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M613-02

January 27, 2020

DELIVERED BY EMAIL (clerk@toronto.ca)

Mayor and Members of Council  
c/o City Clerk's Office  
2<sup>nd</sup> Floor, City Hall  
100 Queen Street West  
Toronto ON M5H 2N2

**Attention: Ms. Ulli S. Watkiss, City Clerk**

Dear Mayor Tory and Members of City Council:

**RE: Letter of Objection respecting the proposed update to the King-Spadina  
Secondary Plan, City Council Meeting Item No. TE 12.4  
Nos. 465-471 Richmond Street West and 38 Camden Street**

We are the solicitors for Manga Hotels (Richmond) Inc. ("**Manga Hotels**"), the owner of the lands municipally known as 465-471 Richmond Street West and 38 Camden Street in the City of Toronto (the "**Site**"). We are writing on behalf of our client to provide written submissions respecting the above-noted item, which is being considered by Council at its meeting beginning January 29, 2020.

Manga Hotels submitted an application for a rezoning of the Site on July 4, 2019,. The rezoning application is for two mid-range hotels and is identified as Application No. 19 182800 STE 10 OZ (the "**Application**"). To date, no decision has been made by City Council on the Application.

On January 8, 2020, Toronto and East York Community Council adopted the above-noted item, which recommends that City Council adopt the draft Official Plan Amendment, King-Spadina Secondary Plan (the "**proposed Plan**"), included as Attachment 2 to the December 12, 2019 report from the Director, Community Planning, Toronto and East York District (the "**Staff Report**").

On behalf of our client, we wish to object to the certain aspects of the proposed Plan, as well the absence of transitional provisions.

### **1. The proposed Plan is premature**

Much of the proposed Plan appears to rely on complementary policy documents that have not been made public or adopted by Council. As such, it is impossible to fully evaluate the impacts of the proposed Plan on our client's Application.

Policy 1.4 states that a Public Realm Strategy, as adopted by Council, will be used to illustrate the intent of the proposed Plan policies. The Staff Report indicates that the King-Spadina Public Realm Strategy will be brought forward to Toronto and East York Community Council and City Council in Q2 of 2020. Policy 1.4 effectively ties the proposed Plan and the Public Realm Strategy together, which is concerning since it is difficult to understand how public realm enhancements would impact the future development of the site without the benefit of the King-Spadina Public Realm Strategy. The public (including landowners) should have a chance to review and understand what impacts the Public Realm Strategy policies have on the future redevelopment of the subject site.

Policy 1.5 indicates that Urban Design Guidelines will also be utilized to evaluate development. Policy 1.5.4 indicates that the Urban Design Guidelines will "address site and building location and organization, setbacks, ground floor uses, building entrances and site access". Again, the public (including landowners) has not had a chance to review these and understand their impact.

### **2. The proposed Plan fails to provide transition for pre-existing applications**

The failure to provide transition for pre-existing development applications is contrary to the rules of procedural fairness and fundamentally changes the policy landscape several months after the Application was first submitted. The Staff Report specifically recommends that: "City Council direct staff to use the proposed Plan in the evaluation of all current and new development proposals within its boundaries." This is in direct conflict with the long-standing legal principle that an application should be assessed against the policies in place at the time the application is submitted. By changing the landscape, subsequent to providing City comments on the Application, this results in significant prejudice to our client's Application and its efforts to resolve the concerns of City Planning staff.

We respectfully encourage Council to direct that appropriate transitional provisions be incorporated within the proposed Plan to ensure that landowners are treated fairly and can continue to rely upon the policies and regulations in force and effect at the time a development application is submitted.

### **3. The proposed Plan does not take into consideration site-specific limitations nor the pre-existing built form of the West Precinct**

Additionally, the proposed Plan does not consider the unique aspects of many sites that may not warrant strict adherence to certain policies. This "one-size-fits-all" approach is inappropriate given the varied contexts of all sites to which the proposed Plan applies and may unduly limit the development opportunities of our client. Accordingly, we encourage Council to incorporate language that provides greater flexibility within the built form policies of the proposed Plan.

Policy 6.3.1. states that base buildings will be stepped back a minimum of three metres above the height of the streetwall or base building. The location and depth of the stepback should be determined on a site-by-site basis based on context and the right-of-way width of the street.

Policy 6.3.3 states that additional step backs may be required to conserve heritage resources. Should the building at 38 Camden Street be designated as a heritage resource, providing setbacks greater than three metres would hinder the ability to add density on the site given its limited size. Given the ongoing appeal of the King-Spadina Heritage Conservation District (HCD) currently before the LPAT, it is premature to include policies in the proposed Plan which direct the conservation of built heritage resources.

Policy 6.11 limits the maximum height of development within the *Mixed Use Areas 2* designation within the West Precinct to 50 metres in height including the mechanical penthouse and all projections, with the exception of an exit stair for roof access and the elevator overrun. The appropriate height should be determined on a site-by-site basis. As it relates to the subject site, additional height is warranted based on its contextual surroundings and limited shadow impacts. Examples of approved or built developments, which have a height that exceeds 50 metres in the West Precinct include: 457 Richmond Street West (57 metres), the Morgan (63 metres), Fabrik (57 metres), the James (Woodsworth) (58.15 metres), and Waterworks (53.5 metres). The height limitation in the proposed Plan should be revised to reflect the existing and approved built form in the West Precinct. Furthermore, there are no sensitive uses or *Neighbourhoods* in the vicinity of the Site and no shadow impacts on the Queen Street Heritage Conservation District.

Policy 6.14 requires that development will include stepbacks above the base building from adjacent properties to provide separation distances between buildings that protect access to light, view and privacy. A minimum stepback of 5.5 metres will be provided from any property line that is not adjacent to a public street or public lane. The subject site is challenged in being able to provide for these setbacks on all sides, since this would effectively sterilize the site.

#### **4. The proposed Plan appears to propose a mid-block connection on the Site without consulting our client**

Policy 4.3.2 states that public realm enhancements will offer opportunities for future parks, Privately Owned Publicly Accessible Spaces, generous landscaped areas, forecourts, wider sidewalks, and mid-block connections. These are not necessarily appropriate for each site and, accordingly, should be selected on a site-by-site basis and through the development approvals process. The policy should be revised to reflect this.

The proposed Plan states the intent of mid-block connections is “to create a functional and attractive pedestrian network and improve utility for pedestrians including access to existing and planned rapid transit stations and other major community destinations”. “Major community destination” is not a defined term in the proposed Plan and could be misinterpreted.

Policy 4.13.1 and 4.13.2 provide that new exterior mid-block connections will be landscaped with pedestrian clearways that are generally a minimum of 4.0 metres wide to allow for comfortable

two-way pedestrian passage and are encouraged to be unencumbered by building cantilevers to provide adequate sky view from the public realm.

Based on Map 16-3B, a mid-block connection is proposed between Richmond Street West and Camden Street on our client's Site. Based on Map 3C, the Site has been identified as a location for a "Potential Public Realm Enhancement". This mid-block connection would not offer any direct connection to any transit stops or any other "major community destination" in the vicinity.

Due to the size and geometry of the site, a mid-block connection cannot be accommodated at this location. The property at 465-471 Richmond Street West has 31.8 metres of frontage, while the property at 38 Camden Street has 18.25 metres of frontage. At 4.0 metres, a mid-block connection through 38 Camden Street would reduce the width of the lot to 14.25 metres, which compromises the development potential of the site.

##### **5. The proposed Plan does not recognize hotels as an important employment use, contrary to previous reports to City Council**

Policy 2.1 recognizes the important characteristics of the King-Spadina area, including its "large concentration of... jobs in the culture sector... a lively arts scene including theatres, live music venues and galleries, and a vibrant nighttime economy". This policy also recognizes the area's proximity to the Financial District and the waterfront and that the area "will continue to draw businesses, residents and visitors as it continues its evolution from an industrial district to a true mixed-use neighbourhood". Despite this, the proposed Plan ignores the important function of hotels. Section 3.1, which speaks to the area's economic function, should include a reference to the importance of hotel uses in the area.

Our client's Application represents a significant opportunity to diversify employment uses in the West Precinct. Not only is our client's Application in conformity with policy 3.1.1.1. of the proposed Plan, but it also addresses the stagnant growth of hotel room availability in Toronto. The stagnation of hotel availability in Toronto was addressed in a November 3, 2017 Staff Report from the General Manager, Economic Development and Culture (the "**Economic Development Staff Report**") considered by Council on January 31, 2018 under Meeting Item No. ED25.5. The Economic Development Staff Report states, "A strong and vibrant tourism industry with a sufficient number of hotel rooms and meeting space is essential to the economic health of Toronto." As such, applications that bolster the economic health of Toronto and the employment goals of the proposed Plan should be supported through sufficient transition provisions and flexible built form policies.

It is our request that our client's Site (which includes both Nos. 465-471 Richmond Street West and 38 Camden Street) be exempted from all policies, text and maps which form part of this proposed Official Plan Amendment. If Council does not accede to this request, our client will consider appealing this matter to LPAT.

Please accept this letter as our client's written submission respecting the proposed King-Spadina Secondary Plan and implementing Official Plan Amendment prior to adoption by

Council. We respectfully request notification of any further actions or decisions made by Council or City committees respecting this matter.

Should you have any questions respecting the foregoing, please do not hesitate to contact the undersigned.

Yours very truly,

**Devine Park LLP**

A handwritten signature in blue ink that reads "Patrick J. Devine". The signature is written in a cursive style with a large, looped initial "P".

Patrick J. Devine  
PJD/JME/sf

cc: Manga Hotels (Richmond) Inc.