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Via Email and Courier

Our File No.: 220862

Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON
M5G 1E5

Attention: Michael Kraljevic, Chair

Dear Sirs/Mesdames:

**Re: Request for Review – Section 23 of the *Ontario Land Tribunal Act*
Decision and Interim of K. Smith and P. Tomilin, issued August 11, 2023
Lead Case No. OLT-22-002710**

We are solicitors for Markee Developments, who are acting as agent for Tyndale University in respect of the property known municipally in the City of Toronto (the “**City**”) as 3377 Bayview Avenue (the “**Property**”). We are writing on behalf of our client to request a review of the Decision and Interim Order of the Tribunal issued August 11, 2023 (the “**Decision**”) to enable implementation of a revised proposal for the Property.

This review request is being filed pursuant to Section 23 of the *Ontario Land Tribunal Act, 2001*, which authorizes the Tribunal to review, rescind or vary any order or decision made by it in accordance with the rules, as well as Rules 24 and 25 of the Ontario Land Tribunal Rules of Practice and Procedure (the “**Tribunal Rules**”).

The City of Toronto is the only other party to the above-noted matter and is copied on this review request. In the event that the Tribunal decides to proceed with this review request and consider its merits, we would ask that the City be provided with an opportunity to provide a response.

Background to Interim Approval

The Property is located on the east side of Bayview Avenue, generally south of Garnier Court and north of Bowan Court. The total site area of the irregularly-shaped Property is approximately 22.8 hectares with frontage on Bayview Avenue and Garnier Court. It is also located within the Toronto and Region Conservation Authority regulated area with the western portion of the Property below the top-of-bank associated with the German Mills Creek.



The Property is currently occupied by Tyndale University, with the existing buildings located in the central portion of the Property and landscaped open space above and below the above-noted top-of-bank. The Property is currently underutilized with opportunity for compatible infill development of a property along an arterial road within the built-up area well-served by existing and planned infrastructure.

Our client was the applicant/appellant in respect of official plan amendment and rezoning applications (the “**Applications**”) that were appealed to the Tribunal (the “**Appeals**”). The City and our client reached a settlement in respect of the Appeals. The settlement presented to the Tribunal was a redevelopment of the Property with twelve (12) new residential buildings in three (3) phases comprising 1,510 residential units, a new public road, two (2) public parks and a privately-owned publicly accessible open space. The majority of the buildings are in a mid-rise form, ranging in height from six (6) to eight (8) storeys, with the exception of two taller buildings with heights of fifteen (15) storeys and twenty-four (24) storeys.

In the Decision, the Tribunal endorsed the settlement between our client and the City and accepted the uncontested planning evidence and opinions of our client’s land use planner. Page 26 of the Decision set out the interim order of the Tribunal that:

- the Appeals were allowed, in part, on an interim basis; and,
- the Tribunal’s Final Order was withheld pending written confirmation from the City Solicitor that certain pre-requisite matters had been satisfied.

The Tribunal remained seized of the Appeals for the purposes of reviewing and approving the final planning instruments and the issuance of the Final Order.

Since issuance of the Decision, our client has been working on potential revisions to the settlement (the “**Revised Proposal**”) as part of detailed design, which are set out below and described in paragraph 46 of the accompanying affidavit of Emma West. In addition to the detailed design process, the Revised Proposal also responds to specific funding criteria for applications to Canada Mortgage and Housing Corporation. However, the Revised Proposal remains consistent with the settlement presented to the Tribunal and endorsed in the Decision. In particular, as confirmed in the accompanying affidavit of Emma West, the Revised Proposal still has appropriate regard for matters of Provincial Interest in Section 2 of the *Planning Act*, is consistent with the Provincial Policy Statement (2024), conforms with the general intent of the City of Toronto Official Plan and has appropriate regard for applicable City guidelines.

Authority of Tribunal

Pursuant to Section 23 of the *Ontario Land Tribunal Act, 2021*, the Tribunal has broad statutory powers to “review, rescind or vary any order or decision made by it in accordance with the rules”. Further, Rule 24 of the Tribunal Rules enables corrections to any decision or order at any time. If



the Tribunal finds that any such request is for a substantive change in the decision or order, the Tribunal shall process the review request under Rule 25. We submit that the Revised Proposal would represent evidence and/or information not available at the time of the hearing pursuant to Rule 25.7(e) of the Tribunal Rules.

Although the Tribunal remains seized of the Appeals, this review request is being filed out of an abundance of caution to ensure an appropriate opportunity for both the City and the Tribunal to consider the Revised Proposal. We submit this approach is consistent with Rule 1.3 of the Tribunal Rules to ensure the best opportunity for a fair, just, expeditious and cost-effective resolution of the Appeals.

We understand that the Tribunal has previously exercised this authority in a similar fashion.¹ In a decision issued on June 13, 2025, the Tribunal granted a request for a reconsideration of an interim decision as a result of new information and amended the previously issued interim decision to add a condition that a Section 37 agreement be entered into prior to the issuance of a final order. In its decision, the Chair determined that the reconsideration and amendment was “in the public interest, represents good planning, and would be the most fair, just and expeditious manner” to address the issue. The Tribunal similarly varied an earlier interim decision to replace and instrument previously approved in principle with an updated instrument filed on consent of the parties.²

Relief Requested

We respectfully request that the Tribunal grant this review request and amend the Decision to approve the Revised Proposal, in principle, as part of allowing the Appeals, in part, while continuing to withhold the Final Order pending written confirmation from the City solicitor that the pre-requisite matters listed in the Decision have been satisfied.

As noted above, we would appreciate if the Tribunal could first confirm that it is prepared to proceed with this review request and consider its merits, at which time the City could provide its response and confirm its position in respect of this review request.

Given the time sensitivity of this matter, our client greatly appreciates any ability of the Tribunal to expedite this review request.

Enclosures

Please find enclosed the affidavit of Emma West, sworn November 28, 2025, which attaches the revised architectural plans for the Revised Proposal. The hard copy being couriered to the

¹ *Menkes 4800 Yonge Street Inc. v. Toronto (City)*, 2025 CarswellOnt 10193.

² *8185 Bridgeport Inc. v. Waterloo (City)*, 2025 CarswellOnt 3716.



Tribunal's office on December 1, 2025, will include a solicitor's cheque in the amount of \$400.00, made payable to the Minister of Finance, in respect of the filing fee for this review request.

Yours truly,

Goodmans LLP

A handwritten signature in blue ink, appearing to read "D. Bronskill", written in a cursive style.

David Bronskill
DJB/
Encl.

1389-8418-4602