Sherman◆Brown
BARRISTERS & SOLICITORS

February 15, 2023

Toronto Preservation Board
Toronto City Hall
100 Queen Street West
Toronto ON M5H 2N2

Attention: Ms. Ellen Devlin, Secretariat

Dear Ms. Devlin:

Re: NOTICE OF OBJECTION to the Notice of Intention to Designate under Part IV, Section 29 of the Ontario Heritage Act, the property at 401 YONGE STREET (the "Site") in the City of Toronto

Item No: PB3.3

We are the solicitors for 399Y Corporation, the owner of the properties municipally known as 399-405 Yonge Street (the "Development Site") in the City of Toronto. The Development Site is located at the north-east corner of Yonge Street and Gerrard Street East, in the area commonly referred to as "Downtown Yonge". Currently, the Development Site is occupied by two commercial properties proposed to be demolished as part of the within application, with the exception of the façade of 401 Yonge Street which the City has requested and our client has agreed to preserve notwithstanding that the Site is not designated under the *Ontario Heritage Act.*

On June 14, 2022, our client submitted applications for a Zoning By-law Amendment along with Site Plan Approval to facilitate the development of the Site with an iconic 75-storey residential tower (245.4 metres to the top of the mechanical penthouse), with a 4 storey podium and two levels of bike parking below grade.

At the ground floor, the proposal includes retail along the Yonge Steet frontage in fitting with the status of the area as a retail hub. The primary entrance to the building's lobby is located off of Gerrard Street, allowing for a more residential feel on the quieter frontage of the Site. The retail at the ground floor is aligned with the existing façade, which our client's design currently retains along Yonge Street even though the building had not been designated at that time. To the east, the ground floor has been set back 6.5 metres to accommodate an access driveway from Gerrard Street, which driveway provides access to a pick-up/drop-off space for residents, with conveniently located short-term bicycle parking and the Type "C" and Type "G" loading area for the proposal. The underground bicycle parking is conveniently accessed by a dedicated lift in the staging area as well as by the main residential lifts.

Above the ground floor, the podium includes a mezzanine level that provides additional bicycle parking and cantilevers eastwardly to the lot line to provide weather protection over the pickup/drop-off area below. The podium extension continues as a glass reveal incorporated to provide a clear visual separation between the podium and the tower above while also framing the retained façade at 401-405 Yonge Street. At level 5, the tower steps back to a 5.5 metre easternly setback and the top of the eastern portion of the podium is provided as outdoor amenity space. From levels 5 to 10 and levels 47 to 52 on the south-western corner and levels 73 to the mechanical penthouse on the eastern side, the tower is articulated with a dramatic "bite" that not only adds to the iconic façade of the building but also efficiently uses the extra space created as more outdoor amenity on certain floors. To the north, a 0m lot line is proposed for the tower, adjacent to the existing site at 407 Yonge Street which has a frontage and depth that is not able to be developed with any type of "high-rise" proposal given its limited width and area. To the east, the tower is setback 5.5 metres to accommodate any future development that may occur on the site to the east.

On November 21, 2022, our client filed an appeal of its zoning by-law amendment application in order to consolidate its application with the existing tower application on the same block at 415 Yonge Street, which already had an active appeal at the Ontario Land Tribunal. At the time of filing our client's appeal, we made it clear to all parties involved that we were filing a friendly appeal simply in order to consolidate the two matters, but that we would continue to work cooperatively with City Staff towards a satisfactory resolution of the heritage matters on the Development Site. Since that time, while our client's heritage architect has not been permitted to meet directly with Heritage Staff given that the file is under appeal, our client has received the comments from Heritage Staff and has been attempting to address their comments through revisions to the design of the proposal.

By proceeding with a designation, the exercise of the City's powers under the Ontario Heritage Act seems to be premature in light of the ongoing discussions that have taken place between our client and the City through the appeals process, potential revisions our client has been working on to address Heritage Staff comments and the willingness Heritage Staff have always had to work with our clients to reach a cooperative resolution. This designation will also limit the alteration of the property on the Site in a sensitive way. It is our client's respectful submission that given the Heritage Staff's continued willingness to work with our client (on this file and others) to reach a resolution, the recommendation to designate the Site should not be adopted by Council.

Should you have any questions, please do not hesitate to contact the writer, or Jessica Smuskowitz, a lawyer in our office.

Yours very truly,

Adam J. Brown

Encl.

Cc: Ms. Georgia Kuich, Heritage Planning