



Eileen P. K. Costello
Direct: 416.865.4740
E-mail: ecostello@airdberlis.com

April 29, 2022

Our File No.: 138187

BY EMAIL

Mr. Gabe Szobel and Mr. Jason Davidson
Solicitors, Planning & Administrative Tribunal Law
City of Toronto
26th Floor, Metro Hall
55 John Street
Toronto, ON M5V 3C6

Dear Messrs.. Szobel and Davidson

**Re: 2221-2231 St. Clair West and 2237, 2255 and 2283 St. Clair Avenue West, Etobicoke
OLT Case File No. PL111146/111147
City of Toronto OPA 144, By-law No. 1170-2011
With Prejudice Settlement Offer**

As you are aware, Aird & Berlis LLP acts on behalf of Clair West Limited (“Clair West”) and Cobalt Developments Limited (“Cobalt”) with respect to the properties municipally known as 2221-2231 and St. Clair Avenue West and 2237, 2255 and 2283 St. Clair Avenue West, respectively, in the City of Toronto (respectively, the “**Clair West Site**” and the “**Cobalt Site**”, and collectively, the “**Sites**”).

The Sites are generally located on the south side of St. Clair Avenue West, midblock between Keele Street/Weston Road to the east and Jane Street to the west in an area identified as an *Avenue* in the Official Plan. The Clair West Site abuts the Cobalt Site to the immediate east. The Sites are within the area which is subject to OPA 144 and By-law 1170-2011, both of which were adopted by the City of Toronto in 2011 and subsequently appealed by various landowners in the area.

Our clients are both an appellant (Cobalt) and a party (Clair West) to the appeals.

The effect of OPA 144 was to redesignate the lands on both the north and south sides of St. Clair Avenue to *Mixed Use Areas* which was intended to implement the Avenues Study undertaken by the City between 2009 and 2011 for the corridor between Keele/Weston to the east and Scarlett Road to the west. The Sites are also subject to SASP 357 which has specific policies intended at the time of adoption to ensure compatibility with specific existing industrial users and lands in the vicinity.

In March 2021, Clair West submitted an application to the City for an amendment to Zoning By-law No. 438-86 to facilitate a 12-storey mixed-use building with retail at grade on the Clair West Site (the “**West Application**”).

In September 2021, Cobalt submitted an application to the City for an amendment to Zoning By-law No. 438-86 to facilitate a mixed-used development consisting of two 12-storey buildings with retail at grade on the Cobalt Site (the “**Cobalt Application**”). The Cobalt Application proposes a party-wall condition along the east lot line with the building proposed by the West Application.

Both applications were filed with site specific development applications which implement the lands use and built form provisions of OPA 144 and By-law 1170-2011.

Appeal of OPA 144 and By-law No. 1170-2011

At its meeting held September 22, 2011, the City Council adopted Amendment No. 144 to its Official Plan (being OPA 144), implementing the City-initiated St. Clair Avenue West Study. The City also passed corresponding Zoning By-law No. 1170-2011 (the “**ZBA**”), which made amendments to parent Zoning By-law No. 438-86 to implement the direction of the OPA 144.

OPA 144 and the ZBA were subsequently appealed to the then-Ontario Municipal Board (now, the Ontario Land Tribunal) by four landowners in the area subject to OPA 144 (the “**Appeal**”).

Following a second pre-hearing conference, held on July 15, 2016, the Tribunal issued an Order bringing portions of OPA 144 into force for the lands west of Runnymede Road, without prejudice to the continuation of the appeals of OPA 144 east of Runnymede Road.

The Tribunal recently held a Case Management Conference on November 30, 2021. At this Case Management Conference, the Tribunal granted Party Status to our client Clair West on behalf of its ownership interest and application, and approved the assumption by our client Cobalt of the appeal by Corsetti Meat Packers & Realities Ltd., its predecessor in title of the Cobalt Site. Our clients requested a further Case Management Conference to consider OPA 144 and their respective Zoning By-law Amendment applications.

The Tribunal had set down a further Case Management Conference for April 6, 2022 which was adjourned on the request of the City and with the consent of the parties to the proceeding.

Our clients are supportive of OPA 144 and the redesignation of the Sites to “Mixed Use Areas,” and, on account of their respective applications, both have an interest in ensuring those instruments come into force and effect for the Sites.

We are writing to set out the terms of a **with prejudice settlement offer** which would resolve our clients’ concerns with the Appeal and enable the parties to jointly request that the Tribunal bring OPA 144 into force and effect on the Sites and to allow for the resolution of the site specific Applications. Enclosed herewith is a revised version of OPA 144 which updates the policies to be consistent with other City initiated instruments, including OPA 231.

In our view, the revised instruments ensure Council’s original intent to allow for mixed-use development along St. Clair Avenue West can proceed, and allow for the development of the Sites consistent with the Applications filed with the City.

Settlement Proposal

Our clients are prepared, on a **with prejudice** basis, to resolve their concerns with the Appeal in respect of OPA 144 in its entirety on the basis of the terms set out below:

1. the proposed revisions to OPA 144 revise Site and Area Specific Policy 357, which is applicable to the Site, altering the previous requirements for certain mitigation studies for residential uses within 100 metres of an adjacent meat processing plant, which may be secured by way of an “H” Holding Symbol, with certain enumerated conditions for the lifting of the “H”;
2. The revisions to SASP 357 will require that, as part of the complete application requirements, an applicant will submit a compatibility/mitigation study, addressed in the planning rational, to identify and evaluate options for achieving an appropriate design, buffering, or separation distances for residential uses nearby to Employment Areas in the vicinity of the Sites;
3. The revisions to SASP 357 also require the applicant, upon receipt of a Notice of Complete Application, to provide expanded notice of the application to certain major facilities within the vicinity of the proposal; and
4. The revisions to SASP 357 also set out certain development criteria Council may consider when considering applications to introduce, develop or intensity sensitive uses within the influences of certain major facilities.
5. In the event that the revisions to OPA 144 are acceptable to the City, we propose that the City and Clair West and Cobalt shall jointly request the Tribunal to convene a written or virtual settlement hearing at the earliest opportunity, and shall jointly request the Tribunal to allow the Appeal in respect of OPA 144, in part, as it relates to the Sites, and issue an Order bringing OPA 144, as revised, into force and effect on the Sites. The City shall advise the Tribunal that it supports the settlement in any hearing before the Tribunal, including against any objections from third parties.
6. **Costs:** Each party shall bear its own costs in this matter.

In support of this **with prejudice settlement offer**, please find enclosed a revised version of OPA 144.

We greatly appreciate the cooperation of City staff in arriving at a resolution on the OPA and also appreciate your willingness to bring this matter forward for consideration by Council at the May meeting of City Council. In the event that Council does not accept our clients’ settlement offer with respect to the OPA, our clients will proceed to request a hearing date be set for the OPA at the earliest opportunity.

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

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Yours truly,

AIRD & BERLIS LLP

A handwritten signature in black ink, appearing to read "Eileen P. K. Costello". The signature is fluid and cursive, with the first name being the most prominent.

Eileen P. K. Costello
EPKC:JGP:tp

Encl.

Cc. Client
Bousfields

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