Stevens Court 289, 291 The Kingsway	C162
192	Mark Piel	19 - 21 Dundas Square 252 - 258 Victoria Street	L627
193	Mark Piel	400 Walmer Road	G379
194	Patrick J. Devine	306 -322 Richmond Street West	H438
195	Patrick J. Devine	861 - 875 Eglinton Avenue West	G366
198	Patrick J. Devine	1, 5, 9, 15, 19, 23 and 27 Valhalla Inn Road	C169
199	Patrick J. Devine	625 Yonge Street; 9 Isabella Street	L615
200	Mark Piel	37 King Street East	L639
201	Patrick J. Devine	Don Mills Plaza	J550
202	Patrick J. Devine	277 Davenport Road	G404
211	Cynthia A. MacDougall	30 Bond Street	L627
211	Cynthia A. MacDougall	209 Victoria Street	L627
216	Patrick J. Devine	25 Dockside Drive	L651
216	Patrick J. Devine	100 Wynford Drive	J563
216	Patrick J. Devine	25 Sheppard Avenue West	E298
216	Patrick J. Devine	3625 Dufferin Street	F316
223	David Bronskill	170 Spadina Avenue	H427
224	Cynthia A. MacDougall	383 Sorauren Avenue	H410
225	Cynthia A. MacDougall	89 Avenue Road	G405
226	Cynthia A. MacDougall	7, 15, 25R, 29 & 39 Queens Quay East	L651
227	Cynthia A. MacDougall	125 Western Battery Road	H435
227	Cynthia A. MacDougall	523, 525 and 525A Adelaide Street West	H437
228	Cynthia A. MacDougall	250 Front Street West	H438

