

September 9, 2024

Our File No.: 200704

**DELIVERED BY COURIER AND E-MAIL**

City Clerk's Office  
Toronto City Hall  
100 Queen Street West  
13<sup>th</sup> Floor, West Tower  
Toronto, ON M5H 2N2

**Attention: John Elvidge, City Clerk**

Committee of Adjustment – Toronto and East York District  
100 Queen Street West  
Toronto, Ontario  
M5H 2N2

**Attention: Sabrina Salatino, Manager and Deputy Secretary-Treasurer**

Dear Sirs/Mesdames:

**Re: Notice of Appeal of Site Plan Control Application pursuant to Subsection 114(15) of the *City of Toronto Act*, 2006**  
**Notice of Appeal of Variance Decision pursuant to Subsection 45(12) of the *Planning Act*, 1990**  
**3180 - 3202 Yonge Street, City of Toronto**  
**Application Nos.: 21 162972 NNY 08 SA and 24 164447 NNY 08 MV**

We are counsel to NYX Yonge LP (the “**Applicant**”), the owner of the property known municipally as 3180 - 3202 Yonge Street in the City of Toronto (the “**Property**”). We are writing on behalf of our client to file two appeals in respect of the Property:

1. We are appealing the site plan control application (Application No. 21 162972 NNY 08 SA) (the “**Site Plan Application**”) to the Ontario Land Tribunal (the “**OLT**”) pursuant to subsection 114(15) of the *City of Toronto Act*, 2006, for the City of Toronto's (the “**City**”) failure to make a decision within the prescribed timeframe (the “**Site Plan Appeal**”); and,
2. We are appealing the decision of the Committee of Adjustment (the “**Committee**”) on August 29, 2024 regarding the minor variance application (Application 24 164447 NNY

08 MV) (the “**MV Application**”), to the OLT pursuant to subsection 45(12) of the *Planning Act* (the “**MV Appeal**”).

Appended to this letter is the appeal form and appeal fee with respect to the Site Plan Appeal. A similar appeal package is being sent to the Committee with respect to the MV Appeal. Under section 115 of the *City of Toronto Act, 2006*, both the Site Plan Appeal and the MV Appeal fall within the jurisdiction of the OLT. We ask that both appeals be forwarded to the OLT as soon as possible to allow for the scheduling of a hearing.

### **Background and Proposal**

As background, the Applicant initially filed a zoning by-law amendment application for the Property in April 2020 (the “**ZBA Application**”). The ZBA Application sought greater height and density along Yonge Street to introduce housing near transit, with the Lawrence Subway Station located within 20 metres of the Property.

At the July 19, 2022 City Council meeting, City Council endorsed a settlement offer of the Applicant’s appeal of the ZBA Application. The OLT subsequently approved the ZBA Application with its final Order issued on October 7, 2022, through the enactment of Site Specific Zoning By-law 1248-2022. Site Specific Zoning By-law 1248-2022 permits an 11 storey mixed use building, with 104 residential units and a minimum of 400 square metres of at-grade non-residential uses.

Since the approval of the ZBA Application almost two years ago, a number of circumstances have changed, and a number of Provincial and City housing policy initiatives have been approved, which resulted in a minor variance application to the Committee to principally increase the gross floor area and height of the building from 11-storeys to 15-storeys, along with other variances to other performance standards, that, if approved, would result in the delivery of an additional 49 residential units, with 67% of total units comprising two and three-bedroom units to accommodate families close to high order transit.

Among other considerations, the MV Application is responsive to:

- Housing initiatives of the Province and the City, including the 2023 City Council approval of the City’s Housing Pledge, aimed at increase supply of housing by 285,000 units by 2031; and
- City Council approval of OPA 570, adopted by City Council in July 2022, bringing the Property into a Protected Major Transit Station Area (“**PMTSA**”) (OPA 570 is currently with the Minister of Municipal Affairs and Housing for approval).

Given the existing and developing policy context for the Property and the local context which includes the existing Lawrence Subway Station entrance being steps from the Property, the MV Application warrants approval for moderately more height (5 more floors), scale and increased units, when compared to the existing site specific permissions in Zoning By-law 1248-2022. Of note, the Property is located along an *Avenue*, is designated *Mixed Use* under the City’s Official

Plan, and located within OPA 570 and in particular the Lawrence PMTSA, and has been carefully designed to provide appropriate transition and create a compatible relation with adjacent properties designated *Neighbourhoods*.

### **The MV Appeal and Site Plan Appeal**

On August 29, 2024, the Committee heard the MV Application. Despite strong reasons to approve the MV Application, the MV Application was refused by the Committee. Our client submits that the MV Application should have been approved as it meets the four tests under Section 45(1) of the *Planning Act*, is consistent with the Provincial Policy Statement (2020), conforms to the Growth Plan for the Greater Golden Horseshoe (2019), has regard for matters of provincial interest set out under Section 2 of the *Planning Act*, and represents good planning. The MV Application will introduce additional housing immediately adjacent to Lawrence Subway Station, designed to transition appropriately to adjacent *Neighbourhoods*, on Property located on an Avenue, designated Mixed Use within a PMTSA. Accordingly, our client is appealing the Committee's decision to refuse the MV Application for further consideration.

In light of the MV Appeal, the Applicant is also appealing the Site Plan Application for the Property, first submitted to the City in June 2021, to the OLT pursuant to subsection 114(15) of the *City of Toronto Act*, 2006, for a failure for the City to make a decision on the Site Plan Application within the statutory timeframe. The OLT hearing the MV Application and the Site Plan Application together will better ensure that the applications are addressed more efficient and equitable manner.

### **Appeal Materials**

In conjunction with this appeal, please find attached the following:

1. A copy of the completed OLT Appellant Form (A1) for the Site Plan Appeal; and
2. A cheque for \$1,100.00 made payable to the Minister of Finance representing the Site Plan Appeal fee.

If any further information is required, please contact the undersigned.

Yours truly,

**GOODMANS LLP**



David Bronskill  
DJB/

Encl.



## Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

Tel: 416-212-6349 | 1-866-448-2248

Web Site: [olt.gov.on.ca](http://olt.gov.on.ca)

## Appeal Form (A1)

<b>Municipal/Approval Authority Date Stamp</b>	<b>Receipt Number</b> (OLT Office Use Only)	<b>Date Stamp – Appeal Received by OLT</b>
	<b>OLT Case Number</b> (OLT Office Use Only)	

You may be able to submit your appeal online using our new e-file service if:

- the approval authority you are submitting your appeal to is registered on e-file; or
- you are appealing directly to the Ontario Land Tribunal

Please visit our [e-file page](#) to learn more.

Please complete this Appeal Form by following the instructions in the companion document titled “Appeal Form Instructions”. Please read **both** documents carefully to ensure you submit the correct information and complete this form correctly.

There are guides available for review on the Tribunal’s [website](#) for different appeal types to assist you in filing an appeal.

**Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal) prior to completing this Appeal Form. Relevant portions of the applicable legislation should also be reviewed before submitting this form. Your appeal must be filed with the appropriate authority within the appeal period as set out in the notice of the decision and applicable legislation.**

### Section 1 – Contact Information (Mandatory)

Applicant/Appellant/Objector/Claimant Information	
Last Name:	First Name:
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):	
NYX Yonge LP Inc.	
Email Address:	

Daytime Telephone Number:			Alternative Telephone Number:		
416.548.5590	ext.	1006	647.669.5254		
Mailing Address					
Unit Number:	Street Number:	Street Name:		P.O. Box:	
400	1131A	Leslie Street			
City/Town:	Province:	Country:	Postal Code:		
Toronto	ON		M3C 3L8		
<input checked="" type="checkbox"/> I hereby authorize the named company and/or individual(s) to represent me					
Last Name:			First Name:		
Bronskill			David		
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):					
Goodmans LLP					
Email Address:					
dbronskill@goodmans.ca					
Daytime Telephone Number:			Alternative Telephone Number:		
416.597.4299	ext.				
Mailing Address					
Unit Number:	Street Number:	Street Name:		P.O. Box:	
3400	333	Bay Street			
City/Town:	Province:	Country:	Postal Code:		
Toronto	ON		M5H 2S7		
<b>Note:</b> If your representative is not licensed under the <i>Law Society Act</i> , please confirm that they have your written authorization, as required by the <i>OLT Rules of Practice and Procedure</i> , to act on your behalf and that they are also exempt under the Law Society's by-laws to provide legal services. Please confirm this by checking the box below.					
<input type="checkbox"/> I certify that I understand that my representative is not licensed under the <i>Law Society Act</i> and I have provided my written authorization to my representative to act on my behalf with respect to this matter. I understand that my representative may be asked to produce this authorization at any time along with confirmation of their exemption under the Law Society's by-laws to provide legal services.					

Location Information	
Are you the current owner of the subject property? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Address and/or Legal Description of property subject to the appeal:	
3180-3182 Yonge Street	
Municipality:	
Toronto	
Upper Tier (Example: county, district, region):	
Language Requirements	
Do you require services in French? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

To file an appeal, please complete the section below. Complete one line for each appeal type			
Subject of Appeal		Type of Appeal (Act/Legislation Name)	Reference (Section Number)
Example	Minor Variance	<i>Planning Act</i>	45(12)
1	Site Plan Control Application	<i>City of Toronto Act, 2006</i>	114(15)
2			
3			
4			
5			

## Section 2 – Appeal Type (Mandatory)

Please select the applicable type of matter		
Select	Legislation associated with your matter	Complete Only the Section(s) Below
<input checked="" type="checkbox"/>	Appeal of <i>Planning Act</i> matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances	3A
<input type="checkbox"/>	Appeal of <i>Development Charges Act</i> , <i>Education Act</i> , <i>Aggregate Resources Act</i> , <i>Municipal Act</i> matters	3A
<input type="checkbox"/>	Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A
<input type="checkbox"/>	Appeal of <i>Planning Act</i> (subsections 33(4), 33(10), 33(15), 36(3)), <i>Municipal Act</i> (subsection 223(4)), <i>City of Toronto Act</i> (subsection 129(4)) and <i>Ontario Heritage Act</i> (subsections 34.1(1), 42(6)) matters	3A & 3B

<input type="checkbox"/>	Appeal of <i>Clean Water Act, Environmental Protection Act, Nutrient Management Act, Ontario Water Resources Act, Pesticides Act, Resource Recovery and Circular Economy Act, Safe Drinking Water Act, Toxics Reduction Act, and Waste Diversion Transition Act</i> matters	4A
<input type="checkbox"/>	Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i>	4B
<input type="checkbox"/>	Appeal under the <i>Niagara Escarpment Planning and Development Act (NEPDA)</i>	5
<input type="checkbox"/>	Appeal of <i>Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act</i> matters	6
<input type="checkbox"/>	Legislation not listed above	Contact OLT before filing your appeal

### Section 3A – Planning Matters

#### Appeal Reasons and Specific Information

Number of new residential units proposed:

Municipal Reference Number(s):

21 162972 NNY 08 SA

List the reasons for your appeal:

Please see attached cover letter.

Has a public meeting been held by the municipality? ☒ Yes ☐ No

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you will rely on one or more of the following grounds:

A: A decision of a Council or Approval Authority is:

☐ Inconsistent with the Provincial Policy Statement issued under subsection 3(1) of the *Planning Act*

- |  |
|--|
| <input type="checkbox"/> Fails to conform with or conflicts with a provincial plan |
| <input type="checkbox"/> Fails to conform with an applicable Official Plan         |

**And**

B: For a non-decision or decision to refuse by council:

- |   |
|---|
| <input checked="" type="checkbox"/> Consistency with the provincial policy statement, issued under subsection 3(1) of the <i>Planning Act</i> |
| <input checked="" type="checkbox"/> Conformity with a provincial plan   |
| <input checked="" type="checkbox"/> Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan                |

If it is your intention to argue one or more of the above grounds, please explain your reasons:

Did you make your opinions regarding this matter known to council?

- |  |
|--|
| <input type="checkbox"/> Oral submissions at a public meeting of council |
| <input type="checkbox"/> Written submissions to council                  |
| <input checked="" type="checkbox"/> Not applicable                       |

Are there other appeals not yet filed with the Municipality?

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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Are there other matters related to this appeal? (For example: A consent application connected to a variance application).
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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If yes, please provide the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the related matters:
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24 164447 NNY 08 MV – Minor Variance appeal
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## Section 3B – Other Planning Matters

### Appeal Specific Information (Continued)

Date application submitted to municipality if known (yyyy/mm/dd):



Date municipality deemed the application complete if known (yyyy/mm/dd):
Please briefly explain the proposal and describe the lands under appeal:
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <a href="#">Section 3B Checklist(s)</a> located <a href="#">here</a> and submit all documents listed.

## Section 4A – Appeals under Environmental Legislation

Appeal Specific Information
Outline the grounds for the appeal and the relief requested:
Reference Number of the decision under appeal:
Portions of the decision in dispute:
Date of receipt of Decision or Director's Order (yyyy/mm/dd):
Applying for Stay? <input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, outline the reasons for requesting a stay:

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 4A Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

## Section 4B – Environmental Application for Leave to Appeal

Are you filing an Application for Leave to Appeal under the *Environmental Bill of Rights, 1993*? ☐ Yes ☐ No

Identify the portions of the instrument you are seeking to appeal:

Identify the grounds you are relying on for leave to appeal. Your grounds should include reasons why there is good reason to believe that no reasonable person, having regard to the relevant law and to any government policies developed to guide decisions of that kind could have made the decision; and why the decision could result in significant harm to the environment:

Outline the relief requested:

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 4B Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

**Section 5 – Appeal regarding Development Permit Application under the *Niagara Escarpment Planning and Development Act***

Development Permit Application File No:
Address or legal description of the subject property:
Reasons for Appeal: Outline the nature and reasons for your appeal. Specific planning, environmental and/or other reasons are required. (The Niagara Escarpment Plan is available on the Niagara Escarpment Commission's website ( <a href="http://www.escarpment.org">www.escarpment.org</a> ))

**Section 6 – Mining Claim and Conservation Matters**

Appeal Specific Information
List the subject Mining Claim Number(s) (for unpatented mining claims) and accompanying Townships, Areas and Mining Division(s) where mining claims are situated. List all "Filed Only" Mining Claims, if appropriate: (This is to be completed for <i>Mining Act</i> appeals only.)
List the Parcel and the Property Identifier Numbers (PIN), if rents or taxes apply to mining lands, if appropriate (mining claims only):
Provide the date of the Decision of the Conservation Authority or the Provincial Mining Recorder, as appropriate:
Provide a brief outline of the reasons for your application/appeal/review. If other lands/owners are affected, please include that information in the outline being provided below:

--

Conservation Authority:			
Contact Person:			
Email Address:			
Daytime Telephone Number:		Alternative Telephone Number:	
	ext.		
Mailing Address or statement of last known address/general area they were living and name of local newspaper if address is not available			
Unit Number:	Street Number:	Street Name:	P.O. Box:
City/Town:	Province:	Country:	Postal Code:
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <a href="#">Section 6 Checklist(s)</a> located <a href="#">here</a> and submit all documents listed on the checklist.			

## Section 7 – Filing Fee

Required Fee			
Please see the attached link to view the <a href="#">OLT Fee Chart</a> .			
Total Fee Submitted: \$ 1,100			
Payment Method	<input type="checkbox"/>	Certified Cheque	<input type="checkbox"/>
	<input type="checkbox"/>	Credit Card	
		Money Order	<input checked="" type="checkbox"/>
		Lawyer's general or trust account cheque	
If you wish to pay the appeal fee(s) by credit card, please check the box above and OLT staff will contact you by telephone to complete the payment process upon receipt of the appeal form. <b>DO NOT INCLUDE YOUR CREDIT CARD INFORMATION ON THIS FORM. YOU WILL BE CONTACTED TO COMPLETE YOUR PAYMENT OVER THE PHONE.</b>			

If a request for a fee reduction is being requested, please pay the minimum filing fee for each appeal and complete/submit the [Fee Reduction request form](#).

☐ Request for Fee Reduction form is attached (if applicable – see Appeal Form Guide for more information)

## Section 8 – Declaration (Mandatory)

I solemnly declare that all the statements and the information provided, as well as any supporting documents, are true, correct and complete.

By signing this appeal form below, I consent to the collection of my personal information.

David Bronskill		2024/09/09

Personal information or documentation requested on this form is collected under the authority of the *Ontario Land Tribunal Act* and the legislation under which the proceeding is commenced. All information collected is included in the Ontario Land Tribunal (OLT) case file and the public record in this proceeding. In accordance with the *Freedom of Information and Protection of Privacy Act* and section 9 of the *Statutory Powers Procedure Act*, all information collected is available to the public subject to limited exceptions.

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator at [OLT.Coordinator@ontario.ca](mailto:OLT.Coordinator@ontario.ca) or toll free at 1-866-448-2248 as soon as possible.

## Section 9 – Filing Checklists (Mandatory)

### Filing/Submitting your form and documentation

You must file your Appeal Form with the appropriate authority(s) by the filing deadline.

If the completed Section is:	Refer to the relevant checklist and submit all documents listed on the checklist when filing your Appeal Form.
Section 3B	Review the Section 3B Checklist(s) and attach all listed documents.
Section 4A	Review the Section 4A Checklist(s) and attach all listed documents.
Section 4B	Review the Section 4B Checklist(s) and attach all listed documents.

If the completed Section is:	You must file with the following:
Section 3A	Municipality or the Approval Authority/School Board

	<p>*If you are filing under the <i>Ontario Heritage Act</i>, including under <b>s. 34.1(1)</b>, please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal <b><u>in addition</u></b> to the Municipality or Approval Authority.</p>	
Section 3A & 3B or Section 4A or Section 4B or Section 6	Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5	Phone: 416-212-6349   1-866-448-2248 Website: <a href="http://www.olt.gov.on.ca">www.olt.gov.on.ca</a>
Section 5	<p><b>For the Areas of:</b></p> <p>Dufferin County (Mono)            Region of Halton            Region of Peel            Region of Niagara            City of Hamilton</p> <p><b>File with:</b></p> <p>NIAGARA ESCARPMENT COMMISSION            232 Guelph Street, 3<sup>rd</sup> Floor            Georgetown, ON L7G 4B1</p> <p>Phone: 905-877-5191            Fax: 905-873-7452            Website: <a href="http://www.escarpment.org">www.escarpment.org</a>            Email: <a href="mailto:necgeorgetown@ontario.ca">necgeorgetown@ontario.ca</a></p>	<p><b>For the Areas of:</b></p> <p>Bruce County            Grey County            Simcoe County            Dufferin County (Mulmur, Melancthon)</p> <p><b>File with:</b></p> <p>NIAGARA ESCARPMENT COMMISSION            1450 7<sup>th</sup> Avenue            Owen Sound, ON N4K 2Z1</p> <p>Phone: 519-371-1001            Fax: 519-371-1009            Website: <a href="http://www.escarpment.org">www.escarpment.org</a>            Email: <a href="mailto:necowensound@ontario.ca">necowensound@ontario.ca</a></p>

**NOTE:** Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal).

**NOTE:** Relevant portions of the applicable legislation should be reviewed before submitting this form. Please ensure that a copy of this Appeal Form is served in accordance with the requirements of the applicable legislation.



GOODMANS LLP

26573

TD Canadian General

Cheque:

286934

Date: 09/05/2024

Payee:

TMINI-1

MINISTER OF FINANCE

Total:

1,100.00

Inv Date	Invoice #	V#	Description	Distribution	Amount	Payment
09/05/24	2024-09-05-01	699762		Matter 200704	1,100.00	1,100.00

Printed in Canada

THIS CHEQUE CONTAINS SECURITY FEATURES. SEE REVERSE • CE CHÈQUE COMPORTE DES CARACTÉRISTIQUES DE SÉCURITÉ. VOIR À L'ENDOS.

GOODMANS LLP

3400 - 333 Bay Street, Toronto ON M5H 2S7

TD CANADA TRUST

394 Bay Street  
Toronto, ON M5H 2Y3  
Transit: 12162-004

Cheque

286934

Date

09-05-2024

MMDDYYYY

PAY ONE THOUSAND ONE HUNDRED AND 00/100 DOLLAR(S)

\$ 1,100.00

TO THE  
ORDER  
OF

MINISTER OF FINANCE

GOODMANS LLP  
TD Canadian General

PER:

PER:

This cheque is VOID after 180 days



286934 09612004

26573