



**Kagan
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LAWYERS

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File: 18235

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VIA EMAIL: clerk@toronto.ca | councilmeeting@toronto.ca

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12th Floor, West Tower City Hall
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Toronto, Ontario M5H 2N2

**RE: Item No. PH31.1
North Edge Properties Ltd. Comments
Development in the Proximity of Rail
Address: 25 Mabelle Avenue, Toronto**

We are counsel for the owners of 25 Mabelle Ave in the City of Toronto (the “**Subject Lands**”). Recently the Ontario Land Tribunal (the “**OLT**” or the “**Tribunal**”) approved a zoning by-law amendment to permit the development, on part of the Subject Lands, of a new 49-storey residential tower. Issues related to the proximity of the proposed development to the rail corridor were addressed during the hearing on the merits of the application. The development was deemed appropriate in terms of its setbacks and relationship to the rail corridor, including many details that would be items typically identified during the site plan process. We are concerned that the broad language of the proposed amendment would potentially impact the development approvals without recognition of the approvals that have been obtained to date.

Policy 1 of the draft OPA refers to the requirement to submit a Rail Safety and Risk Mitigation Report for a “complete application to introduce, develop or intensify land uses within the area of influence of rail”, but does not differentiate between different types of land uses, including those that may be more or less sensitive to the operations of a railway in close proximity, and fails to define the term “area of influence of rail”. As a result, the proposed policy is unclear. This has the potential to apply such requirement to applications where such a report may not be necessary. There is further lack of clarity without a clear Terms of Reference for such a report.

Policy 2 of the draft OPA appears to imply, in clause (a), that an “alternative mitigation measure” will be required, which may not necessarily be the case. Further, clause (c) of

proposed Policy 2 requires the landowner to enter into an agreement with the City, whereby both the landowner and the qualified professional engineer who has stamped the drawings for alternative mitigation measures would “assume responsibility for, and indemnify the City from, damages to persons and property resulting from a derailment on the rail corridor”. It is our opinion that the proposed requirement is overly broad and onerous as a general obligation.

Accordingly, the Owner objects to the draft OPA in its current form. We would be pleased to meet with City Planning staff to discuss these concerns and determine whether there is an opportunity to amend the draft OPA so that the concerns could be appropriately addressed.

Yours very truly,

A handwritten signature in black ink, appearing to read "Paul DeMelo", enclosed within a large, horizontal, hand-drawn oval scribble.

Paul DeMelo
cc: Client