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By E-mail
clerk@toronto.ca

City Council
City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Ms. Marilyn Toft, City Clerk Secretariat

Dear Members of City Council:

**Re: PG29.4 TOcore: Downtown Plan Official Plan Amendment
80 Bloor Street West, Toronto**

We are counsel to Krugarand Corporation, owner of the property municipally known as 80 Bloor Street West, generally located mid-block on the north side of Bloor Street West between Bay Street and Bellair Street (the "**Property**").

An application for zoning by-law amendment for the Property was filed with the City on October 9, 2013 (File # 13 248425 STE 27 OZ) to facilitate the development of a 68 storey mixed-use building containing dwelling units and retail uses. The application was appealed to the Local Planning Appeal Tribunal and awaits adjudication.

The Property is located within the area that is subject to the proposed Downtown Plan Official Plan Amendment (the "**TOcore OPA**") currently being considered by City Council.

For the reasons set forth in this letter, we strongly urge that:

- (i) **Council defer consideration of the TOcore OPA;**
- (ii) **Council direct City Planning staff to conduct further consultation as it relates to, among other things, the Policy Revisions and Map Revisions in Attachments 1 and 2 of the Supplementary Staff Report, exemption and transition issues and site specific issues; and**
- (iii) **That City Planning staff report directly to City Council with any further recommendations, such report to be made available to the public as required by Section 26 of the *Planning Act*.**

Policy Concerns with the TOcore OPA

Our client has reviewed the TOcore OPA as well as the Supplementary Staff Report, dated May 14, 2018. A number of concerns with the TOcore OPA have arisen based on this review. In general, policies included in the TOcore OPA that are of concern to our client include:

- Introduction of new land use designations (Mixed Use Areas 1, 2, 3, & 4) which enact use restrictions, built form standards and various other supplemental regulations;
- Prescriptive performance and built form standards which include but are not limited to; mandatory residential unit mix, type, and size; and building heights and setbacks; and
- Restrictions on residential development, and mandatory increases to non-residential gross floor area (above and beyond "replacement" requirements) in certain sectors.

Such restrictions, performance and built form standards are excessively prescriptive and restrict intensification on the Property that is otherwise targeted for growth. The imposition of these standardized regulations also limits opportunities for contextually appropriate development variations, architectural creativity that may achieve the same objectives and provides no flexibility for a wide array of irregularly shaped lots and lot conditions.

For such reasons, the TOcore OPA is inconsistent with the Provincial Policy Statement, 2014 and fails to conform to the Growth Plan for the Greater Golden Horseshoe, 2017.

Procedural Concerns with the TOCore OPA

City staff advise that that the TOcore OPA policies will be used to evaluate current and future development applications in the TOcore OPA area. This statement is vague and creates uncertainty, particularly because the Property is the subject of an active development application and changing the policy regime mid-process is unfair, unreasonable and will require the client to revise their application to demonstrate conformity which represents added expense, delay and the potential loss of development permissions.

We are concerned about the potential prejudices that may result by using the TOcore OPA to evaluate current and future development applications for the Property. The TOcore OPA also does not include any transition policies or protocols to recognize applications/redevelopment proposals that are in process or that should be exempted from the application of the TOcore OPA.

In the event that the Property is not specifically exempted from the TOcore OPA, transition provisions should be incorporated into the TOcore OPA so as to ensure that the Property, that is the subject of an active complete application, should be reviewed on the basis of the planning framework that was in force at the time the application was filed, and that future applications for the Property, such as Site Plan Approval and minor variance, should be exempt from conformity with the TOcore OPA.

Statutory Notice Requirements Not Met

For an Official Plan Amendment under Section 26 of the *Planning Act*, information and material relevant to the amendment must be made publicly available at least 20 days before the Public Meeting. We note that the Supplementary Staff Report, dated May 14, 2018, which itemizes staff and PGMC's recommended amendments to the TOcore OPA, has not been the subject of a Public Meeting and has been released only seven days before the TOcore OPA is to proceed to Council for a decision, contrary to Section 26 of the *Planning Act*. Many of the proposed changes are substantive and our clients have not been given sufficient time to review and consider the impact of such changes.

Because of the excessively prescriptive performance and built form standards included in the TOcore OPA, the TOcore OPA is more regulatory than visionary and the TOcore OPA directly negates intensification in areas otherwise targeted for growth.

The City's powers to approve the TOcore OPA are powerful and extraordinary and the only safeguard against abuse of those powers is proper and meaningful consultation. Providing the public sufficient time

and notice to review and comment on the City's final proposed changes to the TOcore OPA, and for those comments to be considered by Council in their decision-making is a fundamental component of meaningful consultation —for which one week is simply inadequate.

Conclusion

For the reasons expressed in this letter, we ask that consideration of the TOcore OPA be deferred by Council to allow the public sufficient time to consider and respond to the supplemental staff recommendations, as well as for staff to address the concerns raised by our client, which engage matters of Provincial policy and procedural fairness.

Please provide us with notice of all upcoming meetings of Council and Committees of Council at which the TOcore OPA will be considered, and we ask to be provided with notice of Council's decision and the Ministry of Municipal Affairs' decision with respect to this item.

Yours truly,



Calvin Lantz
Partner

*Certified Specialist in Municipal Law
(Land Use Planning and Development)*

CL/jw

cc. *Krugarand Corporation*