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November 27, 2019

Our File No.: 190678

City of Toronto
City Hall, 2nd Floor
100 Queen Street
Toronto, Ontario M5H 2N2

Attention: Ulli S. Watkiss, City Clerk

Dear Ms. Watkiss:

**Re: Notice of Appeal Pursuant to Subsection 34(11) of the *Planning Act*
Application No. 18 189969 NNY 10 OZ
25 Fisherville Road, City of Toronto**

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We are solicitors for IMH 25 Fisherville Ltd., who are the owners of the property known municipally in the City of Toronto as 25 Fisherville Road (the “Site”). We are writing on behalf of our client to appeal our client’s zoning by-law amendment application (the “**Application**”) to the Local Planning Appeal Tribunal (the “**Tribunal**”), pursuant to subsection 34(11) of the *Planning Act*, for the failure of the City to make a decision on the Application.

Background

The Site, which has an area of 1.52 hectares (3.75 acres), is located on the south side of Fisherville Road to the west of Bathurst Street. The Site is rectangular in shape, with approximately 70 metres of frontage on Fisherville Road and a lot depth of approximately 190 metres. It is currently occupied by a single slab 18-storey residential building oriented perpendicular to Fisherville Road. This building contains 214 residential rental units with an existing underground parking garage.

From a policy perspective, the Site is a candidate for infill intensification because it is designated as *Apartment Neighbourhoods* and much of the Site is currently vacant, comprising surface parking lots, unused paved area or other unprogrammed space. In particular, surface parking is located on the northern edge of the Site and a second surface parking lot is located to the south of the existing building.

The Application would permit the construction of two residential buildings (22-storeys and 12-storeys), in addition to two blocks of 3-storey townhouses. The proposed redevelopment would have a total gross floor area of approximately 31,427 square metres and approximately 412 residential units. The existing 18-storey residential building would be retained. The Application

would also include a 530 square metre public park and a 248 square metre privately-owned publicly accessible space (POPS) abutting the public park, as well as a new north-south public street along the easterly limit of the Site.

The City declared the Application complete as of November 29, 2018. Through mediation at the Local Planning Appeal Tribunal involving two appeals filed by adjacent landowners, our client worked with City staff (and the other landowners) on a comprehensive approach to redevelopment of these three properties. On August 23, 2019, our client filed a revised application with the City, which formed the basis of a positive staff report dated September 12, 2019.

At its meeting on October 2, 2019, City Council adopted the staff recommendations, including (among other matters):

- that City Council amend the applicable zoning by-laws to permit the proposed redevelopment of the Site;
- withhold introduction of the bills pending completion of certain additional studies;
- withhold introduction of the bills pending an agreement to secure the construction of the above-noted public road; and,
- withhold introduction of the bills until the Tribunal has issued its approval in principle for the above-noted appeals filed by the two adjacent landowners (6020/6030 Bathurst Street and 6040 Bathurst Street/5 Fisherville Road).

Reasons for the Appeal

Our client understands that this “friendly appeal” may seem counterintuitive, given the positive staff report and City Council’s adoption of the staff recommendations.

Our client believes the Application is consistent with the Provincial Policy Statement, conforms with the Growth Plan, appropriately implements the City’s Official Plan, represents good planning and is in the public interest. The basis for these conclusions is found in the materials submitted in support of the Application and in the positive staff report. For clarity, our client is supportive of the recommendations in the City staff report and appreciates the collaborative approach with City staff to secure such a positive staff report.

However, through discussions with City staff and counsel for the adjacent landowners, there is concurrence that this appeal should be filed to ensure that all matters of implementation, as between the three landowners, are carried forward by one approval authority, which would be the Tribunal. Given that the Tribunal is the approval authority for the applications regarding the two other blocks of land, it is prudent for the Tribunal to be the approval authority for the

Application. This will ensure that the requisite agreements and the construction of the above-noted public road can be coordinated and implemented in an efficient manner.

We respectfully request that a prehearing be scheduled for this appeal on January 6, 2019. Such a date would enable the first prehearing conference for this appeal to be heard together with the next prehearing conferences for LPAT Case No. PL171014 and LPAT Case No. PL180386, although we are not proposing that these matters be consolidated.

The Appellant Form is enclosed, along with a cheque in the amount of \$300.00. If any additional information is required, please contact the undersigned.

Yours truly,

Goodmans LLP



David Bronskill

DJB/

6999024

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TORONTO, ONTARIO M5H 2S7

THE TORONTO-DOMINION BANK
394 BAY STREET
TORONTO, ONTARIO M5H 2Y3

039212

DATE 27 11 2019
D D M M Y Y Y Y

PAY

Three Hundred Dollars

(CHEQUE VALUE CANNOT EXCEED \$500.00)

\$ 300.00

TO THE
ORDER OF

THE MINISTER OF FINANCE

CLIENT

SGPH

MATTER

190678

COST CODE

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GOODMANS LLP
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BACK/ENDOS

- All one of the following Security Features may indicate alteration.
- Microprint - Fine type in border on front of cheque will lift in when scanned or magnified.
- Flare - No dark fibres on front of cheque are visible only under black light and visible when viewed or disturbed.
- Safety Strips - Fibres randomly embedded in the paper that can be seen with an iodine test.
- Security Pattern - "Security Guard" text and logo visible on back of a cheque.
- Fine Paper Head Paper - Passed into paper during manufacturing, watermark can be seen by holding the cheque up to a light source. Cannot be removed or duplicated by others.
- Chemical Protection - Special chemical indicators in the paper appear as stains when exposed to chemicals.
- Tonerless Coating - Another dry tone images to resist alteration by tape and chemicals.
- Paper Reinforcement - High wet strength between fibres and forefinger or pressure on it made with index and middle finger.

- Tous les un des caractéristiques de Sécurité ci-dessous peuvent indiquer une altération.
- Microimpression - Le petit caractère fin dans la bordure devant le chèque se soulève quand on le scanne ou qu'on le grossit.
- Éclat - On ne voit pas de fibres sombres devant le chèque, mais seulement sous la lumière noire et quand on le touche ou qu'on le dérange.
- Bandes de sécurité - Des fibres sont incorporées aléatoirement dans le papier et on peut les voir avec un test à l'iode.
- Motif de sécurité - Le mot "Security Guard" et le logo sont visibles sur le verso d'un chèque.
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- Protection chimique - Des indicateurs chimiques particuliers dans le papier apparaissent comme des taches quand on les expose à des produits chimiques.
- Revêtement sans toner - Une autre image sèche pour résister aux altérations causées par le ruban adhésif et les produits chimiques.
- Renforcement du papier - Une haute résistance à l'humidité entre les fibres et les doigts ou quand on appuie dessus avec l'index et le majeur.



Environment and Land Tribunals Ontario
Local Planning Appeal Tribunal

655 Bay Street, Suite 1500
 Toronto ON M5G 1E5

Telephone: 416-212-6349

Toll Free: 1-866-448-2248

Website: www.elto.gov.on.ca

2019-4254

Appellant Form (A1)

Receipt Number (LPAT Office Use Only)

Date Stamp Appeal Received by Municipality/Approval Authority

To file an appeal, select one or more below

- ☒ Appeal of *Planning Act* matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances, proceed to Section 1A
- ☐ Second appeal of a *Planning Act* matter for Official Plans and amendments, Zoning By-Laws and amendments, proceed to Section 1B. NOTE: Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, allows appeals to the Tribunal of some *Planning Act* matters previously determined by LPAT.
- ☐ Appeals of other matters, including Development Charges, *Education Act*, *Aggregate Resources Act*, *Municipal Act* and Ontario Heritage, proceed to Section 1C

1 A. Appeal Type (Please check all applicable boxes)

Subject of Appeal	Type of Appeal	Reference (Section)
Planning Act Matters		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 120 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 120 days	22(7)
	<input type="checkbox"/> Council refuses to adopt the requested amendment	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 90 days	34(11)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 120 days where the application is associated with an Official Plan Amendment	
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control Zoning By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)
Site Plan	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 120 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).

For matters subject to Bill 139 and the associated transition regulation (the second appeal).

Subject of Appeal	Type of Appeal	Reference (Section)
Planning Act Matters		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal of a decision by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input type="checkbox"/> Appeal of a decision by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a refusal within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a non-decision within 90 days by Council following a LPAT decision	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal of a refusal within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a non-decision within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a decision by Council following a LPAT decision	34(19) and 34(26.5)

1 C. Other Appeal Types (Please check all applicable boxes)

Subject of Appeal	Type of Appeal	Reference (Section)
Development Charges Act Matters		
Development Charge By-law	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge Complaint	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending Agreement	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
Education Act Matters		
Education Development Charge By-law	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development Charge Complaint	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
Aggregate Resources Act Matters		
Aggregate Removal Licence	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
	<input type="checkbox"/> Revocation of licence	20(4)
Municipal Act Matters		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
Ontario Heritage Act Matters		
Designation of Property	<input type="checkbox"/> Appeal a Notice of intention to designate property	29(11)
	<input type="checkbox"/> Appeal of an amendment to a by-law designating property	30.1(10)
	<input type="checkbox"/> Appeal a Notice of Intention to repeal a designating by-law or part of a designating by-law	31(9)
	<input type="checkbox"/> Appeal a council's decision to approve or refuse the repealing of a designating by-law or part of a designating by-law	32(7)/32(8)
	<input type="checkbox"/> Appeal council's decision to alter a heritage designated property	33(9)
Heritage Conservation District	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)
Other Act Matters		
Subject of Appeal	Act/Legislation Name	Section Number

2. Location Information

Address and/or Legal Description of property subject to the appeal
25 Fisherville Road

Municipality
City of Toronto

Upper Tier (Example: county, district, region)

3. Appellant/Objector Information

Note: You must notify the LPAT of any change of address or telephone number in writing. Please quote your LPAT Case/File Number(s) after they have been assigned.

Last Name

First Name

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)
IMH 25 Fisherville Ltd. (please use representative contact information)

Email Address

Daytime Telephone Number

ext.

Alternate Telephone Number

Mailing Address

Unit Number

Street Number

Street Name

PO Box

City/Town

Province

Country

Postal Code

4. Representative Information

☒ I hereby authorize the named company and/or individual(s) to represent me

Last Name
Bronskill

First Name
David

Company Name
Goodmans LLP

Professional Title
Solicitors

Email Address
dbronskill@goodmans.ca

Daytime Telephone Number
416-597-4299

ext.

Alternate Telephone Number
416-648-3708

Mailing Address

Unit Number
3400

Street Number
333

Street Name
Bay Street

PO Box

City/Town
Toronto

Province
Ontario

Country
Canada

Postal Code
M5H2S7

Note: If you are representing the appellant and are not licensed under the *Law Society Act*, please confirm that you have written authorization, as required by the LPAT's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

☒ I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

5. Appeal Reasons

Municipal Reference Number(s)
Application No. 18 189969 NNY 10 OZ

For all appeal types, please outline the nature of the appeal and the reasons for your appeal.

Please see attached letter.

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you intend on arguing one or more of the following:

A: A decision of a Council or Approval Authority is:

- ☐ Inconsistent with the Provincial Policy Statement, issued under subsection 3(1) of the *Planning Act*
- ☐ Fails to conform with or conflicts with a provincial plan
- ☐ Fails to conform with an applicable Official Plan

And

B: For a non-decision or decision to refuse by council:

- ☐ Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- ☐ Conformity with a provincial plan
- ☐ Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

If you intend on arguing on one or more of the above throughout a proceeding, please explain:

Oral/written submissions to council

If applicable, did you make your opinions regarding this matter known to council?

- ☐ Oral submissions at a public meeting of council
- ☐ Written submissions to council

6. Related Matters

Are there other appeals not yet filed with the Municipality?

- ☐ Yes ☒ No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

- ☐ Yes ☒ No

If yes, please provide LPAT Case Number(s) and/or Municipal File Number(s)

7. Mediation

Mediation is a confidential process in which the parties to an appeal talk about their differences and, with the facilitative assistance of an impartial individual, a mediator, negotiate a consensual resolution of the appeal. Unless the Tribunal determines that there is a good reason for not addressing the appeal with mediation, all parties shall presume that their differences will first be addressed through a mediation directed by the Tribunal. As such, parties shall act and prepare accordingly, meaning good faith negotiation and collaboration are a priority and are expected by the Tribunal.

- ☒ I have read and understand the above statement.

8. Witness Information

Detail the nature and/or expertise of witnesses you will have available.

Land use planning, urban design, transportation

For all other appeal types :

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.).


9. Required Fee

Total Fee Submitted \$ 300

Payment Method ► ☐ Certified cheque ☐ Money Order ☒ Lawyer's general or trust account cheque

10. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
David Bronskill		2019/11/27

Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.