

July 25, 2018

With Prejudice

Our File No.: 152165

Via E-mail

Legal Services, City of Toronto
Metro Hall, 55 John Street, 26th Floor
Toronto, ON
M5V 3C6

Attention: Wendy Walberg, City Solicitor
Sharon Haniford, Solicitor for the City of Toronto

Dear Sirs/Mesdames:

Re: LPAT Case No. PL170328
89, 97 & 99 Church Street

As you know, we are solicitors for the owner of the properties known municipally as 89-99 Church Street in the City of Toronto (the “**Property**”) in respect of its zoning by-law amendment application for the Property.

Further to the settlement reached with the City of Toronto, as endorsed by City Council at its meeting on June 26, 27, 28 and 29 2018, we are writing on a with prejudice basis to propose a revision to the settlement to address matters related to the location of amenity space and the Section 37 contribution, as well as to correct certain unintentional errors in the City Council resolution.

Our client’s request would be for City Council to re-open Item CC43.17, entitled “89, 97 and 99 Church Street – Zoning Amendment Application – Request for Direction”, as adopted by City Council at its meeting on June 26, 27, 28, and 29, 2018, as follows:

- a. that the confidential instruction to staff in Confidential Attachment 1 (made public July 9, 2018) of the report (June 18, 2018) from the City Solicitor in Parts 2 a., g., h., and j., be revised as follows to the satisfaction of the Chief Planner and Executive Director, City Planning:
 1. Part 2a: As per plan A.219 (to be revised), rooftop indoor and amenity space would be permitted above the maximum building height of 140.5 metres in height provided:

- i. Indoor amenity space above the maximum height of 140.5 metres shall not exceed a total area of 105 square metres and shall be substantially as shown on the attached drawing, including that it shall be located directly south of the mechanical penthouse and it shall be setback from the southerly edge of the building at least to the extent shown on the attached drawing;
- ii. The maximum height of the indoor amenity space shall be 4.5 metres (145.0 metres in total height) including all structures and elements;
- iii. Outdoor amenity space above the maximum height of 140.5 metres shall not exceed a total area of 130 square metres and shall be substantially as shown on the attached drawing, with no outdoor amenity space located in the area identified on the attached drawing as "No outdoor or indoor amenity space permitted";
- iv. The design of the amenity spaces, including, without limiting the foregoing, structures, elements, landscaping, railings and materials, shall be:
 1. all to the satisfaction of the Chief Planner and Executive Director City Planning, and shall be consistent with the overall design of the proposed building to achieve a quiet unbroken palette on the east and south facades with the objective of helping the proposed tower, including any rooftop amenity spaces, both blend into the sky when viewed from Front Street East, and give space and sky between the St. James Cathedral Clocktower and Spire, so that the Clocktower and Spire retain separation and prominence; and
 2. addressed at the time of Site Plan Control and secured with provisions in the Section 37 Agreement and implementing by-laws, and shall not be the subject of a site plan appeal by the applicant to the Tribunal;
- v. The exterior railings for the outdoor amenity space shall be comprised of glass and shall be designed, to address and respond to a Pedestrian Wind Study satisfactory to the Chief Planner and to be submitted by the applicant in support of the revised plans dated July 12, 2018;
- vi. The glass rooftop railings shall be no higher than 2.1 metres in height; and
- vii. Plan A.219 shall be revised in accordance with the attached drawing and above conditions, including the notations thereon, including the following redline changes to the plan as shown on the attached drawing:
 1. Label asterisked areas as green roofs and label maximum building height of 140.5 metres in these locations;

2. Remove railing notation on drawing along eastern edge of the building;
 3. Label indoor amenity space as such and separate same internally from the Mechanical Penthouse;
 4. Include a note along the eastern edge that indicates "no indoor or outdoor amenity space permitted" in this location; and
 5. Add notation for glass railing and the identifying dots should be clear on the southerly, westerly and easterly edge of such outdoor amenity space;
2. Part 2g: Replace "Church Street" with "Lombard Street";
 3. Part 2h: Replace "Lombard Street" with "Church Street";
 4. Part 2 j: By deleting the introductory paragraph of Part 2 j. commencing "the Owner shall pay" and replacing it with the following:

2.j) The Owner shall pay to the City prior to the issuance of the first above-grade building permit, a Section 37 monetary contribution in the total amount of THREE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$3,800,000.00), which payment requirement shall be included in the Zoning By-law Amendment and the required Section 37 Agreement to be entered into with the City to the satisfaction of the Chief Planner and the City Solicitor, and to be registered on title to the site to the satisfaction of the City Solicitor prior to any Tribunal Order issuing in these matters, of which amount:

- i. THREE MILLION AND FIFTY THOUSAND DOLLARS (\$3,050,000.00) shall be used for capital projects in the vicinity of the site in conformity with the City's Official Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, and
- ii. SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000.00) shall be paid to the City's capital budget for Public Art program and is to be used in the vicinity of the site, all subject to:"; and

by renumbering the original subparagraphs 2 j. i. and ii. as subparagraphs iii. and iv. respectively and correcting a typographic error in newly numbered subparagraph iii. by replacing "Park 2.j" with "Part 2.j" in the first line.

We appreciate the ongoing hard work of City staff over the last few weeks working with our client's consultant team regarding a comprehensive settlement of this matter and, accordingly, are hopeful that this with prejudice proposal will be accepted by City Council.

Please let us know if any additional information is required.

Yours truly,

Goodmans LLP



David Bronskill
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