



***Delivered via E-mail***

July 8, 2018

Economic Development Committee  
10<sup>th</sup> Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention:** Economic Development Committee and Council

**Re: Comments to the Economic Development Committee and Counsel  
100 Queen's Quay East – Item ED31.7  
Meeting Date: July 9, 2018  
Report for Action – Imagination, Manufacturing, Innovation and Technology  
(IMIT) Property Tax Incentive Program**

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We are providing at this time Submissions on behalf of the Liquor Control Board of Ontario ("LCBO") with respect to 100 Queen's Quay East "Sugar Wharf" ("Subject Property") as it relates to Item ED31.7 for the above noted meeting of the Economic Development Committee on July 9, 2018.

For the reasons detailed in the Submission, LCBO requests that the Economic Development Committee recommend approval of the IMIT Application for the Subject Property. In the alternative, we request that this matter be sent back to Staff with clear direction as to the appropriate eligibility criteria detailed in the attached Submission.

In furtherance of the Submission, we intend to appear at the meeting on July 9, 2018 to make an oral deputation on this matter.

Yours truly,



Peter A. Milligan  
Counsel

cc. Stephanie Simmons (via e-mail: stephanie.simmons@lcbo.com)  
Joel Pearlman (via e-mail: Joel.Pearlman@menkes.com)

## **SUBMISSION**

### **LIQUOR CONTROL BOARD OF ONTARIO TO THE ECONOMIC DEVELOPMENT COMMITTEE (ED31.7)**

**JULY 8, 2018**

- The Liquor Control Board of Ontario (“LCBO”) Corporate Headquarters and Retail have been a significant presence on the Toronto Waterfront for decades
- The Request for Proposal process (“RFP”) undertaken by the LCBO had, as a primary objective, maintaining its Corporate Headquarters presence in Toronto and in particular the expanded Financial District
- As part of the RFP process by which LCBO sold and leased back its lands and improvements, the Imagination, Manufacturing, Innovation and Technology (“IMIT”) and Brownfield Remediation Tax Assistance (“BRTA”) grants were expressly identified and were fundamental to the negotiation with the successful proponent, Menkes 55 Lakeshore Inc.
- The Application submitted by Menkes 55 Lakeshore Inc. to receive the grants was made in good faith by the successful proponent to the City based on the existing criteria for the IMIT program on July 4, 2017. The LCBO has read the submissions and recommendations of Menkes 55 Lakeshore Inc. to this Committee and fully supports the positions it takes
- The recommendation of Staff to reject the Application is based on an inappropriate criteria and financial grounds unrelated to the original intent of the IMIT program. The recommendation was also made, inexplicably, **one year after** the Application was submitted
- The Hemson Report of July 19, 2018 (page 3) sets out a comprehensive review of the “Performance under Evaluation Criteria”. The 100 Queen’s Quay site “Sugar Wharf” satisfies or exceeds all existing criteria
- 100 Queen’s Quay “Sugar Wharf”, unlike other rejected sites, is a Brownfield requiring significant remediation. No other rejected site is a Brownfield. Brownfield remediation is a fundamental principle and policy of the IMIT / BRTA program
- The Hemson Report, which Staff relies on to advise this Committee, is **fundamentally flawed**. While it identifies “Criteria”, there is no meaningful measurement of them. Instead, rejection of 100 Queen’s Quay “Sugar Wharf” by Hemson and Staff relies solely on a “but for” test which is not a criteria of the IMIT program
- The Hemson Report (page 8) acknowledges there is “no universally accepted ‘but for’ test” but then proceeds to apply it in a so-called “broader market test”. In

reality, Hemson's concept of "but for" becomes not one of a number of criteria to be assessed but the only one

- The Hemson Report (page 13) states regarding 100 Queen's Quay "Sugar Wharf" that "this portion of the development **would likely** proceed regardless of whether IMIT grants were awarded." Leaving aside this is not an applicable criteria, what Hemson fails to consider in its analysis is that both LCBO and the successful proponent relied on the existing program criteria in reaching their respective decisions in the negotiation process
- The Hemson Report (page 16) states that 100 Queen's Quay "Sugar Wharf" would "likely be eligible for BRTA grants." The City Report to the Committee makes no reference to this
- To read the City Staff Report describing 100 Queen's Quay "Sugar Wharf" (page 8), one would reasonably conclude the IMIT / BRTA grants should be awarded. The recommendation of Staff to reject the Application in its entirety, again, is an abject failure in any meaningful weighting and application of the existing program criteria by either Hemson or Staff

### **CONCLUSION – 100 Queen's Quay "Sugar Wharf"**

- Is the only rejected Application which is a significant Brownfield site
- Meets and exceeds all stated criteria of the IMIT program at the date the Application was made, July 4, 2017, which criteria should be the only basis at this time for approval
- The "but for" test as identified and applied by Hemson is restrictive, flawed, defies common sense and is not a criteria of the IMIT program
- Extraneous and unrelated financial considerations identified in the Staff Report should play no part in applying criteria of an existing City grant program
- Any reasonable weighing of criteria by Hemson or Staff should result in only one conclusion, which is approval of 100 Queen's Quay "Sugar Wharf". This Committee should reconsider Staff's recommendation based on the above and the submissions of Menkes 55 Lakeshore Inc.