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File No. 703202

September 5, 2017

By E-Mail Only to *teycc@toronto.ca*

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

Attention: Ms. Ellen Devlin

Dear Chair and Members of Community Council:

**Re: Designation of the King-Spadina Heritage Conservation District under Part V of the *Ontario Heritage Act*
Toronto and East York Community Council Meeting, September 6, 2017
Item TE26.14
Comments on Behalf of Canada Land Corporation re: 372 Richmond Street West**

We are counsel to Canada Land Corporation, the owner of the lands known municipally as 372 Richmond Street West.

On June 21, 2017, we wrote to the Toronto Preservation Board to express our client's concerns with the King-Spadina Heritage Conservation District Plan (the "HCD Plan") in its current form. A copy of that letter is enclosed.

Our client's concerns have not been addressed or even acknowledged. We therefore reiterate our client's request that the HCD Plan be referred back to staff with direction to meet with affected property owners and provide a written response to comments received to date.

Please continue to notify us of any further actions with respect to this matter.

Yours sincerely,
DAVIES HOWE LLP


Susan Rosenthal
Professional Corporation

SR:am
encl.

copy: Client
Philip Evans, ERA Architects Inc.



LAND DEVELOPMENT ADVOCACY & LITIGATION

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File No. 703202

June 21, 2017

By E-Mail Only to teycc@toronto.ca

Toronto Preservation Board
2nd floor, West Tower, City Hall
100 Queen Street West
Toronto, ON
M5H 2N2

Attention: Ms. Lourdes Bettencourt, Board Secretary

Dear Chair and Members of the Toronto Preservation Board:

**Re: Designation of the King-Spadina Heritage Conservation District under Part V of the Ontario Heritage Act
Toronto Preservation Board Meeting, June 22, 2017 – Item PB24.1
Comments on Behalf of Canada Land Corporation re: 372 Richmond Street West**

We are counsel to Canada Land Corporation ("CLC"), the owner of the lands known municipally as 372 Richmond Street West (the "Site"). The Site is identified as a "contributing property" with a commercial detached building typology in the proposed King-Spadina Heritage Conservation District Plan (the "HCD Plan").

On November 14, 2016, we wrote to Heritage Preservation Services staff on behalf of our client to provide comments on the draft HCD Plan. We communicated several concerns regarding the draft HCD Plan, including, among other things, the mandatory and overly restrictive design "guidelines" and the failure of the draft HCD Plan to recognize the area's broader planning policy context. A copy of this correspondence is attached for your reference.

The proposed HCD Plan was released to the public on June 15, 2017 and the Toronto Preservation Board is being asked to recommend approval of the HCD Plan on June 22, 2017. This one-week review period is insufficient. Given this short timeframe, neither CLC nor their consultant teams have been able to comprehensively review and understand the changes, additions and/or deletions to the HCD Plan.

CLC has conducted a preliminary review of the proposed HCD Plan with its heritage and land use planning consultants. While CLC is pleased that some of the prescriptive

design requirements have been revised, many of the concerns expressed in our earlier correspondence have not been addressed.

In our view, the policies and guidelines for contributing properties remain unduly restrictive and are inappropriate for a broad-based policy document like an HCD Plan. For example, the mandatory requirement that additions to contributing commercial detached buildings step back from all elevations of the primary building structure is unnecessary and in many cases will not contribute to heritage conservation objectives.

Instituting mandatory design policies amounts to an attempt by the City to dictate *de facto* character-defining elements of the area, and risks stifling reinvestment in heritage resources. In reality, the impact of a given development or alteration proposal will be dependent on site-specific surroundings. It is more appropriate to allow City staff to exercise their professional judgment by applying flexible guidelines to individual applications.

For these reasons, CLC cannot support the designation of the proposed King-Spadina HCD and adoption of the HCD Plan in its current form. CLC asks that the members of the Toronto Preservation Board receive the HCD Plan, but make no recommendation until staff meet with affected property owners and provide a written response to comments received to date.

Please continue to notify us of any further actions with respect to this matter.

Yours sincerely,
DAVIES HOWE LLP


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November 14, 2016

By E-Mail Only to tansonc@toronto.ca

Ms. Tamara Anson-Cartwright
Program Manager
Heritage Preservation Services
City of Toronto
City Hall, 17 East Tower
M5H 2N2

Dear Ms. Anson-Cartwright:

**Re: Draft King-Spadina Heritage Conservation District Plan (the
"Draft HCD Plan")
Comments from Canada Land Corporation ("CLC")**

We are counsel to CLC, the owner of lands known municipally as 372 Richmond Street West (the "Site").

We have reviewed the Draft HCD Plan along with our client's heritage and planning consultants. We appreciate the opportunity to share some broad concerns at this time on the Draft HCD Plan and its implications for the Site and the King-Spadina area as a whole. However, as we discuss below, the HCD Plan as currently prepared would benefit from further community consultation and analysis.

Lack of a Collaborative, Community-Driven Process

Now that the Draft HCD Plan has been released, we encourage the City and its consultants undertake detailed individual interviews with property owners to understand their views on the significance of the King-Spadina area. This would also allow the City to understand specific issues pertaining to individual sites, which may not be readily apparent from a broader, area-wide analysis.

As we are sure you agree, heritage conservation in the King-Spadina area should be community-driven and responsive to the evolving perspectives of the area's property owners, residents, and occupants. The HCD Plan will have a tangible impact on their interests, and its success depends on their confidence in and support for the process. Failure to prioritize their perspectives may result in the imposition of policies and guidelines that do not reflect a shared vision for the future of the area.



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We also encourage the City to consult with occupants of the King-Spadina district about opportunities to conserve the area's intangible social and cultural heritage. In particular, it would be beneficial to explore tax incentive schemes for retaining small manufacturers and other entities whose connection and contribution to the history of the King-Spadina area is vital.

Our client would welcome the opportunity to provide detailed input on the Site and the area as a whole. This process could be similar to the consultation process undertaken by the City during the development of the Historic Yonge Street HCD. In our view, it is premature to move forward with the Draft HCD Plan until such consultation takes place.

Inappropriate Imposition of Mandatory Guidelines

The Draft HCD Plan contains mandatory guidelines that, when implemented, will fail to properly account for site-specific considerations and the particular heritage value of a given site. This "design-by-numbers" approach will result in a generic and arbitrary built form across the King-Spadina area. It may also hinder economic development through reinvestment in heritage resources. In our view, these effects are contrary to the community's interest.

As an example, the imposition of height restrictions and mandatory setbacks from public laneways will have a significant impact on redevelopment of certain sites without consideration of whether a height or setback restriction is necessary or appropriate in the circumstances. Height and/or laneway impacts are dependent on site-specific surroundings and the proposed mandatory guidelines are too broadly defined.

Guidelines in the context of City planning are, most appropriately, flexible tools. They may reflect a vision for an area (or a form of development), but ultimately should permit City staff to thoughtfully review development applications with appropriate consideration for site-specific circumstances. Staff should be trusted to use their professional judgment when applying heritage conservation guidelines.

Mandatory guidelines do not constitute good heritage conservation practice. They are particularly problematic in the context of the King-Spadina area which, historically, has developed and redeveloped functionally to accommodate the needs of its occupants at a given place in time. This is a fundamental characteristic of this dynamic neighbourhood that is important to the City as a whole. The area can, and should, continue to develop and evolve in this manner while respecting components from the area's history.



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Mandatory guidelines are also inappropriate in the context of heritage conservation under the *Ontario Heritage Act*, R.S.O. 1990, c. O.18 (the "OHA"), which does not contain a mechanism for amending HCD Plans or appealing them once they are in effect. The OHA is not a tool for development control. The correct place for mandatory guidelines is the applicable zoning by-law(s), which may be amended where appropriate. At the very least, the final HCD Plan should include a built-in periodic review mechanism.

Inadequate Consideration of the Policy Landscape

In our view, the Draft HCD Plan fails to recognize the important role that the King Spadina area has played in accommodating growth and reinvestment in the Downtown Urban Growth Centre. The Regeneration Areas ("RA") designation and flexible RA zoning have been fundamental to the revitalization of the area and conservation of numerous heritage buildings. The implementing policies in the in-force Secondary Plan encouraged the restoration and reuse of buildings to stimulate reinvestment while achieving compatible growth in both the number of residents and jobs. We believe it is imperative that the HCD Plan be integrated and supportive of a broader planning framework and be structured so as to continue to guide rather than limit change within the district.

The Draft HCD Plan also fails to appropriately balance heritage conservation with the objective of growth through intensification and densification that is required by Provincial and City planning policy. It is premature complete the HCD Plan before the ongoing King-Spadina Secondary Plan update and TO Core study are completed and reviewed by heritage staff. These tools should be developed comprehensively; inconsistencies often lead to difficulties with implementation for both applicants and staff.

Finally, the Draft HCD Plan oversimplifies the character of the King-Spadina area by focusing only on two building typologies at the expense of other attributes, including the contemporary development that resulted from the more recent regeneration period. This period of development is an important aspect of the district's heritage and is deserving of recognition.



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Conclusion

We thank the City for the opportunity to provide this feedback on behalf of our client. We hope that these comments will be addressed as the King-Spadina HCD process continues, and our client would welcome the opportunity to meet with staff to provide further input. Do not hesitate to contact us if you have any questions or wish to discuss this matter further.

Yours sincerely,

DAVIES HOWE PARTNERS LLP


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copy: Mayor John Tory
Councillor Joe Cressy
Ms. Ulli Watkiss, Clerk, City of Toronto
Ms. Mary Macdonald, Heritage Preservation Services, City of Toronto
Mr. Edward Birnbaum, City of Toronto
Ms. Janice Solomon, Toronto Entertainment District BIA
Mr. Philip Evans and Ms. Samantha Irvine, ERA Architects Inc.
Mr. Louis Tinker, Bousfields Inc.
Clients