

160 John Street
Suite 300
Toronto, ON M5V 2E5

IAN FLETT, J.D., B.A.

Telephone No.: +1 (416) 703-4047

Direct Line: +1 (416) 703-7034

Facsimile No.: +1 (416) 907-9147

Email: iflett@gillespielaw.ca

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His Worship, Mayor Tory
City Councillors
City Clerk
Toronto City Hall
13th Fl. W. 100 Queen Street W.
Toronto, ON M5H 2N2

Sent by Email

Dear Mr. Mayor, Members of Council and Mr. Clerk,

**RE: Item CC39.10 – 3194-3206 Dundas Street West – Zoning By-law Amendment
OLT Case: PL210291
Alternative Zoning By-law Amendment Proposals**

SUMMARY: Mathias Scolozzi owns the home next door and to the west of the subject site. He is a party in the OLT appeal in respect of zoning on that site.

He proposes the Ontario Land Tribunal amend the zoning differently than how the Applicant asks by way of a “with prejudice” settlement offer. The Tribunal has exclusive jurisdiction to Amend the zoning as it sees fit considering the evidence before it.

Mr. Scolozzi’s proposal adheres more closely to the Mid-Rise Guidelines. It respects the relationship of height to the width of Dundas Street West, creates a more proportionate relationship to the street, sets back from neighbouring windows and measures the rear angular plane from a rational point that will guide how future rear angular planes along this section of the north side of Dundas Street West are measured. He has also considered issues raised by his neighbours.

Mr. Scolozzi asks Council to instruct its lawyers to support his proposed amendments over the amendments proposed by the Applicant.

We are the lawyers for Mathias Scolozzi, the owner of a home at 3208 Dundas Street West who lives adjacent to the subject site in respect of this application. Mr. Scolozzi was granted party status in the above referenced matter before the Ontario Land Tribunal.

On January 10, 2022 Mr. Scolozzi provided to the Applicant and the City of Toronto a “with prejudice”¹ settlement offer in respect of an application to amend the zoning at the subject site.

This offer was based on a review of the City of Toronto’s Mid-Rise Guidelines, the Addendum to the guidelines and his review of the December 13, 2021 revised proposal proffered by the Applicant.

Mr. Scolozzi’s offer may be found [HERE](#). An Analysis of the Applicant’s plans set against the mid-rise guidelines may be found [HERE](#).

Mr. Scolozzi is the son of 2 architects and is a designer who graduated with a master’s in architecture in 2005 from the University of British Columbia. He is a Leed Certified Professional and has worked in architecture and design in Toronto, Vancouver and abroad. He has dedicated many hours of his own time to understand the Applicant’s design and rationale for its proposed amendment to the Toronto’s Zoning By-law.

Using his architectural training and tools, guided by the Mid-Rise Guidelines, local precedents and his own discussions and consultations with community members, Mr. Scolozzi has proposed another way to amend the City’s Zoning By-law.

Some of the highlights of Mr. Scolozzi’s proposed amendments are:

- A closer adherence to the Mid-Rise Guidelines, including:
 - There are no other existing mid-rise buildings within 500 metres to the east or west of the Subject Site along Dundas Street West, therefore, the height permitted on this site will act as a benchmark height. Mr. Scolozzi proposed a height that is most harmonious with the existing and planned context at 23 metres, whereas the Applicant seeks 26.7 metres on a 20 metre right of way (both measurements exclude the Mechanical Penthouse);
 - Mr. Scolozzi’s proposed height continues and encourages a proportionate relationship between building height and the right-of-way on Dundas Street West;
 - Effective adherence to the side yard setback requirement to avoid negative impacts of new development on existing buildings (Performance Standard #8D, reaffirmed in Addendum) on Mr. Scolozzi’s windows, but

¹ An offer made “with prejudice” means the person making the offer is waiving any of the protections of confidentiality or settlement privilege normally attached to communications towards the settlement of a matter.

- only where there are windows on Mr. Scolozzi's home (meaning Mr. Scolozzi only partially implemented setbacks to assure more potential floor area on the site for the Applicant);
- Greater stepbacks at the 6th and 7th floor reduce the public perception of massing;
 - Mr. Scolozzi's proposed amendment would provide a marginal shadowing improvement on the public right of way on St. Johns Place and some rear yards on Maria Street east of St. John's Place;
 - Further, Mr. Scolozzi incorporated 1.83 metres of the 5.5 metre setback by measuring it from his main side wall windows at his home rather than from the lot lines as outlined in the Mid-Rise Guidelines;
 - Mr. Scolozzi takes the measurement of the rear angular plane from the rear lot line across the rear lane which is generally consistent with the practice elsewhere on Dundas Street West and provides for a more predictable rationale from which to measure the rear angular plane for future mid-rise development applications along the north side of Dundas Street West from St. Johns Place to Runnymede Road.
- Mr. Scolozzi has also estimated floor plate sizes between the amendments he and the Applicant are proposing.² Mr. Scolozzi's floor plates on the second, third and fourth floors are greater than the Applicant's because of his proposed amendments to the west side of the development.

Mr. Scolozzi's settlement offer is a respectful and reasonable proposal for the amendment of the City's Zoning By-law on the subject site. It supports and bolsters the credibility of the Council approved Mid-Rise Guidelines and Addendum.

The process before the Ontario Land Tribunal

The Applicant may own the land in respect of which they are applying to amend the zoning, but they do not own the zoning that applies to the land.

Whether site-specific or applied across the entire City, amending zoning by-laws is achieved through a public process.

When someone files an Appeal, whether they are the Applicant or a citizen responding to an application, they are asking the Ontario Land Tribunal to make the final decision in respect of the zoning on that land.

The Appellant/Applicant in this case, with eyes wide open, has accepted all of the Tribunal's powers pursuant to the *Planning Act*, and in particular, [subsection 34\(26\)](#) which empowers the

² The ultimate calculation and comparison of available GFA between the two proposed amendments would be an apples to oranges comparison without Mr. Scolozzi and the Applicant's architects agreeing on precise inclusions and exclusions from the GFA of each floor.

Tribunal to amend the by-law "...in such manner as the Tribunal may determine...".

In effect, Mr. Scolozzi will be asking the Ontario Land Tribunal to exercise its authority to amend the applicable zoning by-law to be harmonious with the existing and planned contexts using the Mid-Rise Guidelines and City Council approved Addendum as interpretative tools to that end.

We ask that Council instruct its lawyers to support the proposal proffered by Mr. Scolozzi at the Ontario Land Tribunal over the Appellant's proposal.

There is an unfortunate narrative in our City that those who are responding to development proposals with scepticism would reject any form of development near them.

Mr. Scolozzi is demonstrating that this need not be the case. While he may be unique because of his professional background, he is no different than any other person reacting to a development application next door to his home. Except Mr. Scolozzi is not saying "no". He is advancing a potential amendment to the City's zoning at the subject site to allow for a mid-rise building (something the Applicant wants) in a way that adheres more closely to the City's guidelines, responds to his own concern in respect of the placement of the windows at his home, responds to many concerns raised by his neighbours and would set a better precedent for future zoning by-law amendments along this section of Dundas Street West.

We wish to extend our gratitude to counsel and staff at the City for taking the time to meaningfully consider this proposed amendment to the applicable zoning at the subject site.

Mr. Scolozzi and our office are obliged to the Council for its thoughtful deliberation in respect of this matter.

Yours truly,

**ERIC K. GILLESPIE
PROFESSIONAL CORPORATION**

Per:



Ian Flett

C: Client
Michael Mahoney, Solicitor for the City of Toronto
Michael Foderick, Solicitor for the Appellant