

January 25, 2023

Mayor and Members of Community Council
Toronto City Hall
100 Queen Street West
Toronto ON, M5H 2N2

Attention: Ms. Cathrine Regan, Committee Administrator

Dear Chair and Members of Community Council:

Re: 399-405 YONGE STREET- Settlement of Appeal relating to the property municipally known as 399-405 YONGE STREET in the City of Toronto

And Re: Request to Support the Settlement between the applicant and Covenant House
Item 2023.TE2.14

We are the solicitors for 399Y Corporation, the owners of the properties municipally known as 399-405 Yonge Street (the “Site”) in the City of Toronto. Prior to our client’s acquisition of the Site, our client held meetings with City Staff and surrounding property owners to understand any area wide and/or site-specific concerns. With the Site and surrounding area being designated “Mixed Use”, where the highest densities have been and continue to be approved, our client carefully considered all characteristics of the surrounding area, including the recently approved 85-storey tower in the block to the immediate south.

Two extremely important issues became apparent prior to our client’s formal submission of their application for a 75-storey tower. Firstly, our client was asked to enter into a “block plan” exercise, which included consideration of the relationship of our client’s proposed tower and the proposed tower to the north at 415 Yonge Street. However, the most important aspect of the proposal to our client and their partnership group, was reaching a cooperative resolution with Covenant House.

Our client and the developer of the 415 Yonge Street lands cooperated immediately in agreeing on tower separation distances as well as the extension of their application for an Official Plan Amendment to cover our client’s lands and the Covenant House lands. This agreement was critical in protecting the potential future development of the Covenant House lands in the event they choose to pursue a development in the future.

The owners of the 407 Yonge lands have attempted from the outset to suggest that they are somehow critical to the development of the block, inventing issues that are clearly frivolous and are focussed on unreasonably inflating the value of their site. Firstly, at 7.5 metres, their property cannot be developed for anything other than a podium. They suggest that our client ought to use the 407 Yonge lands for access, when no agreement was ever reached to acquire

same. Furthermore, their suggestion makes no sense given that City Staff have already “signed off” on our client’s 0 parking solution, which was expected given the location within a short walking distance to two subway stops. 407 Yonge suggests we need to access the rear of their site to accommodate cars that do not exist, which again, is nonsensical.

Getting back to one of the most important aspects of this development, our client approached Covenant House in advance of going “firm” on their acquisition, and from the outset, made it clear that arriving at a final design that would seek to benefit Covenant House was critical to any and all final design decisions. We are extremely pleased to advise that our client and Covenant House have reached a settlement whereby the approval of the design that is now before the City will achieve the critical goal of delivering to Covenant House, at no cost to Covenant House, 2 floors of residential units that would be connected to the podium within our client’s development. In addition, our client has agreed to secure, by way of an Official Plan Amendment, setback approvals that would ensure that if Covenant house ever seeks to develop their site, they are not prevented from doing so based upon the potential tower-to-tower setbacks which would be secured. Securing both residential units for this important non-profit group and protecting their future potential to develop their lands, in the event Covenant House chooses to embark upon a future complete and comprehensive zoning process, makes sense.

This is a development, which, in and of itself, warrants the City’s approval. The approval of the Gerrard Street and Yonge Street setbacks will facilitate a built form envelop that optimizes the residential density achieved on top of the subway at this significant transit node, while also delivering much needed housing to Covenant House. The Gerrard Street grade related design has been revised to include a covered walkway, with a podium design that is also being refined to include a significant two storey reveal that wraps around Yonge Street to ensure the retention of the existing listed heritage building located at 405 Yonge Street. It is interesting that the “holdout” at 407 Yonge Street raises issues about the treatment along Yonge Street, ignoring the fact that in this particular area of the Yonge Street corridor not only does our client’s design respect the heritage property on Site, but it is also an area that is not subject to the policies north and south that call for different tower setbacks along Yonge Street. As a result, while no amendment to those policies is required (given they do not apply to the Site), if a precedent is set, we would hope that the precedent referenced when anyone considers this proposal is one that would replicate the delivery of non-profit housing to a group as deserving as Covenant House.

The remainder of the design, which has been elegantly rendered by our client’s award-winning architect (Mr. Stephen Teeple), creates a well-designed base, an elegant podium form, a significant reveal to distinguish the podium from the tower above, at a height that creates no adverse shadow impacts whatsoever. Again, while this Site is not subject to the policies that speak to a heightened shadow protection on Allan Gardens, our client’s architect provided a sculpted upper portion of the building that results in less than 45 minutes of a sliver of a shadow late in the day in the relevant March/September timeline. The 75-storey height is one that is not only similar and/or lower than other approved heights in the area, it is a design that creates no adverse planning impacts whatsoever, and as such, is worthy of the City’s approval.

In summary, this is a situation where our client was asked to consult with the owners of the block, where they were asked to consider the tower development to the north and the relationship to the Covenant House lands to the east, all of which have resulted in a world-class design which delivers a world-class response to the need to deliver housing for a group as important as Covenant House and furthers the Mayor's Housing Action Plan which was endorsed by City Council in December 2022.

Thank you for your consideration of our request to urge City Staff and Council to support the settlement we have reached with Covenant House.

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

Yours very truly,

A handwritten signature in black ink, appearing to read 'Adam J. Brown', with a stylized, cursive style.

Adam J. Brown