

June 7, 2018

Planning and Growth Management Committee  
10<sup>th</sup> floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Ms. Nancy Martins, Committee Administrator**

Dear Chair and Members of the Planning and Growth Management Committee:

**Re: ( NOTICE OF CONCERN with the proposed City Initiated Midtown in Focus - Official Plan Amendment 405 as it affects the properties identified in Schedule "A"**

**And Re: ( REQUEST FOR DEFERRAL in respect of the City Initiated Midtown in Focus - Official Plan Amendment 405 as it affects the properties identified in Schedule "A"**

**And Re: ( REQUEST FOR RECEIPT OF ANY AND ALL FUTURE REPORTS in respect of the City Initiated Midtown in Focus - Downtown Plan Official Plan Amendment 405**

**And Re: ( REQUEST FOR NOTIFICATION of any meetings of Council, Committees of Council, Community Council and/or Public Meetings and/or Community Information Meetings where the City Initiated Midtown in Focus - Official Plan Amendment 405 is to be considered**

**And Re: ( REQUEST FOR NOTIFICATION of the passage of the City Initiated Midtown in Focus - Official Plan Amendment**

**Planning and Growth Management Committee Item Number: PG30.4**

We are the solicitors for a number of property owners (attached as Schedule "A" to this letter) who have acquired sites which are located within the boundaries of the above-referenced official plan amendment. Many of the above noted property owners have either obtained or are in the process of obtaining final approvals in respect of applications for an Official Plan Amendment, Zoning By-law Amendment, Site Plan Approval, Committee of Adjustment approval and/or building permit approval, which properties were acquired in reliance upon the "in force" policies of the City of Toronto Official Plan. Other property owners included in our list have purchased their property, after conducting their due diligence, reviewing the various permissions contained in the "in force" policies and relied on these policies in purchasing their property.

All of the properties in question, without the inclusion of a "grandfathering clause" to recognize pre-existing approvals and/or applications which are currently being processed, will be

significantly impacted by the passage of the proposed official plan amendment. Many of the property owners in question either had no idea that such overarching changes were intended to be introduced as part of the Official Plan given the significant time which has passed since the acquisition of such properties, with other property owners having conducted an exhaustive review of the “in force” policies, who again, relied upon those “in force” policies prior to making a significant investment into their respective properties.

We have attempted to provide an initial list of our clients’ concerns, with our clients’ sincere hope that such concerns can be fully addressed prior to Council proceeding to consider the passage of any implementing amendments. The following sets out our clients’ current concerns:

### **Attempt to Control Architecture**

The proposed draft Midtown in Focus - OPA 405 seeks to control the design of buildings through specific performance standards for certain sites that include, for example, not only the number of storeys permitted, but also the height of each storey. The purpose of an Official Plan and Secondary Plan should be a broader vision for how the City and certain areas of the City should develop. The specific performance standards belong in a zoning by-law which can be amended through a proper public process and which can be appealed.

### **Concern with “No New Net Shadow” on Parks and Open Space**

The proposed draft Midtown in Focus - OPA 405 seeks to protect existing parks and open spaces listed in sections 5.6.1 and 5.6.2 from “no net new shadow” from March 21st and September 21st between 9:18 a.m. to 6:18 p.m. The City’s Official Plan already seeks to adequately protect parks by ensuring that any new shadows on parks and open spaces are adequately minimized. In our respectful submission, this new proposed policy in the Midtown in Focus - OPA 405 will have the effect of rendering developments within the Yonge-Eglinton Secondary Plan area unfeasible, and will restrict intensification in an area of the City that is targeted for growth by imposing such a strict standard.

### **Concerns Related to Minimum Requirements Established for Two- and Three-Bedroom Units and Minimum Unit Size**

The proposed draft Midtown in Focus – OPA 405 includes policies requiring a minimum percentage of 2 and 3-bedroom units as well as minimum unit sizes for certain developments. In our respectful submission, the revised unit mix and minimum unit size policies will have a negative effect of reducing affordability and rendering developments within the Yonge-Eglinton Secondary Plan area unfeasible by imposing such a strict standard. Further review of market demand and supply should be carried out prior to advancing these prescriptive measures to ensure that the City’s Official Plan objectives are being achieved.

### **Concern with New Amenity Space Policies**

The proposed draft Midtown in Focus – OPA 405 attempts to regulate the design and location of indoor amenity space in a residential or non-residential development. For example, new policies have been introduced to require that indoor amenity space be located at or above-grade. In our respectful submission, the location and design of indoor amenity space within a building ought

to be left to the developer and its architect to determine the best program and location of the amenity space within the building.

### **Concern with Required Pedestrian Mid-Block Connections**

The proposed draft Midtown in Focus – OPA 405 requires that mid-block pedestrian connections be secured as part of the development of sites and within larger city blocks including, but not limited to, those pedestrian connections identified on Map 21-9. These policies provide no certainty as to where the pedestrian connections will be specifically located, with no due consideration for the practicality of applying such policies to Sites that are not “through sites” (connecting from one street to the next), and as such, may never facilitate the completion of such proposed pedestrian connections.

### **Is not Consistent with the Provincial Policy Statement and does not Conform to the Provincial Growth Plan**

The prescriptive built form standards included within the proposed OPA 405 will have the effect of restricting development in a Major Transit Station Area that is within or adjacent to an Urban Growth Centre, which is not consistent with and does not conform to the Provincial Policies that call for intensification in those areas.

### **Lack of Consultation**

With the recent changes to the Planning Act, the City has been given extraordinary powers to pass Official Plan amendments like the proposed City Initiated Midtown in Focus Official Plan Amendment 405 (the “Midtown in Focus OPA”) without any right of appeal for those affected by the amendments. The proposed OPA was released to the public on May 31<sup>st</sup>, only one week before the Planning and Growth Management Committee meeting. Additionally, the statutory public meeting on the proposed Midtown in Focus OPA, was scheduled for one week prior to the meeting of the Planning and Growth Management Committee. Our clients ought to have been provided with an opportunity to properly review the proposed Midtown in Focus OPA and to meaningfully consult with City Staff on our concerns with the draft policies, particularly given the fact that there is no further avenue for our clients to express their concerns.

The City’s Official Plan, in its section on “Building a Successful City” states that “the City and the private sector should work together as partners in creating a great city and achieving Toronto’s architectural and urban design potential”. In the case of this proposed Official Plan Amendment, there has been no meaningful consultation with many private landowners on the proposed policy changes.

### **Procedural Concerns**

The City has elected to put forward the proposed OPA 405 as an update to the City’s Official Plan in the context of the the City’s ongoing five year review of its Official Plan pursuant to Section 26 of the *Planning Act*, with final approval to be sought by the Minister. With the recent changes to the *Planning Act*, an update to the Official Plan in the context of a comprehensive review pursuant to Section 26 no longer has any right of appeal.

Our clients have significant concerns with the use of Section 26 of the *Planning Act* as a tool to pass radical changes to the Official Plan in a piecemeal fashion, rather than for its intended purpose of a full comprehensive review. In our opinion this constitutes an abuse of process.

While we have attempted to explain a few of our clients' concerns with the Midtown in Focus – OPA 405, this is not an exhaustive list, our clients continue to have concerns with the draft Midtown in Focus – OPA 405 as a whole. We respectfully request that at the very least, the draft Midtown in Focus – OPA 405 be amended to address the above concerns before it is passed, so that our clients' current Sites will not be prejudiced by the proposed new Official Plan policies.

We also formally request that the writer, as well as every owner listed in Schedule "A", be provided with notice of any meetings of Council, Committees of Council, Community Council or Public Meetings/Community Consultation Meetings where reports related to the City Initiated Midtown in Focus – OPA 405, are to be considered. We also respectfully request that both our clients and the writer be forwarded copies of any future reports and/or proposed by-laws affecting our clients' lands. Finally, we would respectfully request that both the writer and our clients be notified of the City's passage of any by-law affecting the Sites.

Should you have any questions or require any additional information, please do not hesitate to contact the writer, or Monica Wu, a planner in our office.

Yours very truly,



Adam J. Brown

cc: Property Owners Listed in Schedule 'A'

**Schedule "A"**

<b>Site Address</b>	<b>Contact Information</b>
1674-1684 Bayview Avenue, 701-713 Soudan Avenue and 720 Hillside Avenue East	2400047 Ontario Inc., 2400048 Ontario Inc., 2400050 Ontario Inc., 2400052 Ontario Inc., Soudan Hillside Developments Inc., Melrose Park Investments Inc., and Doel Development Corporation Limited Attn: Mr. Jay Brown 33 Berwick Avenue Toronto ON M5P 1H1
85-91 Broadway Avenue and 198 Redpath Avenue	Broadway Holdings Inc. Attn: Mr. Barry Stern 50 Confederation Parkway Concord ON L4K 4T8
132-142 Soudan Avenue and 11, 15, and 17 Lillian Street	Lash Distinction Corp Attn: Mr. Serge Mazzuca 10 Kodiak Cres., Suite 200 Toronto ON M3J 3G5
77 Erskine Avenue	77 Erskine Residences Corp. Attn: Mr. Eli Dadouch 1244 Caledonia Road Toronto ON M6A 2X5
45 and 77 Dunfield Avenue	Harold Green Ltd. and Arthur Weinstock Ltd. Attn: Mr. Marco Ventola 20 Eglinton Avenue West, Suite 1700 Toronto ON M4R 2H1