

June 29, 2018

**VIA EMAIL**

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

**Attention: Nancy Martins, Planning and Growth Management Committee  
Administrator**

**Attention: City Clerk**

Your Worship and Members of Council:

**RE: PG31.7 Midtown in Focus – Final Report  
Jencel Properties Inc.**

We are the lawyers for Jencel Properties Inc. (“**Jencel**”), the owner of the property municipally known as 2245 Yonge Street, which is located on the east side of Yonge Street, just south of Eglinton Avenue (the “**Jencel Property**”).

**Request to the Committee**

For the reasons that are set out in detail below, we are requesting that Planning and Growth Management Committee amend the recommendations of City Planning Staff 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.”**

**Background and History of Involvement**

Both ourselves and our client have actively participated throughout the Midtown in Focus planning process, including numerous written submissions and attendance at various public and stakeholder meetings. Most recently, we wrote to the Planning and Growth Management Committee on June 6, 2018 in respect of the proposed Yonge Eglinton Secondary Plan (the “**Secondary Plan**”). Our client was in attendance at the previous Planning and Growth Management Committee meeting on June 7, 2018 and in attendance at the hastily-convened public meeting on June 21, 2018, at which an array of revisions to the Secondary Plan were summarily presented to the public.

Jencel has been acting in cooperation with the Society of United Professionals (the “**Society**”) and 2332356 Ontario Inc., which owns the property municipally known as 2239 Yonge Street (the “**Society’s Property**”) immediately adjacent to the Jencel Property.

Jencel has also been heavily and consistently involved in the site-specific development application for 1 Eglinton Avenue East, a 65-storey building that the City has seen fit to approve in principle even though it does not respect the City’s own guidelines for tall buildings, and even though its approval is directly reliant on air rights and setbacks from the Jencel Property, without any arrangements between the respective owners and without any regard for the City’s policies (including those contained in the proposed Secondary Plan) for organized and forward-thinking development of city blocks based on context plans. As the by-laws have not been passed by City Council, the planning process for 1 Eglinton Avenue East is not yet complete.

Recently, Jencel and the Society attended a pre-application consultation meeting with City of Toronto Planning Staff on June 19, 2018, to present a proposal to redevelop the Jencel Property and the Society’s Property jointly with a 14-storey office and medical office building (the “**Proposed Development**”). An iteration of the Proposed Development had been discussed with City Staff at a meeting a year earlier, on June 1, 2017, which was prior to Council’s consideration of the 1 Eglinton proposal.

Jencel also supported the City’s Official Plan Amendment No. 289 at the Local Planning Appeal Tribunal, which contains policies that specifically require context plans and coordinated, comprehensive development in this area in order to achieve, among other things, a unified public realm.

Jencel and the Society have attempted in utmost good faith to engage the planning process both at a site-specific and area-wide level. The experience has been extremely frustrating.

### **Ongoing Frustration and Concern with the Secondary Plan**

The Secondary Plan continues to show a height of 8 storeys – and now 29 metres – for the Jencel Property/Society’s Property. This is entirely inappropriate given:

- The current zoning height for the property is 61 metres, which can accommodate a building in the range of 14-15 storeys. The Secondary Plan seeks to, in effect, downzone the properties;
- All other properties in the southeast quadrant of the Yonge-Eglinton Crossroads with Yonge Street frontage are designated for heights that would accommodate much taller buildings, and in some cases effectively upzoned;
- The Secondary Plan effectively assumes that the Jencel Property will serve as a podium for the development at 1 Eglinton Avenue East, including accommodating its tall building setback by eliminating development rights on the Jencel Property above the proposed 8 storey, 29-metre height. This assumption is made in the absence of any arrangements existing between the two owners and in the absence of any context plan exercise being

undertaken to demonstrate how the quadrant is intended to function as a whole *at the very heart of the Secondary Plan area.*

- The redesignation to a height of 8 storeys/29 metres is the manifestation of exactly the issue that Jencel had attempted to raise in the 1 Eglinton Avenue East process, but which fell on deaf ears at the City: the Jencel Property will be severely compromised and constrained in order to accommodate the tall building at 1 Eglinton, with no regard paid to the rights of Jencel or the development potential that could have been realized on the site. The approval of the Secondary Plan as currently proposed will reinforce this problem and will be prejudicial to the ultimate determination of the merits of the 1 Eglinton proposal.

The Secondary Plan therefore provides no opportunity, incentive, or feasible prospect for the Jencel Property and the Society's Property to redevelop beyond the currently existing two-storey Tim Hortons and hair salon on the Jencel Property and the five-storey office building on the Society's Property. In particular, this Secondary Plan makes impossible the Proposed Development, containing 14-storeys of new office employment, including critically-required new medical office complex to serve the growing population at Yonge and Eglinton, which would otherwise have provided essential services and job opportunities to the community at the very heart of the plan area and atop the intersection of the TTC's Line 1 and Eglinton Crosstown.

This result is shortsighted and is also contrary to the higher-order provincial policy documents, the Growth Plan and the Provincial Policy Statement, which support intensification in this location, employment opportunities as part of a genuine mix of uses, population-serving uses which are not auto dependent and which are transit supportive, coordinated and comprehensive development, and long-range planning for a vital urban growth centre.

#### **Policies regarding Additional Height for Office Uses are Unclear**

We acknowledge that certain new policies have been put forward post-June 21, 2018. These policies are mixed into the assorted height options which City Staff are now presenting to the Planning and Growth Management Committee after very limited time for study and consideration. These policies would seem to provide for an additional five storeys of potential height for office uses, but they are not clearly worded, appear to be equivocal in their application to the Jencel Property/Society's Property, and apparently may be negated by reference to other policies in the Secondary Plan. In short, we do not view these tacked-on policies as an appropriate response to the concerns that we have raised throughout this process. If they are intended to provide greater opportunities for real development on the Jencel Property/Society's Property, they should be clearly worded and made to apply directly to these lands.

In addition, the revisions to the Secondary Plan that were presented at the community meeting on June 21, 2018 and which are now before the Planning and Growth Management Committee do not provide for any additional office or employment opportunities for mid-rise building or any building typologies other than tall buildings. The Proposed Development at 14 storeys is best described as a hybrid building form that does not neatly fit into the City's limited building typology classifications.

We had hoped that as a result of direction given by Councillor Shiner at the June 7, 2018 Planning and Growth Management Committee meeting, we would have been able to have a substantive discussion with City Planning Staff regarding the Jencel Property, the Society's Property, and the Proposed Development at the June 19, 2018 pre-application consultation meeting, and at the June 21, 2018 community meeting. This did not occur. Notwithstanding our thorough preparation of plans, drawings, reports, and documentation for the pre-application meeting, and attendance and presentation by our team of professionals, including architect, land use planner, and transportation consultant, we were simply advised that City Planning Staff "stand by" their report on 1 Eglinton Avenue East and "stand by" their recommendations in the Secondary Plan. What has not been explained to us is how the Jencel Property/Society's Property can successfully redevelop under this proposed policy regime.

Therefore, we are requesting that the Planning and Growth Management Committee amend the recommendations of City Staff with a direction that is specific in its application to the Jencel Property/Society's Property, removing the designation of 8 storeys/29 metres from the height maps and providing an opportunity for specific study, 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 rely on our previous submissions in this matter as well. Together with our client and the Society, we intend to be present at the Planning and Growth Management Committee meeting on July 5, 2018.

Thank you for your attention to this matter.

Yours truly,  
**Overland LLP**

  
Per: Christopher J. Tanzola  
Partner  
c. A. Dharamshi (client)