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January 20, 2021

**Via Email**

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

**Attention: Mr. Matthew Longo and Ms. Sara Amini**

Dear Mr. Longo and Ms. Amini:

**Re: 31A Parliament Street and 370 & 370A Cherry Street (LPAT Case No. PL151116)**

We are solicitors for OTP Management Ltd., Ribbon East Corp. and Ribbon West Corp. (collectively, "OTP/Ribbon"), the owners of the lands municipally known as 31A Parliament Street and 370 & 370A Cherry Street.

We are writing with respect to the implementation of the LPAT Decision dated July 6, 2017 with respect to OTP/Ribbon's official plan amendment and zoning appeals for 31A Parliament and 370 & 370A Cherry Street (LPAT Case No. PL151116 – the "31A Parliament/Ribbon Matter"). In particular, we are writing to seek the City's consent for the LPAT's final Order for the 31A Parliament/Ribbon Matter to be finalized in the manner set out herein, independent of finalizing the LPAT's Order for the separate official plan amendment and zoning appeals by Cityscape Holdings Inc. and Dream Distillery Inc. (together, "Cityscape/Dream") for 60 Mill Street (LPAT Case No. PL151118 – the "60 Mill Matter").

**Rationale for Separate LPAT Order for the 31A Parliament/Ribbon Project**

It is appropriate to finalize the LPAT Order for the 31A Parliament/Ribbon Matter, in the manner set forth herein and independent of finalizing the LPAT Order for the 60 Mill Matter, for the following reasons:

1. The 31A Parliament/Ribbon project, with a 165.7m high residential tower and a five-storey Ribbon building which will accommodate a variety of commercial uses and a new campus for College Boreal, is a true mixed-use project which will strengthen and enliven the Distillery District. It is in the public interest to finalize the LPAT Order that

will allow this project to proceed.

2. OTP/Ribbon proposes to finalize the LPAT Order for the 31A Parliament/Ribbon Matter in a manner that addresses all of the zoning details and conditions applicable to 31A Parliament Street and 370 & 370A Cherry Street, and secures all of the Section 37 community benefits required by the City Council Resolution of March 28 and 29, 2017 (the “Council Resolution”) other than the one Section 37 benefit directly related to 60 Mill Street (a heritage interpretation centre within 60 Rack House D).
3. Although the 31A Parliament/Ribbon Matter and the 60 Mill Matter were heard together by the Ontario Municipal Board (“OMB”), (now the Local Planning Appeal Tribunal, (“LPAT”)), at a May 2017 settlement hearing, the two matters were never formally consolidated, and consist of separate appeals for separate landholdings within and adjacent to the Distillery District.
4. OTP/Ribbon is able to secure and deliver all of the zoning details, conditions of approval and Section 37 benefits applicable to the 31A Parliament/Ribbon project, but it has no ability to secure and deliver the zoning details and conditions of approval applicable to 60 Mill Street. It is inappropriate, and contrary to the public interest, to make the implementation of the 31A Parliament/Ribbon project, and the delivery of the public benefits associated therewith, including a \$3.2 million Section 37 contribution, an \$850,000 public art contribution and a new campus for College Boreal, contingent on the current owner of 60 Mill securing and delivering the zoning details and conditions of approval applicable to 60 Mill Street.
5. The zoning details and conditions of approval applicable to 60 Mill Street, and the one Section 37 benefit specific to 60 Mill Street, can and should appropriately remain to be addressed as part of the LPAT issuing a final Order implementing its 2017 Decision in respect of 60 Mill Street, and/or as part of the resolution of new LPAT appeals that have been commenced by the current owner of 60 Mill Street.
6. The LPAT issuing a separate Order for the 60 Mill Matter, independent of the 31A Parliament/Ribbon Matter, will appropriately implement the Council Resolution and the LPAT’s 2017 decision and will not, in practice, be any different than the LPAT issuing one Order for both sites. Whether or not separate Orders are issued by the LPAT, the 60 Mill owner is not obliged to implement the LPAT’s 2017 decision for a 6-storey addition above Rack House D, and instead it can pursue its planning applications for a 31–storey hotel on its lands. The one 60 Mill Street Section 37 contribution, the heritage interpretation centre within Rack House D, will only be constructed and delivered if the

60 Mill project proceeds. If the 60 Mill owner ultimately seeks to implement the LPAT's 2017 decision, it will be obliged to do so in accordance with the conditions of approval set forth in the Council Resolution, including construction of the heritage interpretation centre within Rack House D. Alternatively, if the 60 Mill owner succeeds in obtaining a different zoning approval through its current planning applications, the City will have the opportunity to secure similar or updated conditions of approval.

### **Background**

Separate OPA and rezoning applications were submitted for the 60 Mill and 31A Parliament/370 & 370A Cherry Street sites as follows:

- In 2011, Cityscape/Dream submitted applications to permit a hotel and residential units on the 60 Mill Street site, as part of a 29-storey tower above the existing heritage building known as Rack House D.
- In 2014, OTP/Ribbon submitted applications to permit a 185.5m high residential tower and 5-storey commercial Ribbon Building on the 31A Parliament/370 & 370A Cherry Street site. (A previous, stand-alone version of the Ribbon Building was approved by the OMB for the 370 & 370A Cherry site in 2009).

Both applications were subsequently appealed to the OMB, and following an OMB mediation, the respective owners of the two sites brought forward modified proposals, as follows:

- Cityscape/Dream reduced their proposal for 60 Mill Street, to consist of a 6-storey addition above Rack House D, for hotel, residential or office uses.
- OTP/Ribbon modified the 31A Parliament/Ribbon project to consist of a 165.7m high residential tower and 5-storey Ribbon Building.

These modified proposals were considered by City Council at its meeting of March 28 and 29, 2017 and by way of the Council Resolution (a copy of which is attached), the City agreed to support the modified proposals, subject to certain terms and conditions, some of which were specific to 60 Mill Street (Item 1 from a March 21, 2017 report of the City Solicitor – the “60 Mill Conditions”), some of which were specific to 31A Parliament/370 & 370A Cherry Street (Item 2 of the City Solicitor’s report – the “31A Parliament/Ribbon Conditions”) and some of which were related to both matters (Item 3 of the City Solicitor’s report – the “Joint Conditions”).

The Joint Conditions comprised the following:

- (A) The approval of a revised Functional Servicing Report (“FSR”).

- (B) The owners agreeing to have their site plan applications considered by the City's Design Review Panel.
- (C) The City securing the following Section 37 community benefits:
  - (1) A \$3.2 million cash contribution (1/3 to be used for improvements to the First Parliament site; 1/3 to be used for improvements to the Toronto Aboriginal Hub in the West Don Lands; and 1/3 to be used for streetscape/open space improvements);
  - (2) \$200,000 for a heritage interpretation area within Rack House D; and
  - (3) A \$850,000 public art contribution.
- (D) The City securing the following matters as legal conveniences in the Section 37 Agreement:
  - (1) 10% of the dwelling units as three bedroom units;
  - (2) The approval of a construction management plan;
  - (3) Consultation with area residents in respect of site plan applications;
  - (4) The 4<sup>th</sup> and 5<sup>th</sup> storeys of the Ribbon Building to be constructed in a different exterior material than the first 3 storeys; and
  - (5) An archaeological strategy for 31A Parliament.
- (E) The owner agreeing to discussions with City Planning regarding revisions to the Section 37 agreement for the Distillery District to delineate the publicly accessible open spaces.

Following a settlement hearing, the LPAT endorsed the settlement of the OTP/Ribbon and Cityscape/Dream appeals in accordance with the Council Resolution, and withheld its Order pending the satisfaction of the various conditions set forth in the Council Resolution. The LPAT Decision in this regard was issued on July 6, 2017.

#### **Status of 31A Parliament/Ribbon Conditions**

Since the issuance of the July 6, 2017 LPAT Decision, OTP/Ribbon has been working diligently with the City and other agencies (e.g. Metrolinx) to finalize the zoning details and conditions of approval related to the 31A Parliament/Ribbon project. In 2018, OTP/Ribbon entered into a lease with College Boreal for a portion of the Ribbon Building. In 2019, OTP/Ribbon submitted a site plan application for the 31A Parliament/Ribbon project. It has received circulation comments from the City on that application, and hopes to make a site plan resubmission shortly. It hopes to finalize the LPAT zoning Order and City site plan approval in the near future.

The 31A Parliament/Ribbon Conditions from the Council Resolution are being addressed in the following manner:

- The draft zoning amendment and draft Section 37 Agreement for the 31A Parliament/Ribbon project have been submitted to the City and are currently being discussed with City Legal and Planning staff. These documents will address and secure Items a-g, i and j of the 31A Parliament/Ribbon Conditions.
- Item h. has been addressed, by the submission of a Transportation Impact Report Addendum, which has been reviewed and accepted by the City's General Manager, Transportation Services.
- Item k. has been addressed to Metrolinx's satisfaction, including the submission and approval of a crash wall design.
- Item l. has been addressed by the Province's approval of OPA 394.

### **60 Mill Status**

The 60 Mill site was sold by Cityscape/Dream in 2018 to 2575867 Ontario Inc., then a Fusion Homes ("Fusion") Company. Fusion's initial intention was to build a residential project on 60 Mill Street in accordance with the 2017 LPAT Decision, but it subsequently sold the shares of 2575867 Ontario Inc. to the Easton/Gupta Group. Easton/Gupta then submitted a rezoning and site plan application to permit a 31-storey hotel on the 60 Mill lands.

On a May 5, 2020 status telephone conference call with Member Swinkin, counsel for Easton/Gupta advised the LPAT that Easton/Gupta was taking no steps to satisfy the 60 Mill Conditions, or any of the Joint Conditions applicable to 60 Mill Street, set forth in the 2017 LPAT decision. On August 11, 2020, Easton/Gupta appealed its rezoning and site plan applications for the 31-storey hotel to the LPAT.

On September 21, 2020, the City's Planning Division issued a Direction Report recommending that the City oppose the Easton/Gupta zoning appeal. The report, which has now been accepted by City Council, also recommended that in the event the LPAT allows the appeal in whole or in part, the City Solicitor should request the LPAT to withhold its Order until:

- (A) by-laws have been provided in satisfactory form;
- (B) a revised FSR and revised hydrogeological report have been approved;
- (C) the owner has entered into a Heritage Easement Agreement; and
- (D) the owner has entered into a Section 37 Agreement, to secure appropriate community benefits.

**OTP/Ribbon's Proposal to Finalize a Separate LPAT Order for the 31A Parliament/Ribbon Matter**

In its May 11, 2020 disposition, issued after the May 5, 2020 status telephone conference call, the LPAT directed the parties (OTP/Ribbon, 2575867 Ontario Inc. or Easton/Gupta, and the City) to conduct discussions about how to address the fact that OTP/Ribbon is committed to implement the 2017 LPAT decision as it relates to the 31A Parliament/Ribbon Matter and finalize zoning and site plan approvals for the 31A Parliament/Ribbon Project, whereas Easton/Gupta is currently taking no steps to implement the 2017 LPAT decision as it relates to the 60 Mill Matter and instead has appealed its zoning and site plan applications for a 31-storey hotel on 60 Mill Street to the LPAT.

Following discussions we have had with both you and Mr. Flowers, counsel for Easton/Gupta, this letter represents OTP/Ribbon's proposal and request to finalize a separate LPAT Order for the 31A Parliament/Ribbon Matter. Pursuant to this proposal, all zoning details and conditions of approval related to the 31A Parliament/Ribbon Project will be secured and implemented, and all of the Section 37 community benefits required by the Council Resolution will be provided by OTP/Ribbon, except for the one Section 37 benefit that can only be delivered by the 60 Mill owner, the heritage interpretation area within Rack House D.

The 31 Parliament/Ribbon conditions from the Council Resolution are being addressed and secured as noted above.

OTP/Ribbon is proposing that the Joint Conditions will be addressed as follows:

- (A) OTP/Ribbon submitted a revised FSR as part of its 2019 site plan application for the 31A Parliament/Ribbon project. It continues to work with the City's Engineering Department to ensure that this FSR is finalized to the satisfaction of the City. Any functional servicing issues associated with 60 Mill can be separately addressed before issuance of any final LPAT Order for the 60 Mill Matter, and the City's recent Directions Report for 60 Mill requires a revised FSR before issuance of an LPAT Order related to the new 60 Mill appeals.
- (B) The 31A Parliament/Ribbon project was considered by the City's Design Review Panel in July 2019, before the formal submission of the site plan application.
- (C) The Section 37 Agreement for the 31A Parliament/Ribbon Matter will secure the full \$3.2 million cash contribution and the full \$850,000 public art contribution. The \$200,000 for a heritage interpretation centre within Rack House D appropriately remains to be dealt with as part of the resolution of the 60 Mill Matter and/or the new 60 Mill appeals. [Note: The Council Resolution provides that \$1,066,666 of the \$3.2 million cash contribution will be spent on streetscaping and open space improvements, of which \$533,333 shall be spent on streetscaping and

open space improvements within the Distillery District and \$533,333 shall be spent on streetscaping and open space improvements at the intersection of Trinity Street and Mill Street and on the streets along the perimeter of the Distillery District. In accordance with discussions between our client and the City, our client is prepared to have the second \$533,333 referred to in the Council Resolution contributed primarily towards streetscaping improvements at the intersection of Trinity Street and Mill Street and on the streets along the perimeter of the Distillery District, with some smaller portion on streets in the close vicinity of the Distillery District as mutually determined and agreed to by the City and the Owner.]

- (D) The Section 37 agreement for the 31A Parliament/Ribbon Matter will address all of the legal convenience matters required by the Council Resolution.
- (E) OTP/Ribbon is discussing with City Planning whether any revisions to the Section 37 agreement for the Distillery District are required in respect of the publicly accessible open spaces.

### **Conclusion**

For all of the reasons set forth, it is appropriate to proceed with a separate LPAT Order for the 31A Parliament/Ribbon Matter. The 31A Parliament/Ribbon project is a true mixed-use project which will strengthen and enliven the Distillery District, and it is in the public interest to finalize the LPAT Order that will allow the project to proceed in accordance with the 2017 LPAT decision and Council Resolution.

The matters from the Council Resolution applicable to 60 Mill Street can only be addressed by the 60 Mill owner, and the City's Direction Report in respect of 60 Mill's new appeals recognizes that the resolution of those appeals will provide an opportunity to finalize a Heritage Easement Agreement, Section 37 Agreement and zoning details in respect of 60 Mill Street.

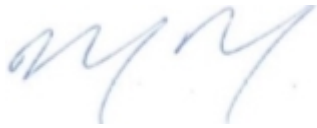
The issuance of a separate LPAT Order for the 31A Parliament/Ribbon Matter, in the manner set forth herein, appropriately implements the 2017 LPAT decision and Council Resolution as they relate to 31A Parliament Street and 370 & 370A Cherry Street. It is our view that further direction from City Council is not required for the City to agree to finalize a separate LPAT Order on this basis. If, however, you wish to seek Council instructions to proceed on this basis, it is obviously open for you to do so.

If the City does not agree to proceed in the manner set forth herein, we reserve the right to bring a motion before the LPAT to finalize and implement the 2017 LPAT decision in the manner set forth herein.

We look forward to your response.

Yours truly,

**Goodmans LLP**

A handwritten signature in blue ink, appearing to read 'Mark Noskiewicz', is positioned below the company name.

Mark Noskiewicz  
MRN/nb

CC: OTP/Ribbon

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