

July 20, 2018

**Delivered Via Email**

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

**Attention: City Clerk**

Your Worship and Members of Council:

**Re: 1 Eglinton Avenue East – Zoning Amendment Application  
City File No. 14 266776 STE 22 OZ  
Clarification of Section 37 Benefits Secured – Item CC44.11**

**And Re: 1 Eglinton Avenue East – Final Staff Report – Item TE27.4**

As your records will disclose, we are the solicitors for 2332356 Ontario Inc., hereinafter referred to as The Society of United Professionals (“the **Society**”), the owner of the property municipally known as 2239 Yonge Street (“**2239**”) located on the east side of Yonge Street immediately south of the Jencel Property at 2245 Yonge Street, one building south of the above-captioned 1 Eglinton Avenue East.

Our client’s property comprises of a 5-storey office building which is fully tenanted and includes, on three levels, the offices of the Society who are the principals behind 2239.

Our client has been following the application for the re-development of the above-captioned lands at 1 Eglinton Avenue East for a high-rise, mixed-use building (hereinafter referred to as the “**Davpart Property**”).

Our client wishes to be advised of any action that Council may proceed with in connection with the above-captioned application for rezoning.

In that connection, we have attached copies of our correspondence with you concerning the rezoning application, namely:

1. Our letter dated August 18, 2016 to the Mayor and Members of Council;
2. Our letter dated October 16, 2017 to the Mayor and Members of Council;

In addition, we have provided the following substantial comments with respect to the Yonge-Eglinton Secondary Plan Update beginning with our first letter dated February 23, 2018 followed by our letters of June 5, 2018, July 3, 2018 and July 19, 2018.

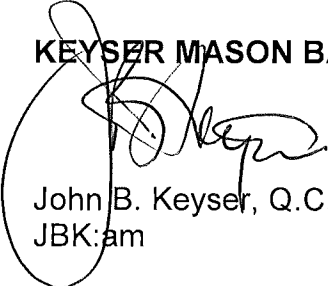
Our clients are deeply concerned with the absence of Council's response to any of our correspondence listed above. The purpose of our correspondence and the action we are taking on our client's behalf include our appearances before City Council and the Planning and Growth Management Committee on June 7, 2018 and July 5, 2018 to represent our client and to advance the position that the practical effect of the rezoning application noted above and the Yonge-Eglinton Secondary Plan Update is to freeze the development of The Society's and Jencel's properties located at 2239 and 2245 Yonge Street respectively.

In a spirit of fairness we are respectfully requesting that Council take action in order to safeguard our client's rights and privileges.

All of which is respectfully submitted.

Yours truly,

**KEYSER MASON BALL, LLP**



John B. Keyser, Q.C.  
JBK:am

August 18, 2016  
(Revised September 6, 2016)

**Delivered Via Email**

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

**Attention: City Clerk**  
**And to: Giulio Cescato, Senior Planner**  
**Community Planning, Toronto and East York District**  
**And to: Josh Matlow, Councillor Ward 22**

Your Worship and Members of Council:

**Re: 1 Eglinton Avenue East – Zoning Amendment Application**  
**City File No. 14 266776 STE 22 OZ**

We are the solicitors for 2332356 Ontario Inc., hereinafter referred to as The Society of Energy Professionals (“the Society”), the owner of the property municipally known as 2239 Yonge Street (“2239”) located on the east side of Yonge Street immediately south of the Jencel Property at 2245 Yonge Street, one building south of the above-captioned 1 Eglinton Avenue East.

Our client’s property comprises of a 5-storey office building which is fully tenanted and includes, on three levels, the offices of the Society who are the principals behind 2239.

Our client has been following the application for the re-development of the above-captioned lands at 1 Eglinton Avenue East for a high-rise, mixed-use building (hereinafter referred to as the “Davpart Property”).

We understand that the present proposal for development is to provide for 65 storeys, a 9-storey podium which will provide employment uses and the balance of the 56 storeys will be condominium apartments.

On the easterly side of the property, the access to the property is from Cowbell Lane, a north-south lane that runs from Eglinton Avenue East on the north to Soudan Avenue on the south.

Our client has participated in the development application for lands to the immediate south of its own at 2221 Yonge Street and now wishes to be a participant in the current application above-noted.

Our client is supportive of the City of Toronto's Design Review Panel conclusions following the meeting of March 10, 2016 to improve the access to the TTC, to provide the below-grade connection to developments to the south and the setback of the proposed development from the public realm, and the need to create more public space at this important corner.

We are raising the conflicts along Cowbell Lane. In this particular respect, the access to Cowbell Lane is currently limited by reason of the creation of the LRT line on Eglinton Avenue East. The result may be that Davpart will have to acquire more land to the south side of their property in order to facilitate a more meaningful access to the property.

Our client is using Cowbell Lane as the access for its business deliveries to the building occupied by its tenants, parking for some of its tenants, and, generally, access to its building.

Cowbell Lane at the present has been negatively impacted by the plan for the access to 1 Eglinton Avenue East and there must be some compromise or alternative proposal which will allow the access to work far more efficiently than in the form that is contemplated by this development application.

In addition, our client is familiar with the City's requirement that there be a pedestrian walkway along Cowbell Lane which will permit access from the Minto development to the south to our client's property and continue to provide access to the properties to the north. To make the necessary changes in the design of Cowbell Lane will limit the contemplated use of the access to Cowbell Lane by Davpart.

The concerns of our clients include:

1. The limited setback of the podium and the tower to the following from 2239 to the south, to Yonge Street, Eglinton Avenue and Cowbell Lane and the properties on the east side of Cowbell Lane;
2. The proposed use of Cowbell Lane in its limited dimensions is very concerning for it is a simple laneway that has not yet been developed to the stage where the pedestrian walkways have been established on the westerly portions of Cowbell Lane and have not yet been provided for in the plans for the re-development of the above-captioned and the laneway is presently affected by a pinchpoint at its south-easterly boundary with the Davpart property which makes the use of Cowbell Lane by the owner and its neighbours to the south very difficult and limited;

3. The design of the vehicular and pedestrian access to the rear of the above-captioned property is so limited as to be somewhat inaccessible. The original setback of the tower from Cowbell Lane was to have been 7.0m and this has been reduced to 5.0m. The suggested setback appears to be inadequate and may create dangerous driving movement conditions;
4. I understand that the current location of the tower to be erected on the Davpart property is approximately 6.8m from the southerly property line and in turn is situated a mere 12.5m from the boundary with our clients;
5. The Official Plan for the City of Toronto, in Chapter 3 dealing with "Built Form", makes a strong statement with respect to the manner in which new development will be located and organized to fit with existing or planned context;
6. A new development must create appropriate transitions in scale to the neighbouring existing or planned building's limits, shadowing on the streets, open spaces and minimize any additional shadowing and uncomfortable wind conditions.
7. The Tall Building Guidelines require that larger buildings must take into account its relationship to the massing, street edges, parks and open spaces to ensure adequate access to sky view for the use of our client's and its neighbours' properties;
8. A new development must transition into the existing development and there is no provision for adequate setback between the building to be erected at 1 Eglinton Avenue East on the northerly boundary of our client's property;
9. It is essential that adequate tower separation distances be maintained from property lines and from other towers for this is a critical aspect of tall building designs. The placement of towers should minimize negative impacts on the public realm and neighbouring properties such as adverse shadowing, pedestrian level wind and blockage of sky view and should maximize the environmental quality of building materials including, daylighting, natural ventilation and privacy for building occupants. It is important to our clients that these elements be maintained. There is every opportunity to be able to design the Davpart building in order to give effect to this reasoning and we refer to page 49 of the *Tall Building Design Guidelines*.
10. The distance between the tower portion of the tall building to be built by Davpart and its balconies must be separated from our client's properties by at least 25m in accordance with the *Tall Building Design Guidelines* which appear to be implemented currently in the proposed rezoning amendments that are being considered by Council and in the Official Plan amendments which, similarly, are

concerned with the Tall Building Design setbacks and the effect it will have on the neighbouring property, including our own.

11. Our client does not wish to lose its current development potential.

In conclusion, our client considers that the tower to be built on the Davpart lands would be separated by at least 25m from the tall building located at 2221 Yonge Street.

Our client wishes to co-operate with the owner of the Davpart property in bringing about a development which will not adversely affect our client's property and its property rights.

Historically, there have been serious problems associated with construction in this general area and has brought about the need for a Construction Agreement between the developers and our own clients, particularly having regard for the water damage that has occurred to some of the homes in the surrounding area, the harm that has been impacted on surrounding properties, including our client's own property, from the construction activities associated with creating the underground parking at the various development locations.

This also raises concerns with respect to the use of Cowbell Lane during the time that construction may take place on the Davpart lands. What is the plan for the construction and the use of Cowbell Lane during the months, perhaps years, during which construction will be taking place?

Our client recognizes that these issues may very well be considered in the planning process whereby the developer will be required to provide a detailed Construction Management Plan for review and approval by the staff of the City of Toronto.

Our clients wish to be able to make comment on any such plan to the extent that it may affect the use and benefit of their own building at 2239 Yonge Street.

We are respectfully requesting that our clients' concerns be taken into account in the recommendations made by City of Toronto staff and we would ask that these issues be considered by City Council when appropriate.

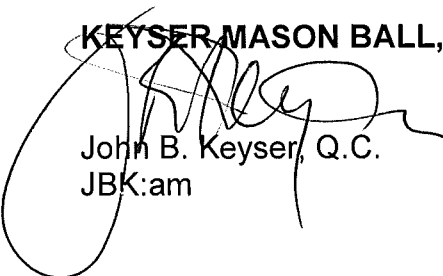
We request that our client receive a notice of any further public meetings, copies of public reports, if available, and an opportunity to present its views and opinions to the Toronto and East York Community Council, City Council or any other appropriate committee or council.

All of which is respectfully submitted.

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Yours truly,

**KEYSER MASON BALL, LLP**



John B. Keyser, Q.C.  
JBK:am

October 16, 2017

**Delivered Via Email**

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

**Attention: Ellen Devlin,  
Secretariat, Toronto and East York Community Council**

Your Worship and Members of Council:

**Re: 1 Eglinton Avenue East – Zoning Amendment Application  
City File No. 14 266776 STE 22 OZ  
Final Staff Report – Item TE27.4**

We are the solicitors for 2332356 Ontario Inc., hereinafter referred to as The Society of Energy Professionals (“**the Society**”), the owner of the property municipally known as 2239 Yonge Street (“**2239**”) located on the east side of Yonge Street immediately south of the Jencel Property at 2245 Yonge Street, and situate one building south of the above-captioned 1 Eglinton Avenue East.

Our client’s property comprises of a 5-storey office building which is fully tenanted and includes, on three levels, the offices of the Society who are the principals of 2239.

Together with the owner of 2245 Yonge Street, the “**Jencel Property**”, we have participated in the future re-development of our client’s property at 2239 Yonge Street and the Jencel Property adjoining it to the north.

Our client has been following the Application for the re-development of the lands situate at 1 Eglinton Avenue East for a high-rise, mixed-use building (the “**Development Property**”). We understand that the present proposal for re-development is to provide for a 65-storey building with a 9-storey podium which will provide employment uses and the balance of the 56 storeys will be condominium apartments.



For the record, we want to confirm that our clients have instructed us to join in and adopt the reasoning and the arguments contained in the Overland LLP letter to you of October 13, 2017 on behalf of the owner of the Jencel Property.

Our clients are greatly dissatisfied with the recommendation made in the Final Report prepared by your Planning Staff and dated September 29, 2017 recommending approval of the Application (the "**Staff Report**").

From our examination of the Staff Report, we have observed that the comments on the description of the built form, height and massing fails to give effect to the Tall Building Design Guidelines which were adopted by Council in May of 2013 (the "**Guidelines**").

As we have pointed out in our earlier letter to you of August 18, 2016, the Guidelines require a minimum of 12.5 metre tower setback from a side or rear lot line.

Our client's own property is located within 6 metres of the southerly boundary of the Development Property and is materially affected by the absence of consideration being given to the Guidelines.

The current limited setback of the podium and tower from Cowbell Lane is a reduced setback of 5 metres, whereas the first submission provided for a setback of 7 metres. The practical effect of the reduction in the setback is to require that the fundamental access to the Development Property will be affected from Cowbell Lane.

Cowbell Lane, from our client's observations, is slanted downward from Eglinton Avenue East, which is the northerly boundary of the Development Property and the incline, accompanied by the laneway width makes the entrance, the access for vehicles and there will be many bearing in mind that the building is to house approximately 108,000 sq.ft. of new offices, difficult to use and threatening to pedestrian safety and vehicular traffic on Cowbell Lane.

The design of the building must be reoriented in a manner that is similar to that which has been used at the Minto Property to the south and the Towerhill Developments at 2221 Yonge Street, which will allow for the heavy vehicles that provide services to the office building to gain access on to the Development Property in a manner that will make it function with safety and security.

We have examined the Transportation Study prepared for the Development Property and we find that the data that has been provided by the transportation consultant is at least 5 years old and does not in any manner reflect the current and anticipated uses of Cowbell Lane.

In addition, there is a further 58-storey building being built at 2221 Yonge Street which is a short distance from the Development Property.

Our client has joined with the Jencel Property owner in a re-development proposal that has been initiated with your Staff and is in the phase which will permit the design and the transportation study to be shared with your Staff in the coming weeks.

It is our respectful submission that the Staff Report should not be accepted at this time and should be deferred in order to allow the proposals of our client, the Society and the Jencel Property owner to be considered.

Reference is being made in the Staff Report with respect to a Limiting Distance Agreement which exists between our client and its neighbour to the south.

We underline the importance of you being advised that this Agreement does not limit the development potential of 2239 Yonge Street in a manner that would allow the current development to proceed without the existence of a further Limiting Distance Agreement or some further recognition of the importance of the use of the Guidelines to consider current development.

Section 3.2.3, which is headed "Separation Distances in the Guidelines, makes it clear that if tall buildings are constructed too close together, the following negative impacts may occur:

- excessive shadowing of surrounding streets, parks, open space, and properties;
- diminished sky views for pedestrians;
- heightened street level wind effects;
- loss of privacy for residents; and
- limited interior daylighting.

In our letter to you of August 18, 2016 we made reference to the proposition contained in the Guidelines that the separation between the balconies of the various properties must be at least 25 metres in accordance with these Guidelines. It does not appear that this will occur as it relates to the Jencel Property, our client's property or 2221 Yonge Street.

We respectfully request that you defer the current application in order to give effect to the concerns of our client and the owner of the Jencel Property with respect to particularly the absence of the setback provisions which have been referred to in both of our submissions.

We are asking that Staff be given an opportunity to consider any future development potential for the Jencel Property and our client's property.

Our client has been working with the owner of the Jencel Property throughout the period during which discussions with your staff have taken place and has given its support to these discussions.

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Our client is, as well, participating with the owner of the Jencel Property in the planned re-development of both of these property sites.

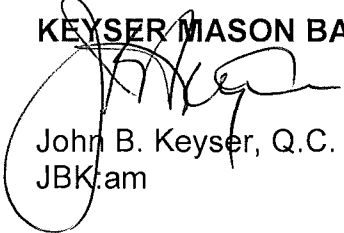
We are requesting your careful consideration of the current development proposal relationship to our clients' property, the Jencel Property and the effect on the community.

We are respectfully requesting notice of your decision and any further public meetings which take place in order for these discussions and the application proceeding.

All of which is respectfully submitted.

Yours truly,

**KEYSER MASON BALL, LLP**



John B. Keyser, Q.C.  
JBK:am

February 23, 2018

**Delivered Via Email**

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

**Attention: City Clerk**

**Attention: Mr. Paul Farish, Senior Planner, Strategic Initiatives**

Your Worship and Members of Council:

**Re: 2239 Yonge Street and Midtown in Focus:  
Proposed Yonge-Eglinton Secondary Plan Update - November 2017  
(the "Update")**

We are the solicitors for The Society of Energy Professionals (the "**Society**"), the principals of 2332356 Ontario Inc., who are the owners of the property municipally known as 2239 Yonge Street ("**2239**") which is 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 is expressing, through our firm, its sincere disappointment with the Update report to which we have referred above and the City's apparent confusion and misunderstanding of the Society's property at 2239 Yonge Street and that of the adjoining Jencel Property.

The Society is currently entitled to be able to re-develop its property in a mid-rise form of building in accordance with the current By-law provisions and wants to be able to secure this privilege in the Update which is the subject matter of your review.

We respectfully request, on our client's behalf, the opportunity to meet with your staff in order to set out clearly our client's concerns and objections to the current study and policies and to present a Concept Plan for the combined development of the two

properties, specifically, the Society's property at 2239 Yonge Street and the adjoining Jencel Property at 2245 Yonge Street.

Together with the owner of the Jencel Property, we have participated in the future re-development of our client's property at 2239 Yonge Street and the Jencel Property adjoining it to the north.

Our client has been following the Application for the re-development of the lands situate at 1 Eglinton Avenue East for a high-rise, mixed-use building (the "**Development Property**"). We understand that the present proposal for re-development is to provide for a 65-storey building with a 9-storey podium which will provide employment uses and the balance of the 56 storeys will be condominium apartments.

Our client is working with its neighbour, the owner of the Jencel Property, to make certain that you are aware of our support for a comprehensive and co-ordinated development of the south-east corner of the Yonge-Eglinton intersection.

We are adopting recommendations of the report for City planning staff to undertake a local property owner consultation with our client and the principals of the Jencel Property and to consider the recent planning approvals in the immediate area and the directions that are contained in the Proposed Yonge-Eglinton Secondary Plan Update.

In our view, it is most important to our clients that City Planning Staff be directed by you to report back to you at the Planning and Growth Management Committee the opportunities for the re-development of the properties at 2239 and 2245 Yonge Street.

In the Proposed Yonge-Eglinton Secondary Plan Update which was Attachment # 2 to the Report for Action of October 25, 2017 (PG24.10), we have considered the following, namely:

- Within the current provisions of the Zoning By-law, the Society is entitled to develop a mid-rise building and our client is prepared and wishes to present to your staff and, ultimately, to Council, its Concept Design for the re-development of the two properties at 2239 and 2245 Yonge Street;
- The Update in Section 3.2.11(e) makes specific reference to **co-ordinating and sharing access and servicing areas between properties**. It is obvious to our clients that as a consequence of your review of the current application for the re-development of 1 Eglinton Avenue East, there is no provision for its reciprocal servicing nor the co-ordination between the adjoining properties. The location of the podium of the building on Cowbell Lane is not consistent with the provisions of the current By-law nor the Update report and does not allow for the movement of trucks and cars, particularly having regard for the fact that the development is substantial and provides for at least 100,000 sq.ft. of offices together with perhaps 550 individual apartment units;

- The Update requires that the tower portion of the proposed building be a minimum of 12.5 m from the side and rear property lines or the centre of an abutting lane and to ensure a separation distance of 25 m or greater;
- Where this provision is not met, as is the case with the design of 1 Eglinton Avenue East, the floor plate of the tower portion of the tall building must be reduced to provide the required setback distance. Where the heights of buildings exceed 30 storeys, the separation distance between the tall buildings will be proportionally increased above the 30<sup>th</sup> storey by reducing the size of the tall building floor plate. The application for the re-development of 1 Eglinton Avenue East does not comply with these standards;
- Our client wants to preserve the significant development potential it presently enjoys and the recent approval of the 1 Eglinton Avenue development application is contrary to the intent of the Secondary Plan since it leaves the Jencel property at 2245 Yonge Street and our client's own property orphaned.

In reference to the policies contained in the Proposed Yonge-Eglinton Secondary Plan Update, the following policies have been ignored:

- Policy 3.2.11(e) calls for the co-ordinated and shared access and servicing areas between the properties;
- Policy 3.3.12 requires the consideration of the development potential of the neighbouring sites;
- Policy 3.7.4(c) states the Secondary Plan area would include the restriction of site access for development on major streets and consolidating street access where appropriate. This policy has been disregarded;
- Policy 3.3.18 - Sunlight Protection and Wind Conditions states: "**Development will ensure coordination of tall building location, floor plates, orientation, setbacks and separation distances with other tall buildings on the same block to maximize access to sunlight and sky view for surrounding streets..., open space...**" Our client's Concept Plan contains significant outdoor amenity space which will be subjected to intrusive and objectionable structural elements associated with the policies of the Update report.
- Policy 5.2.1 clearly provides that as a part of the development review and approvals process, a context plan may be required to be submitted to co-ordinate development with land owners on multiple sites within a block including but not limited to the building placements, separation distances and building heights;

- In addition, the context plan must demonstrate that the proposed development will ensure the orderly development of the context area to the satisfaction of the City. At the present, these provisions have been disregarded.
- The Tall Buildings section provides in Policy 3.3.4 that tall buildings or in-fill development potential must meet the provisions of Maps 21-5 to 21-7.
- Policy 3.3.6 goes on to say that **“In no instance will the height of a new tall building or high-rise addition to an existing apartment building exceed the height limits identified on Maps 21-8 to 21-10.”** Our client’s Concept Plan contemplates a mid-rise commercial office building that is permitted by the By-law and is contrary to Policy 3.3.6 and Map 21-8.
- Map 21-8 Maximum Tall Building Heights in the Yonge-Eglinton Area provides that no infill potential is permitted on our client’s property. This is inaccurate and unacceptable to our client and must be reconsidered. This Map effectively precludes all tall building potential or infill potential.
- Map 21-11 describes our client’s lands as an “Office Priority Area”. How can a site which is merely steps from the Yonge-Eglinton Centre be regarded as “Office Priority” and simultaneously deemed to be low-rise at development capacity with no infill potential? Our client is continuing with its Employment / Commercial uses of its lands and building and wants to improve its own property in accordance with the provisions of the current By-law.
- Policy 3.3.12 provides that where a development is proposed they would preclude the achievement of a tall building on an adjacent site in accordance with the policies of a Secondary Plan and development will only be permitted where the development potential of the adjacent site is amended prior to working currently with the decision on the proposed development.
- The mapping and policies contained in the Update have the effect of being confusing and do not work. Changes are required. Our client wants to move forward. This action and confusion is counter-productive.
- We ask of you what can be done to designate this property and the surrounding areas as an Office Priority Area.
- Maps 21-5 and 21-8 have the practical effect of excluding the development potential of the Society’s property.
- Section 3.3.11 of the Update further confirms that no additional development potential will be permitted on our client’s site.

Clearly, our client is currently entitled to be able to re-develop its property in a mid-rise form of building and wants to be able to secure this privilege in the Update which is the subject matter of your review.

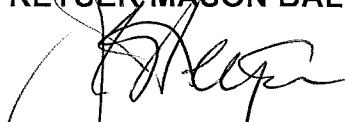
We would respectfully request copies of all future Planning and Growth Management Committee meetings as well as further reports and consideration of this matter by City Planning Staff, the Planning and Growth Management Committee and other committees of City Council.

We respectfully request your continuing interest in our client's affairs.

All of which is respectfully submitted.

Yours truly,

**KEYSER MASON BALL, LLP**



John B. Keyser, Q.C.

JBK:am

*Enclosures:*

1. *Keyser Mason Ball LLP Letter of October 16, 2017*
2. *Overland LLP Letter of November 13, 2017*
3. *Tall Building Section 3.3.4 – 3.3.17*



June 5, 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: Item PG30.4 – Midtown in Focus: Final Report  
Planning and Growth Management Committee Meeting  
Thursday, June 7, 2018**

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

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 joined forces 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 Society, and Jencel Properties Inc., are respectfully requesting a deferral of the current Amendment No. 405 to the Official Plan to permit your staff to craft the policies in a manner that will allow the building of mid-rise buildings in concert with the tall buildings that are described in the policies. The purpose of the Amendment will be to preserve and to facilitate expanded employment – office development within the Yonge-Eglinton Crossroads and surrounding area.

By letter dated February 23, 2018 to you, our client expressed its sincere disappointment with the Proposed Yonge-Eglinton Secondary Plan Update - November 2017 for we find the report by City Staff provides confusion and misunderstanding about the two properties.

We have respectfully requested, on our client's behalf, an opportunity to meet with your staff to describe our client's concerns and objections to the current study and policies and to present a Concept Plan for the combined development of the two properties.

Together with the owner of the Jencel Property, our client has participated in the future re-development of 2239 and 2245.

### **Schedule "III" to Amendment No. 405**

The description in Amendment No. 405 on page 2, paragraph 1, begins with:

Section 2.2.2 Centres: Vital Mixed Use Communities of the Official Plan is amended by deleting the non-statutory text related to the *Yonge-Eglinton Centre* and replacing it with the following:

The second paragraph begins with:

*Yonge-Eglinton Centre* will continue to prosper as a dynamic live-work district. The Centre will be marked by tall buildings and an intense concentration of office, retail, institutional and residential uses at the Yonge-Eglinton intersection.

Schedule "III" to Amendment No. 405 refers to the vision of the Urban Growth Centre and the Land Use component in Section 2.5, and I direct your attention to Section 2.5.3:

*Mixed Use Areas "A"* are [to be the] Midtown's premier locations for major office and other employment uses.

In Section 5.3, the Permitted Building Types and Urban Design Standards, the Midtown Mid-rise buildings are described in Section 5.3.18 as follows:

Midtown Mid-rise Buildings are buildings with a range of maximum permitted building heights of between five to ten storeys depending on the Character Area.

Further references to Midtown infill development and the character area makes no reference, whatever, to the preservation of the employment-office uses which are to dominate in the Yonge-Secondary Plan Area which is absolutely essential in order to provide an economic basis for the live-work combination which is to be the feature of this magnificent Midtown area in which our clients have their offices.

The membership of the Society numbers 8,400 and our clients are quite capable of attracting an enormous number of like professionals to occupy their building and their neighbours' in order to provide the services and the skills to which this community is entitled.

By reference to Map 21-12, the elements associated with the future development potential of our client's property and that of Jencel has been taken away and an 8-storey limitation has been imposed.

It was clear from reading Schedule 21-12 of the Secondary Plan that the 8-storey limit merely reflects the podium level which is characteristic of the buildings fronting on Yonge Street and Eglinton Avenue. It has no bearing, whatever, on the prospective offices which are to be attracted to this area.

Our client's objection is that the Plan and its policies speak clearly to the residential element, an element that is extremely important for the purpose of providing housing and is absolutely silent with respect to encouraging employment and office uses which, again, are essential in order to provide the community with the sound economic base that is necessary in order to provide the income arising from real property taxes in order to fund the continued operation of the business of the City of Toronto.

In substance, our clients are suggesting that the plan be deferred from current consideration with a strong request from you to Staff to now proceed to provide the background that is necessary in order to contemplate the commercial, employment and office uses which presently dominate in the block in which the 2239 and 2245 properties are located and make certain that the City is speaking strongly to the support that is necessary to attract employers to this area.

We refer you to Schedule "III" to Amendment No. 405, reference to the vision and the goals in Section 1.2.1(d) headed Prosperous:

Midtown's offices, health and social services and institution clusters close to the area's transit stations are conveniently accessed by a large segment of Torontonians. Midtown will continue to prosper by maintaining and expanding major offices, retail and *community service facilities*.

The area is the Crossroads of Yonge and Eglinton and is truly a world-class core area which is described again as a part of the Midtown cores in Section 1.3.5(a):

The Yonge-Eglinton Crossroads Character Area is the center of activity in Midtown with office, retail and high-rise residential development focused around this key intersection. A cluster of landmark tall buildings at are distinctive in form and detail when viewed close-up.... Destination retail and major office buildings will continue to shape the character of the area...

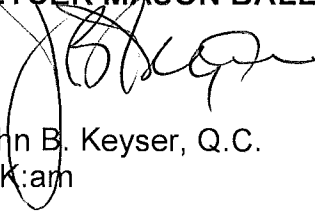
With a strong endorsement of this nature, the question then becomes "Why have you failed in the description of this major centre of economic activity to provide for a more real concentration of existing and new office and employment buildings?" (Section 2.3.1(a)).

We are seeking from you a deferral of the review of Amendment No. 405 to the Official Plan of the City of Toronto to permit you to receive and review a comprehensive study of the impact of the preservation of the office and employment initiatives to the Study Area.

All of which is respectfully submitted.

Yours truly,

**KEYSER MASON BALL, LLP**



John B. Keyser, Q.C.  
JBK:am

July 3, 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)**

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 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 on 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 have clearly pointed out to you that the provisions of Amendment 405 describe a significant portion of the purpose of the Yonge-Eglinton Centre update for the purpose of creating an intense concentration of office/retail/institutional and other uses within the Yonge-Eglinton Study Area.

We have repeatedly requested that you consider giving our client an opportunity to proceed with the Concept Design that has been presented to your staff for the renewal of the properties at 2239 and 2245 Yonge Street. We presented the Concept Design to staff on June 19, 2018.

We have not been successful in having staff respond favourably to the requested re-development of our client's property notwithstanding the fact that it has agreed upon the creation of additional medical offices and employment opportunities at this location as an appropriate usage of the property.

It appears that the handicap that is viewed by your staff is the contemplated approval of the re-development of 1 Eglinton Avenue East for a 65-storey residential building. The contemplated development is a tall building which fails to comply with the *Tall Building Guidelines*.

We have not been able to determine why the setback with respect to the contemplated building on the south side will not include the setback that is required for compliance with the *Tall Building Guidelines* nor is the location of the building with respect to the easterly portion fronting on Cowbell Lane.

**In our view, the process that you are following will have the effect of expropriating the uses and the opportunities for the re-development of our client's property without any compensation.**

The Schedule 21.12 of the Secondary Plan defines an 8-storey limit with respect to the property owned by our clients and its joint venture partner and reflects merely the podium level characteristic of the buildings that are located within the Yonge-Eglinton Study Area.

In the event that our client's properties formed a part of the contemplated development at 1 Eglinton Avenue, the compliance with the podium limits would be appropriate.

On the contrary our clients are the independent owners of the individual properties and want to preserve their development opportunities.

At the present time, neither 2239 nor 2245 Yonge Street has any agreement, whatever, with the owner of 1 Eglinton Avenue East and is free to proceed subject to obtaining your approval with the 61 m building. The contemplated concept plan includes medical offices which will fill a building of this nature.

We have respectfully directed your attention to the contemplated re-development of these properties in order to provide further employment uses within the area. Your staff has advised that there have not been any added employment developments for the past 25 or more years and apart from requiring that the current offices be replaced with substitutes, there is no contemplated addition to employment opportunities within this area.

### **Height Limits**

We fundamentally disagree with the proposed Secondary Plan's approach to limiting the building development potential on specified sites across the proposed Secondary Plan Area without the benefit of more thorough planning and urban design analysis like that which would normally accompany a site specific development application. Our clients want to make such an application and have initiated the process with your staff.

With respect to our client's property, it is our opinion that the mid-town midrise identification and the 8-storey height limit described in Map 21-12 are inappropriately restrictive and that the height limit must be deleted or increased. Our client now can proceed with a building that includes a portion of 14 storeys.

There is no arrangement with 1 Eglinton Avenue East which would limit the height nor the capacity of our client's property.

### **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 2017 Growth Plan, 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 Schedule 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) requiring 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 to ensure that they conform with the Official Plan.

The result would be that our clients will lose their property's development potential. If you are to continue to permit the residential developments which extend throughout the Yonge-Eglinton Area and will permit perhaps 30-50,000 additional residents to live within these residences, there will not be any place for them to work.

The studies that have taken place clearly support the proposition that you must provide places for employment in order to have the community continue to proceed in an economically feasible basis (see attachment).

Further references to Midtown infill development and the character area makes no reference, whatever, to the preservation of the employment-office uses which are to dominate in the Yonge-Secondary Plan Area which is absolutely essential in order to provide an economic basis for the live-work combination which is to be the feature of this magnificent Midtown area in which our clients have their offices.

The membership of the Society numbers 8,400 and our clients are quite capable of attracting an enormous number of like professionals to occupy their building and their neighbours' in order to provide the services and the skills to which this community is entitled.

By reference to Map 21-12, the elements associated with the future development potential of our client's property and that of Jencel has been taken away and an 8-storey limitation has been imposed.

It was clear from reading Schedule 21-12 of the Secondary Plan that the 8-storey limit merely reflects the podium level which is characteristic of the buildings fronting on Yonge Street and Eglinton Avenue. It has no bearing, whatever, on the prospective offices which are to be attracted to this area.

Our client's objection is that the Plan and its policies speak clearly to the residential element, an element that is extremely important for the purpose of providing housing and is absolutely silent with respect to encouraging employment and office uses which, again, are essential in order to provide the community with the sound economic base that is necessary in order to provide the income arising from real property taxes in order to fund the continued operation of the business of the City of Toronto.

In substance, our clients are suggesting that the plan be deferred from current consideration with a strong request from you to Staff to now proceed to provide the background that is necessary in order to contemplate the commercial, employment and office uses which presently dominate in the block in which the 2239 and 2245 properties are located and make certain that the City is speaking strongly to the support that is necessary to attract employers to this area (see attachment).

We are seeking from you a deferral of the review of Amendment No. 405 to the Official Plan of the City of Toronto to permit you to receive and review a comprehensive study of the impact of the preservation of the office and employment initiatives to the Study Area.

If you see fit to do so we are seeking to have City Council amend the Secondary Plan Attachment 1 as follows:

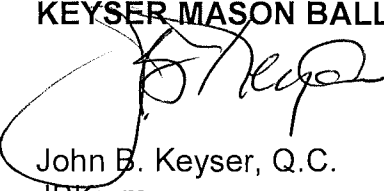


**“Remove the height limit of the properties known municipally as 2239 and 2245 Yonge Street to determine the height limits through site-specific analysis, applying built form and design policies, the existing zoning by-law heights and applicable guidelines.”**

All of which is respectfully submitted.

Yours truly,

**KEYSER MASON BALL, LLP**

  
John B. Keyser, Q.C.  
JBK:am  
Encl.

**Schedule "III" to Amendment No. 405**

The description in Amendment No. 405 on page 2, paragraph 1, begins with:

Section 2.2.2 Centres: Vital Mixed Use Communities of the Official Plan is amended by deleting the non-statutory text related to the *Yonge-Eglinton Centre* and replacing it with the following:

The second paragraph begins with:

*Yonge-Eglinton Centre* will continue to prosper as a dynamic live-work district. The Centre will be marked by tall buildings and an intense concentration of office, retail, institutional and residential uses at the Yonge-Eglinton intersection.

Schedule "III" to Amendment No. 405 refers to the vision of the Urban Growth Centre and the Land Use component in Section 2.5, and I direct your attention to Section 2.5.3:

*Mixed Use Areas "A"* are [to be the] Midtown's premier locations for major office and other employment uses.

In Section 5.3, the Permitted Building Types and Urban Design Standards, the Midtown Mid-rise buildings are described in Section 5.3.18 as follows:

Midtown Mid-rise Buildings are buildings with a range of maximum permitted building heights of between five to ten storeys depending on the Character Area.

We refer you to Schedule "III" to Amendment No. 405, reference to the vision and the goals in Section 1.2.1(d) headed Prosperous:

Midtown's offices, health and social services and institution clusters close to the area's transit stations are conveniently accessed by a large segment of Torontonians. Midtown will continue to prosper by maintaining and expanding major offices, retail and *community service facilities*.

The area is the Crossroads of Yonge and Eglinton and is truly a world-class core area which is described again as a part of the Midtown cores in Section 1.3.5(a):

The Yonge-Eglinton Crossroads Character Area is the center of activity in Midtown with office, retail and high-rise residential development focused around this key intersection. A cluster of landmark tall buildings at are distinctive in form and detail when viewed close-up.... Destination retail and major office buildings will continue to shape the character of the area...

With a strong endorsement of this nature, the question then becomes "Why have you failed in the description of this major centre of economic activity to provide for a more real concentration of existing and new office and employment buildings?" (Section 2.3.1(a)).

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.

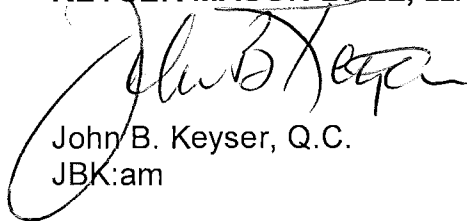
We respectfully request that City Council review the submissions made by our clients and their neighbours before making a decision on these substantial matters.

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.  
JBK:am