

July 19, 2018

**Delivered Via Email**

Mayor John Tory and Members of Council  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Ms. Nancy Martins, Administratrix  
Planning and Growth Management Committee**

Your Worship and Members of Council:

**Re: Proposed City-Initiated Official Plan Amendment re:  
Yonge-Eglinton Secondary Plan  
(Official Plan Amendment Application No. 17 254453 NNY 25 OZ)**

**And Re: Midtown in Focus: Final Report – Item PG31.7**

We wish to confirm with you that we are the solicitors for The Society of United Professionals (the “**Society**”), the principals of 2332356 Ontario Inc., which is the owner of the property municipally known as 2239 Yonge Street (“**2239**”) located on the east side of Yonge Street immediately south of 2245 Yonge Street (the “**Jencel Property**”), and situate two buildings south of 1 Eglinton Avenue East. Our client’s property is comprised of a 5-storey office building which is fully tenanted and includes, on three levels, the offices of the Society.

Our client has formed an agreement with Jencel Properties Inc., the owner of the Jencel Property, who have collaboratively formed a Concept Plan for the joint development of the two properties, namely 2239 and 2245 Yonge Street (“**2239 and 2245**”). The intended re-development of the properties is to create a 14-storey medical / office building providing 100,000 square feet of much needed facilities to serve the community.

We have made repeated submissions to the Planning and Growth Management Committee (PGMC), namely February 23, 2018, June 5, 2018 and July 3, 2018.

In addition, it appears our client’s joint venture partner, Jencel Properties Inc., has through its own counsel, Overland LLP, repeatedly written to City Council beginning

May 13, 2015 through to June 29, 2018 and appeared repeatedly on behalf of their client, the owner of the Jencel property.

In substance, we are asking you to do away with the review that is being carried out on the basis of the Section 26 update of the Official Plan and to adopt the view that staff is obliged in a review as far reaching as this 25-year plan that has been placed before you and described above-captioned, and should be the subject of a complete review that is governed by the provisions of Section 17 of the *Planning Act*.

### **Proposed Yonge-Eglinton Secondary Plan Update**

It is our opinion that the Proposed Secondary Plan is currently drafted in a manner which is not consistent with the 2014 Provincial Policy Statement (“PPS”) and does not conform with the Growth Plan (2017), both of which contain a number of policies that promote intensification, compact built form and providing employment opportunities in an area well served by public transit.

In addition to the recommendations we are making, we recommend that Map 21-12 be changed by having the tall building development potential and maximum height determined through a combination of site specific analyses applying the applicable built form and design policies of the Zoning By-law and applicable guidelines.

To allow the current process to proceed would result in Section 26(9) of the *Planning Act* (as amended) require that no later than 3 years after revision under Section 26(1) or 26(8) comes into effect, that the Council of the City of Toronto must amend all Zoning By-Laws that are in effect in the Municipality within the Yonge-Eglinton Secondary Area to ensure that the by-laws conform with the amended Official Plan.

Map 21-12 of the proposed Secondary Plan displays a height limit of 8 storeys on the 2239 and 2245 properties.

This is clearly inappropriate for the following reasons:

- The current zoning height for the property is 61 metres which can accommodate a building in the range of 14-15 storeys. The practical effect of the Secondary Plan is to downzone the properties.
- As we said earlier, the provisions of Section 26(9) of the *Planning Act* requires that should the update of the Official Plan be proceeded with within a 3-year period, the City must then rezone our client’s properties in order to comply with the provisions of Section 26.
- This is a freezing of the use to which the lands might be used and may be considered to be expropriation without compensation.

- The adjoining properties in the Yonge-Eglinton Crossroads are designated for much taller heights and the effect may be to upzone these properties.
- The description of an 8-storey limit on the properties at 2239 and 2245 Yonge Street will provide nothing more than a podium for the development of the adjoining property at 1 Eglinton Avenue East.
- The result is to eliminate the development rights on the adjoining properties.
- The draft plan presumes that the Jencel property and the adjoining property to the south owned by the Society will serve as a podium for the extension of the development of 1 Eglinton Avenue East, owned by others.
- The effect will be to eliminate all of the development rights on 2239 and 2245 properties above the 8-storey level.
- There is no arrangement in existence between the two owners and the adjoining property owner at 1 Eglinton Avenue East.
- Both Jencel and the Society have attempted to meet with Staff and were unable to do so until having presented a Concept Plan on June 19, 2018 describing the opportunity for the re-development of the two properties acting jointly.
- The effect of the updating of the Secondary Plan will be to put an end to and freeze the opportunities for the future development of our client's property.
- In our letter of June 5, 2018 and our attachment captioned Schedule III to Amendment No. 405, we have referred to the provisions of the second paragraph of Section 2.2.2 Centres which clearly identifies the Yonge-Eglinton Crossroads as being an intense concentration of office/retail/institutional and residential uses at the Yonge-Eglinton intersection.
- The Crossroads at Yonge-Eglinton are described throughout and supported in the schedules by a description that permits the development of the subject properties for residential purposes which may be most desirable with respect to the 25-year plan that has been orchestrated within the Update, however, makes no provision whatever for the supporting economic base that is to be provided by the provision of offices and employment uses within the same area.
- The outline that has been provided does not preserve a spirit of fairness as it relates to the use and ownership of the properties which are the subject of the Secondary Plan.
- Our client's lands are frozen for development and yet the updating appears to do nothing more than insist that properties which contain offices and employment

uses be preserved at the level at which they presently exist and do not in any manner allow for the increase of employment opportunities which are essential in order to permit the community to provide a place to work and to live.

- The entire updating appears to be an opportunity for Staff to provide a quick answer to what should be a lengthy Official Plan Amendment process which will allow owners and their representatives to participate in the process and to provide meaningful contributions to the make-up of the future Official Plan designation.
- In its present form, the draft Official Plan Amendment provides no form of transition for re-development proposals such as those that are in progress, including our client's properties. The creation of the new policies and the changes in the proposed land use designation should be the subject of the careful studied planning process that is the basis for the development of a world-class community such as the Yonge-Eglinton Crossroads and surrounding community.

The Society and Jencel Properties Inc. are **strongly requesting** an exception be made to the current Amendment No. 405 update to the Official Plan under Section 26 of the *Planning Act* that City Council amend the Yonge-Eglinton Secondary Plan in Attachment 1 attached to the report (May 24, 2018) from the Chief Planner and Executive Director, City Planning, as follows:

**“Remove the height limit of the properties known municipally as 2239 and 2245 Yonge Street to determine the height limits through site-specific analysis, applying built form and design policies, the existing zoning by-law heights and applicable guidelines.”**

We are not satisfied that our request for a specific exemption is a complete answer to the issues which we have raised in our letter to you, however, in order to participate in the current process of review, we have requested that you exempt 2239 and 2245 from the application of the restrictions contained in the development freeze which is described in your outstanding Amendment No. 405.

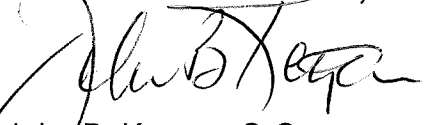
We respectfully request that City Council review the submissions made by our clients and their neighbours before making a decision on these substantial matters.

Would you kindly provide us with a written notice of all decisions on these matters which are made by you as well as notice of any further consideration given to these letters.

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Yours truly,

**KEYSER MASON BALL, LLP**



John B. Keyser, Q.C.  
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