

# PUBLIC ATTACHMENT 1

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May 5th, 2026

## VIA EMAIL AND COURIER

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

Attention: OLT Registrar / Jordan Viray, Case Coordinator

Dear Chair Kraljevic:

**RE: Notice of Request for Review  
OLT Case No. 22-004660  
Interim Decision of Member J. Innis, Issued on July 18, 2024  
Pursuant to Section 23 of the Ontario Land Tribunal Act & Rule 25 of the  
Ontario Land Tribunal Rules of Practice and Procedure**

We are the lawyers for Berkeley Carlyle (Junction) Inc. ("**Carlyle**"), being the owner of the property municipally known as 6 Lloyd Avenue and 159, 181, 179, 177, 175, 171, 169, 167, 165, 163 and 161 Mulock Avenue and commonly referred to as 6 Lloyd Avenue (the "**Site**"). The Site is located to the southeast of the intersection at St. Clair Avenue West and Keele Street in the City of Toronto (the "**City**").

### **THE REVIEW REQUEST**

Pursuant to Section 23 of the *Ontario Land Tribunal Act* and Rule 25 of the Tribunal's Rules of Practice and Procedure, Carlyle is making a request that the Chair exercise his discretion and grant a review of the Tribunal's Memorandum of Oral Decision and Interim Order dated July 18, 2024 (the "**2024 Decision**") in respect of OLT Case No. 22-004660 (the "**Review Request**").

This Review Request is supported by the opinion evidence of Mr. Michael Bisset, land use planner for Carlyle, sworn on May 5, 2026 and enclosed herewith (the "**2026 Bisset Affidavit**"), which includes, and provides land use opinion evidence in support of a modified draft zoning by-law amendment contained in Exhibit "M" thereto (the "**2026 Modified ZBA**").

The Review Request seeks the following relief:

1. An extension to the 30-day timeline to make the Review Request in accordance with Rule 25.4(c).

2. That the 2024 Decision be varied by replacing the draft zoning by-law amendment included as Attachment “1” therein (the “**2024 Draft ZBA**”) with the 2026 Modified ZBA in accordance with Rule 25.6(c)(ii).
3. In the alternative to No. 2, an order for a rehearing of the proceeding in accordance with Rule 25.6(c)(i).

## **KEY FACTS SUPPORTING THE REVIEW REQUEST**

### The OPA Application and OPA 231 Appeal

By way of background, the Site was previously designated *Employment Areas* under the City of Toronto Official Plan. On December 16, 2013, the previous owner of the Site submitted an application for an Official Plan Amendment to permit a mixed-use development on the Site, including residential uses (the “**OPA Application**”).

On December 16-18, 2013, City Council adopted Official Plan Amendment 231 which proposed comprehensive modifications to the *Employment Areas* policies in the Official Plan following a municipal comprehensive review.

As adopted and subsequently approved by the Minister of Municipal Affairs and Housing on July 9, 2014, OPA 231 redesignated the northern two-thirds of the Site from *Employment Areas* to *Mixed Use Areas*, while redesignating the southern portion of the Site to *General Employment Areas*. OPA 231 also introduced Site and Area Specific Policy 447 (“**SASP 447**”) to provide specific policies for residential and commercial development on the Site.

On July 29, 2014, the previous owner of the Site appealed OPA 231 to the Ontario Municipal Board (the “**Board**”), as it was then (the “**OPA 231 Appeal**”).

As a result of the private (owner filed) OPA Application and the City-initiated OPA 231 (which adopted SASP 447), there were two streams of official plan amendments in process for the Site.

Carlyle acquired the Site in 2017 and assumed all rights and interests in the Site, including the OPA Application and the OPA 231 Appeal.

On March 29, 2018, Carlyle appealed the OPA Application to the Board on the basis of City Council’s refusal or neglect to make a decision within the statutory timeframe (the “**OPA Appeal**”). This appeal was effectively adjourned *sine die* on consent of Carlyle and the City.

On March 4, 2021, Carlyle and the City presented a settlement of the OPA 231 Appeal to the Local Planning Appeal Tribunal, as it was then. On April 8, 2021 the Tribunal issued an order approving the settlement, which redesignated the majority of the Site to *Mixed Use Areas*, and an area at the southwest corner of the Site to *Parks and Open Spaces* (the “**OPA 231 Settlement**”). In addition, the settlement included revisions to SASP 447. As approved by the Tribunal, SASP

447 limited residential uses to the northern two-thirds of the Site and required a minimum of 4000 square metres of new commercial/office space, inclusive of a daycare, to be developed on the southern one-third of the Site along with a new public park.

### The ZBA Application

In 2019, while the appeals of the OPA Application and OPA 231 were ongoing, Carlyle filed an application for a zoning by-law amendment (City File No.19 239452 WET 05 OZ) to permit a mixed-use development consisting of two residential buildings, an office building and a large public park on the Site (the “**ZBA Application**”).

On November 4, 2022, Carlyle appealed the ZBA Application to the Tribunal on the basis of City Council’s refusal or neglect to make a decision within the statutory timeline (the “**ZBA Appeal**”) (OLT Case. No. 22-004660). The ZBA Appeal was filed after the OPA 231 Settlement was reached.

On April 5, 2024, Carlyle filed a with-prejudice offer to settle the ZBA Appeal (the “**ZBA Settlement Offer**”), which was accepted by City Council at its meeting on April 17-18, 2024. As accepted, the ZBA Settlement Offer contemplated the redevelopment of the Site with the following:

- a. two residential buildings with heights of 35 and 28 storeys on the northern two-thirds of the Site; and,
- b. an 8-storey office building, which includes a private daycare, and an 880 square metre new public park on the southern one-third of the Site.

The provision and location of residential and commercial uses were developed in strict conformity with the policy requirements in SASP 447, which in turn formed the basis for certain provisions in the 2024 Draft ZBA.

A one-day settlement hearing for the ZBA Appeal was convened on April 22, 2024 (the “**April 2024 Hearing**”). On July 18, 2024, the Tribunal issued the 2024 Decision allowing the ZBA Appeal in part, and approving the draft ZBA filed at the April 2024 Hearing in principle. The Tribunal withheld its final order until such time as the Preconditions are satisfied. The Preconditions are set out at paragraph 8 of the 2024 Decision and as of the date of this Affidavit, remain outstanding.

### Changes to Market Realities Related to New Office Space

To respond to the significant rise in office vacancies coming out of the COVID-19 Pandemic and to address development pressures on office buildings, the City undertook an “Office Space Needs Study” in 2024 which concluded that the development of new standalone office space is currently infeasible in Toronto, even under ideal development conditions (e.g., for a AAA office building in the Financial District). The Office Space Needs Study also found that affordable ownership and

rental housing represent an ideal alternative replacement use relative to other office/commercial (non-residential) uses, which may require additional incentivization.

The Office Needs Study was undertaken, in part, on account of the ongoing appeal of the office replacement policy proposed under OPA 231. As adopted by the City and approved by the Minister, this policy would generally require an owner to replace 100% of existing office uses on a site in a redevelopment. This policy has remained under appeal since 2014.

Following completion of the Office Space Needs Study, the City endorsed policy directions to modify OPA 231, which included a revised office replacement policy that reduces office replacement from 100% to a minimum of 25% of existing office space which is intended to apply to key office use locations, such as the Downtown and Yonge & Eglinton Centres (the “**Key Centres**”) and no office replacement required in other areas of the City, except where otherwise stated in a secondary plan or site and area specific policy. Within the Key Centres, the 25% minimum office replacement may consist of other (non-office) commercial uses and a combination of affordable and/or supportive housing, or affordable/supportive housing on its own. (the “**Revised Office Policy Directions**”).

The Site is located in a peripheral location of the City, not within a Key Centre as delineated for the purpose of the Revised Office Policy Directions. In addition to the fact that the Site is currently vacant (does not contain any existing office uses), the Site would not be required to provide any replacement office/commercial uses given its location outside of a Key Centre.

#### Provincial Planning Statement 2024

By way of further background, on October 20, 2024, the *Provincial Planning Statement, 2024* (the “**PPS 2024**”) replaced the *Provincial Policy Statement 2020*, and the *Growth Plan for the Greater Golden Horseshoe 2019*. As of October 20, 2024, all decisions in respect of the exercise of any authority that affects a planning matter must be consistent with the PPS 2024.

As set out in the 2026 Bisset Affidavit, the PPS 2024 continues to advance policy directives for planning authorities to support the optimization of land use and infrastructure, and the importance of promoting new housing, including affordable housing.

#### Bill 185 and the Approval of OPA 537

Bill 185, the *Cutting Red Tape to Build More Homes Act, 2024*, was approved by the Province and received Royal Assent on June 6, 2024, which introduced a number of legislative changes to the *Planning Act* that are aimed at accelerating housing developments. Section 34 (1.1) is among the new legislative provisions introduced under Bill 185, which prohibits a zoning by-law from requiring the owner or occupant of land to provide and maintain parking facilities, other than

parking facilities for bicycles, on land that is not part of a highway and that is located within a Protected Major Transit Station Area (“**PMTSA**”), amongst other possible locations.

On August 15, 2025, the Minister of Municipal Affairs and Housing approved the Keele-St. Clair Secondary Plan (“**OPA 537**”), which was originally adopted by City Council on July 19-22, 2022. As approved, OPA 537 introduced SASP 630 which establishes the St. Clair-Old Weston PMTSA. The Site is within the St. Clair-Old Weston PMTSA boundary. As a result, the implementing zoning by-law amendment for the proposed development cannot, as a matter of law, require the provision and maintenance of parking facilities, other than bicycle parking facilities, on the Site.

### The Approved OPA

In light of the evolving policy framework and market realities associated with office space generally, Carlyle and City Staff worked collaboratively to modernize SASP 447 as it relates to the southern one-third of the Site (where office uses were required).

As noted and as further set out in the Affidavit of Ms. McWilliam dated January 26, 2026, which is included as Exhibit “K” to the Bissett Affidavit and further described below, the development of new office space is generally infeasible under current market conditions, let alone in peripheral locations in the City including the Site. Based on this recognition, it follows that the continued requirement for new commercial uses, particularly at the scale contemplated by SASP 447 as approved through the OPA 231 Settlement, would create sub-optimal policy requirements for new development on the Site, undermining current provincial policy.

On October 28, 2025, Carlyle submitted a with-prejudice offer to settle the outstanding OPA Appeal. City Council accepted that offer on November 12, 2025 and endorsed a modified OPA (the “**Approved OPA**”), which was subsequently approved by the Tribunal on February 23, 2026. A copy of the Tribunal’s decision approving the (now) Approved OPA is included as Exhibit J to the 2026 Bissett Affidavit.

The Approved OPA amended SASP 447 as follows:

1. Residential uses are now permitted throughout the Site (as opposed to only the northern two-thirds), save and except for the location of the new public park, which remains designated *Parks and Open Spaces*.
2. As an alternative to the minimum 3,500 square metres of commercial and/or office space, the owner may provide an area equal to 25% of this office requirement (875 square metres) for affordable housing, and the balance of available gross floor area in this location may be developed with market housing. The policy secures an affordability period of 99 years, a unit mix that reflects the market component of the development and requires that the provision of affordable housing be secured through one or more agreement(s) with the City.

3. A new daycare use having a minimum gross floor area of 500 square metres is still required, however it may be developed anywhere on the Site (except for the location of the new public park).
4. The commercial/office space or affordable housing alternative, and the daycare use, shall be developed prior to, or concurrently with, any residential development on the Site.

The Approved OPA aligns with the Revised Office Policy Directions despite the fact that no office space exists, nor existed on the Site, and that the Site is not located in an area where the OPA 231 Office Replacement Policy would generally apply.

The modifications to SASP 447 approved through the Approved OPA are now in full force and effect.

Importantly, the modifications to SASP 447 were developed to be consistent and conform with provincial and local policies, including the current PPS 2024. At the settlement hearing, the Tribunal accepted uncontroverted evidence which demonstrated the need to introduce land use permissions that provide an alternative to the previously required office space in light of the findings of the Office Space Needs Study, in order to support the optimization of land use and infrastructure and the desire to support the creation of a complete community as mandated by the PPS 2024 and the City Official Plan.

The Tribunal accepted the uncontroverted evidence provided by Ms. Hailey McWilliam, who was qualified to provide opinion evidence in the area of land use planning at the settlement hearing for the OPA Appeal, and ultimately found that the Approved OPA:

- a. *Makes efficient use of land with existing infrastructure and unlocks a greater mix of housing options in a manner consistent with the PPS 2024;*
- b. *Conforms to the City OP by contributing to a full range of housing;*
- c. *Equally conforms to population and employment target policies in a protected major transit station area in accordance with the Secondary Plan, and SASP 630;*
- d. *Is good planning in the public interest through achieving a flexible responsive approach to demand, maximizing housing instead of office replacement.*

#### Implementing the Approved OPA

This Review Request is being filed to replace the version of the 2024 Draft ZBA that was included as Attachment 1 to the 2024 Decision with the 2026 Modified ZBA included as Exhibit “M” to the 2026 Bissett Affidavit. The 2026 Modified ZBA implements the recently approved modifications to SASP 447 and the vehicular parking prohibitions in Section 34(1.1) of the *Planning Act*, as introduced through Bill 185.

A redline comparison of the 2024 Draft ZBA and the 2026 Modified ZBA is included as Exhibit “N” to the 2026 Bissett Affidavit (the “**Redline**”). As shown on the Redline, the substantive modifications are limited to:

1. permitting the alternative residential land uses where previously only commercial uses were permitted and required; and
2. deleting the requirement to provide onsite resident and visitor vehicular parking while introducing certain standards that would apply if the owner elects to provide vehicular parking.

No changes are sought to the building envelope as identified in the 2024 Draft ZBA.

Plans and drawings prepared by Raw Design Inc. dated September 18, 2025 illustrating the revisions to the 2024 Settlement Proposal are included as Exhibit L to the 2026 Bissett Affidavit (the “**Modified Proposal**”).

### **LEGISLATIVE AUTHORITY**

Section 23 of the *Ontario Land Tribunal Act, 2021* (the “**OLT Act**”) confers broad statutory authority on the Tribunal to “*review, rescind or vary any order or decision in accordance with the rules*”.

When exercising its powers pursuant to Section 23 of the OLT Act, the Tribunal is governed by Rule 25 of the Ontario Land Tribunal Rules of Practice and Procedure (the “**OLT Rules**”).

On February 17, 2026, a number of modifications were made to the OLT Rules, including to Rule 25 (the “**February 2026 Amendments**”).

Rule 25.3 requires that a party making a request for review to “*file notice of such request with the Chair within 30 days of the date of the Tribunal’s written decision and copy all supporting material to all other parties.*” However, Rule 25.4 (c) goes on to state that the Tribunal will not consider a request for review if...“*the request is not filed within 30 days of the date of the Tribunal’s written decision unless the Chair determines that there is a valid and well-founded reason to extend this timeline*” (emphasis added).

Rule 25.6 states that the Chair of the Tribunal may exercise their discretion in disposing of a Request for Review to:

- e. dismiss the request for review, in which case, the decision, approval or order remains in force and effect;
- f. order an in person, electronic or written motion for review before the Tribunal to consider the request and submissions as directed in Rule 25.5; or
- g. grant the request for review, in whole or in part, and
  - i. order a rehearing of the proceeding; or
  - ii. rescind or vary the decision, approval or order that is the subject of the request.

Rule 25.7 sets out a number of grounds whereby the Chair may exercise their discretion and grant a request, including where the request for review raises a convincing and compelling case that the Tribunal “(e) should consider evidence which was not available at the time of the hearing, but that is credible and could have affected the result”.

Rule 25.8 provides a further (standalone) authority for the Chair to grant a request for review as follows:

*In addition to Rule 25.7 The Chair may exercise their discretion and grant a request if the Chair is satisfied that the request for review raises a convincing and compelling case that the Tribunal should amend the planning instrument(s) of an earlier decision, approval or order where:*

- a. *The parties make a request on consent,*
- b. *The amendment(s) constitute good planning, and*
- c. *The amendment(s) are substantially in accordance with the original approval.*

## **REASONS AND LEGAL BASIS FOR THE REVIEW REQUEST**

The Review Request is being sought so that the zoning by-law amendment approved in principle in OLT Case No. 22-004660 will be consistent with the recently Approved OPA and compliant with the legislative changes to the *Planning Act* introduced through Bill 185 with respect to vehicular parking.

The legal basis for the Review Request is as follows:

1. In accordance with Rule 25.7(e):
  - a. As discussed under ‘Key Facts Supporting the Review Request’, there is new and credible evidence that was not available at the time of the April 2024 Hearing, nor at the time the 2024 Decision was issued, as follows:
    - i. The changes to market realities which make new office space generally unviable;
    - ii. The issuance of the PPS 2024 and repeal of the PPS 2020 and Growth Plan;
    - iii. Approval of Bill 185 and OPA 537 by the Province; and
    - iv. The Approved OPA, which was developed and recently approved by the Tribunal to ensure that the operative Official Plan framework will continue to support the optimization of land use and infrastructure and the creation of a complete community as mandated by the PPS 2024 and the City Official Plan.

- b. The new evidence could have affected the result achieved in the 2024 Decision, and in fact, in the present case, we submit that the new evidence would have affected the result achieved.
2. In accordance with Rule 25.8:
    - a. Based on the opinion evidence contained in the 2026 Bisset Affidavit, the Modified ZBA:
      - i. constitutes good land use planning; and
      - ii. it is substantially in accordance with the original approval and draft zoning by-law included as Attachment “1” of the 2024 Decision.
    - b. Subject to the comments below, the recent approval of the Approved OPA demonstrates that the City supports the substantive modifications that are being sought to permit the Modified Proposal.
  3. In accordance with Rule 25.4(c), there are valid and well-founded reasons to extend the 30 day timeline to make this Review Request. More specifically:
    1. The Review Request is being made expeditiously following the Tribunal’s decision in respect of the Approved OPA.
    2. The Review Request is precipitated by external factors beyond the control of the Applicant or the City.
    3. On account of these external factors, the substantive relief being sought through Review Request is necessary to ensure that the implementing zoning by-law approved in principle in the original 2024 Decision will continue to be consistent and conform with provincial and local policies requiring that new development support the optimization of land use and infrastructure and contribute to the creation of a complete community, as required by the PPS 2024 and the City Official Plan.

We have copied Mr. Gabe Szobel, legal counsel for the City of Toronto. As it relates to No. 2(b) above, we note that Mr. Szobel has advised that while the City supports the modified development proposal, he will be seeking formal instructions from City Council on whether Council consents to the Review Request at the upcoming meeting on May 20, 2026. That being said, we respectfully submit that the Review Request is not dependent on satisfying the criteria set out in Rule 25.8; rather, given the facts in the present case, the criteria set out in Rule 25.7(e) provide a standalone basis to grant the relief being sought.

**Judicial Review/Appeal to Court**

As required under Rule 25.3 (h), we hereby confirm that Carlyle is not filing an application for judicial review nor seeking an appeal to the Divisional Court.

**Materials**

Please find enclosed the following material supporting this Review Request:

1. Information to satisfy the requirements of Rule 25.3 (a) and (b), included as **Appendix “A”**.
2. Affidavit of Mr. Michael Bissett, sworn May 5, 2026, included as **Appendix “B”**
3. Our firm cheque in the amount of \$400.00 payable to the Minister of Finance, representing the Tribunal’s filing fee.

Should you require anything further to process this Review Request, please contact the undersigned and Rowan Barron ([rbarron@overlandllp.ca](mailto:rbarron@overlandllp.ca)).

Yours truly,  
**Overland LLP**



Per: Daniel Artenosi  
Partner

c. Gabe Szobel