

TORONTO
BY-LAW NUMBER

1988-0044

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BILL No. 46

No. 44-88

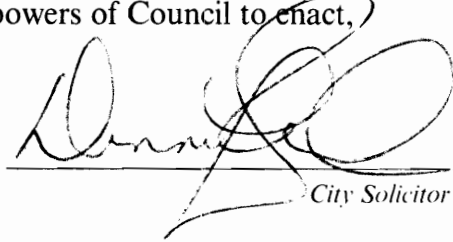
A By-law

To amend By-law No. 438-86 respecting
certain lands bounded by Yonge Street,
Front Street West, Bay Street and
Wellington Street West.

Passed DEC 14 1987 19 _____

City Clerk

Certified as to form and legality and as being
within the powers of Council to enact,



City Solicitor

SH

No. 44-88. A BY-LAW

To amend By-law No. 438-86 respecting certain lands bounded by Yonge Street, Front Street West, Bay Street and Wellington Street West.

(Passed December 14, 1987.)

WHEREAS Council, at its meeting held on the 14th day of December, 1987, adopted Clause 7 of Land Use Committee Report No. 2;

AND WHEREAS this By-law is passed in implementation of the City of Toronto Part II Official Plan for the Yonge, Front, Bay and Wellington Lands;

AND WHEREAS pursuant to Section 36 of the Planning Act, 1983 the Council of a municipality may in a by-law passed under Section 34 of the Planning Act, 1983 authorize increases in height and density of development beyond those otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services and matters as are set out in the by-law;

AND WHEREAS Subsection 36(3) of the Planning Act, 1983 provides that where an owner of land elects to provide facilities, services or matters in return for an increase in height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters;

AND WHEREAS the owners of the lands hereinafter referred to have elected to provide the facilities, services and matters as hereinafter set forth;

AND WHEREAS the increases in density and height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owners of such lands and The Corporation of the City of Toronto, hereinafter referred to as the "City";

AND WHEREAS the Council has required the owners of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted by this By-law;

NOW THEREFORE the Council of The Corporation of the City of Toronto enacts as follows:

1. By-law applies to the lands comprising Area "A", Area "B", Area "C" and Area "D" shown bounded by heavy lines on Map A attached hereto and forming part of this By-law and hereinafter collectively referred to as the "Yonge, Front, Bay and Wellington Lands".
2. Except as otherwise provided herein, the provisions of By-law 438-86, being "A By-law To regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall continue to apply to the lands to which this By-law applies.
3. Notwithstanding the definition of the term "lot" in Section 2, and Section 4(15) of the aforesaid By-law No. 438-86, for the purposes of this By-law the Yonge, Front, Bay and Wellington Lands shall be deemed to be one "lot" regardless of whether or not two or more buildings or structures are erected or to be erected on any part or parts thereof and regardless of any conveyances or easements made or granted after the date this By-law comes into force.
4. Notwithstanding the provisions of Section 2(1) defining the term "street-related retail and service uses", Section 4(2), Sections 8(3) Part I 1, 2, 3, 7, 11, 12 and 16, 8(3) Part II 5 and 8(3) Part XI 3 of the aforesaid By-law 438-86, as amended, and subject to Section 5 herein, the erection and use on the Yonge, Front, Bay and Wellington Lands of one or more buildings or structures which contain exclusively *non-residential gross floor area*, exclusively *dwelling units* or a combination of *non-residential gross floor area* and *dwelling units* is permitted, provided:

- (1) the aggregate amount of the *non-residential gross floor area* erected or used on the Yonge, Front, Bay and Wellington Lands, exclusive of *public pedestrian walkways*, does not exceed 259 447.4 square metres of which:
 - (a) not more than 125 000 square metres is erected or used on the lands comprising Area "A" shown on the aforesaid Map A;
 - (b) not more than 135 000 square metres is erected or used on the lands comprising Area "B" shown on the aforesaid Map A;
 - (c) not more than 14 650 square metres is erected or used on the lands comprising Area "C" shown on the aforesaid Map A; and
 - (d) not more than 27 000 square metres is erected or used on the lands comprising Area "D" shown on the aforesaid Map A;
- (2) not more than 305 *dwelling units* comprising not more than 30 500 square metres of *residential gross floor area* are erected or used on the Yonge, Front, Bay and Wellington Lands;
- (3) no portion of any building or structure erected or used on the Yonge, Front, Bay and Wellington Lands is located above the *height limit* shown on Map B attached hereto and forming part of this By-law, but this clause does not prevent the erection or use of one or more antennae, flagpoles, lightning rods or their unenclosed supporting structures, above such *height limit*;
- (4) the buildings erected or used on the Yonge, Front, Bay and Wellington Lands contain *street-related retail and service uses* facing a minimum aggregate length of:
 - (a) 79 metres of *frontage* on the aforesaid Area "A";
 - (b) 72 metres of *frontage* on the aforesaid Area "B";
 - (c) 16 metres of *frontage* on the aforesaid Area "C"; and
 - (d) 98 metres of *frontage* on the aforesaid Area "D";
- (5) the owners of the Yonge, Front, Bay and Wellington Lands, at their expense and in accordance with and subject to the agreements referred to in Section 4(6) herein:
 - (a) maintain, restore and conserve the buildings located on the Yonge, Front, Bay and Wellington Lands and known municipally in the year 1987 as No. 30 Yonge Street, hereinafter referred to as the "Bank of Montreal Building", and No. 20 Front Street West;
 - (b) maintain, restore and conserve the buildings or *facades* of buildings located on the Yonge, Front, Bay and Wellington Lands and known municipally in the year 1987 as Nos. 36, 38, 40, 42 and 44 Yonge Street and Nos. 1, 5, 7 and 9 Wellington Street West;
 - (c) maintain, restore and conserve the buildings or *facades* of buildings located on the Yonge, Front, Bay and Wellington Lands and known municipally in the year 1987 as Nos. 11 and 15 Wellington Street West, which buildings or *facades* of buildings may be relocated within the Yonge, Front, Bay and Wellington Lands;
 - (d) provide, through one or more leases, not less than 4645 square metres of *non-residential gross floor area* within and immediately adjacent to the Bank of Montreal Building, of which not less than 1374 square metres is within the Bank of Montreal Building, for a term of 99 years, for an annual net rent not exceeding the sum of two dollars, for *cultural or institutional uses* and such other uses as are *accessory* thereto;
 - (e) provide and maintain on the Yonge, Front, Bay and Wellington Lands a publicly accessible, climate controlled, interior space of not less than 1525 square metres in size and having a glazed roof and a *clear height* of not less than 14 metres above

grade, for use as a public recreation space and *public pedestrian walkway*, provided that not less than 1400 square metres of such space is located within the aforesaid Area "D";

- (f) provide on the lands comprising the aforesaid Area "A" and as part of the space required pursuant to Section 8(3) Part III 3 of the aforesaid By-law 438-86, a *common outdoor space* including landscaping, which is accessible to the public and not less than 1500 square metres in size;
- (g) convey to the City for a nominal consideration, the lands hereinafter described, for the purpose of providing *assisted housing* in the City of Toronto:

In the City of Toronto, in the Municipality of Metropolitan Toronto and Province of Ontario, being composed of Lots 1, 2, 3, 4 and the Lane according to Plan 488, Lots 10 and 13 and parts of Lots 11 and 12 on the east side of Jarvis Street according to Plan 10A and Lots 1, 2, 3 and 4 according to Plan 12E, all the said plans being registered in the Land Registry Office for the Registry Division of Toronto (No. 63), designated as PARTS 1, 2, 3, 4, 5, 6, 7, 8 and 9 on a plan of survey deposited in the said Land Registry Office as 63R-3947.

- (h) pay to the City the sum of \$2,800,000.00 in cash or secured by a letter of credit for the purpose of providing *assisted housing* in the City of Toronto;
 - (i) provide and maintain on the Yonge, Front, Bay and Wellington Lands, for a term of not less than 25 years and up to 99 years at a nominal rent, a fully equipped and furnished non-profit workplace daycare centre, including start up costs, free of operating expenses and municipal taxes, and having an interior *non-residential gross floor area* of not less than 530 square metres and an outdoor play area of not less than 350 square metres for the exclusive use of such daycare centre; and
 - (j) provide and maintain one or more works of *art* in publicly accessible portions of the Yonge, Front, Bay and Wellington Lands of a value not less than one percent of the cost of construction of all buildings and structures erected on such lands on or after November 1, 1987, provided that all such costs related to:
 - i) the restoration of the buildings described in Sections 4(5)(a), (b) and (c),
 - ii) the *public pedestrian walkways* on such lands,
 - iii) the space referred to in Section 4(5)(d), and
 - iv) the daycare centre referred to in Section 4(5)(i)shall not be included in such valuation;
- (6) the owners of the Yonge, Front, Bay and Wellington Lands enter into one or more agreements with the City pursuant to Section 36 of the Planning Act, 1983 and pursuant to Section 37 of the Ontario Heritage Act, R.S.O. 1980, c. 337 to secure the facilities, services and matters referred to in Section 4(5) herein and consent to such agreements being registered on title to the Yonge, Front, Bay and Wellington Lands;
 - (7) the buildings referred to in Section 4(5)(a) and the buildings and/or *facades* of buildings referred to in Sections 4(5)(b) and (c) continue to be erected;
 - (8) for the purposes of Sections 4(5)(a), (b) and (c) and 4(7), in the event that the Bank of Montreal Building or any substantial portion of such building or all or any substantial portion of any other building and/or a *facade* thereof referred to in Section 4(7) is destroyed or irreparably damaged by any cause not attributable to the deliberate act or omission of the owners of the Yonge, Front, Bay and Wellington Lands, it shall nevertheless be deemed to continue to be maintained, restored, conserved and erected for the purposes of this by-law, provided that the owners of the Yonge, Front, Bay and Wellington Lands:

- (a) rebuild such building or *facade* of such building, as the case may be, in accordance with and subject to the agreements referred to in Section 4(6) herein; and
 - (b) pay to the City the following sums, in accordance with and subject to the provisions of the aforesaid agreement pursuant to Section 36 of the Planning Act, 1983, for the purpose of preserving heritage buildings in the City of Toronto:
 - (i) in the case of the Bank of Montreal Building - \$3,000,000.00; and
 - (ii) in the case of any other such building - \$1,000,000.00, unless such damage or destruction occurs after the commencement of construction, above grade, of the northerly wall of the interior space referred to in Section 4(5)(e) herein; and
- (9) no building or structure erected or used on the Yonge, Front, Bay and Wellington Lands, exclusive of a building or structure that was erected on such lands on the date of enactment of this by-law, shall be used for a commercial use unless:
- (a) the main floor is located within 0.2 metres of the sidewalk level directly opposite the primary entrance of such building;
 - (b) the main floor use has a depth of not less than 4.6 metres; and
 - (c) such primary entrance to the building and to the main floor is directly accessible to the sidewalk by means other than one or more steps or is directly accessible by a ramp inclined at a slope not exceeding 4 percent to the horizontal plane.
5. The *non-residential gross floor area* permitted by this By-law on the Yonge, Front, Bay and Wellington Lands shall be increased by 2335 square metres, provided that the owners of such lands:
- (1) construct and maintain at their expense and in accordance with the agreement referred to in Section 5(3) herein:
 - (a) a below *grade* tunnel containing a *public pedestrian walkway* connecting the lands upon which Union Station is erected and the north side of the Union Subway Station to one or more buildings erected on the Yonge, Front, Bay and Wellington Lands, and
 - (b) a below *grade* continuous public pedestrian route extending from Union Station northerly, through the Yonge, Front, Bay and Wellington Lands to the southerly limit of Wellington Street West, and
 accessible to the public during the hours of operation of the Yonge Street Subway Line;
 - (2) comply with the provisions of Section 4 herein; and
 - (3) enter into an agreement with the City pursuant to Section 36 of the Planning Act, 1983, to secure the facilities, services and matters referred to in clause (1) herein and consent to such agreement being registered on title to the Yonge, Front, Bay and Wellington Lands;
6. Notwithstanding Section 4 herein and Section 8(1) of the aforesaid By-law 438-86:
- (1) no portion of any building or structure erected on the lands comprising the aforesaid Area "A" which portion is located more than 137 metres above *grade*, and
 - (2) not more than 95 600 square metres of *non-residential gross floor area* on the Yonge, Front, Bay and Wellington Lands,
- shall be used for any purpose other than *community services and facilities* until the restoration of the two buildings identified in Section 4(5)(a) has been completed or is deemed to have been completed in accordance with the agreements referred to in Section 4(6).
7. Notwithstanding Section 4 herein and Section 8(1) of the aforesaid By-law 438-86 and subject to Section 6 herein:

- (1) no portion of any building or structure erected on the lands comprising the aforesaid Area "B" which portion is located more than 137 metres above *grade*, and
- (2) not more than 53 000 square metres of *non-residential gross floor area* on the lands comprising Area "B",

shall be used for any purpose other than *community services and facilities*, until the restoration of all buildings identified in Sections 4(5)(a), (b) and (c) has been completed or is deemed to have been completed in accordance with the agreements referred to in Section 4(6) and the construction of the space referred to in Section 4(5)(d) has been completed.

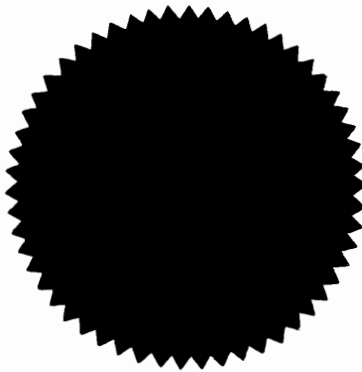
8. (1) For the purposes of this By-law the terms "*common outdoor space*", "*dwelling unit*", "*non-residential gross floor area*", "*residential gross floor area*" and "*accessory*" shall have the same meanings as such terms have for the purposes of the aforesaid By-law No. 438-86, as amended;
- (2) For the purposes of this By-law the term
 - (a) "*art*" includes works of plastic art, works of graphic art, sculptured landscaping, fountains, and artistic treatment of exterior walls of buildings or other building elements clearly visible at all times from public areas, including flooring, structure, lighting and furnishings, provided such elements or works have been designed by or in collaboration with artists;
 - (b) "*assisted housing*" means housing that is sponsored or financially supported under a government program that is intended to meet the housing needs of primarily low-to-moderate income households;
 - (c) "*clear height*" means without intrusions of any kind, including without limiting the generality of the foregoing, structures or buildings or any part thereof, provided that the following shall be deemed not to be intrusions:
 - i) main eaves and cornices;
 - ii) fences and safety railings not exceeding 1.5 metres in height;
 - iii) landscaping elements;
 - iv) structural column supports for the aforesaid glazed roof;
 - v) canopies supported only from a wall, not projecting more than 1.2 metres from any wall and having an area not exceeding 2.5 square metres;
 - vi) works of art not exceeding 6 metres in height;
 - vii) unenclosed free-standing structures not exceeding 4 metres in height;
 - viii) furnishings; and
 - ix) light fixtures;
 - (d) "*community services and facilities*" means those uses permitted under that heading and within a CR district pursuant to Section 8(1) of the aforesaid By-law 438-86;
 - (e) "*cultural or institutional uses*" means facilities and services provided for the use of the public or a particular segment of the public on a non-profit basis including activities related to the arts, history, literature, music, theatre, sports or athletics, the sciences, displays, exhibits, lectures, public meeting facilities, archives, museums or libraries;
 - (f) "*facade*" means those faces or elevations of a building which are visible from and face the public street or streets on which such building fronts, including exterior steps and railings;

- (g) "*frontage*" means a lot line or part thereof that is also the limit of a street allowance more than six metres in width;
- (h) "*grade*" means the level which is located at 82 metres above the Canadian Geodetic Datum;
- (i) "*height limit*" means the level above grade for each Parcel shown on the aforesaid Map B;
- (j) "*public pedestrian walkway*" means a pedestrian walkway that:
- i) is designed and intended for and is used by the public;
 - ii) provides direct access between streets, parks, public buildings, and/or other public spaces or between such space and a similar walkway in an adjacent building, a common outdoor space or a T.T.C. subway station;
 - iii) is within 7 metres of grade;
 - iv) is no narrower than 3 metres at any point; and
 - v) is not used for commercial purposes, including hotel lobbies, retail areas, commercial display areas or other rentable space; and
- (k) "*street-related retail and service uses*" means one or more of the shops or stores referred to in the definition of "*street-related retail and service uses*" in Section 2(1) of the aforesaid By-law 438-86, provided:
- i) the primary entrance to any such shop or store is located in the exterior wall of a building and is directly accessible by pedestrians walking along a route having a distance of not more than 12 metres from a lot line that is also the limit of a street allowance; and
 - ii) the primary entrance to any such shop or store and to the main floor is directly accessible to the sidewalk by means other than one or more steps or is directly accessible by a ramp inclined at a slope not exceeding 4 percent to the horizontal plane unless such shop or store is within a building referred to in Section 4(5)(a)(b) or (c) or faces a *frontage* of Front Street West.

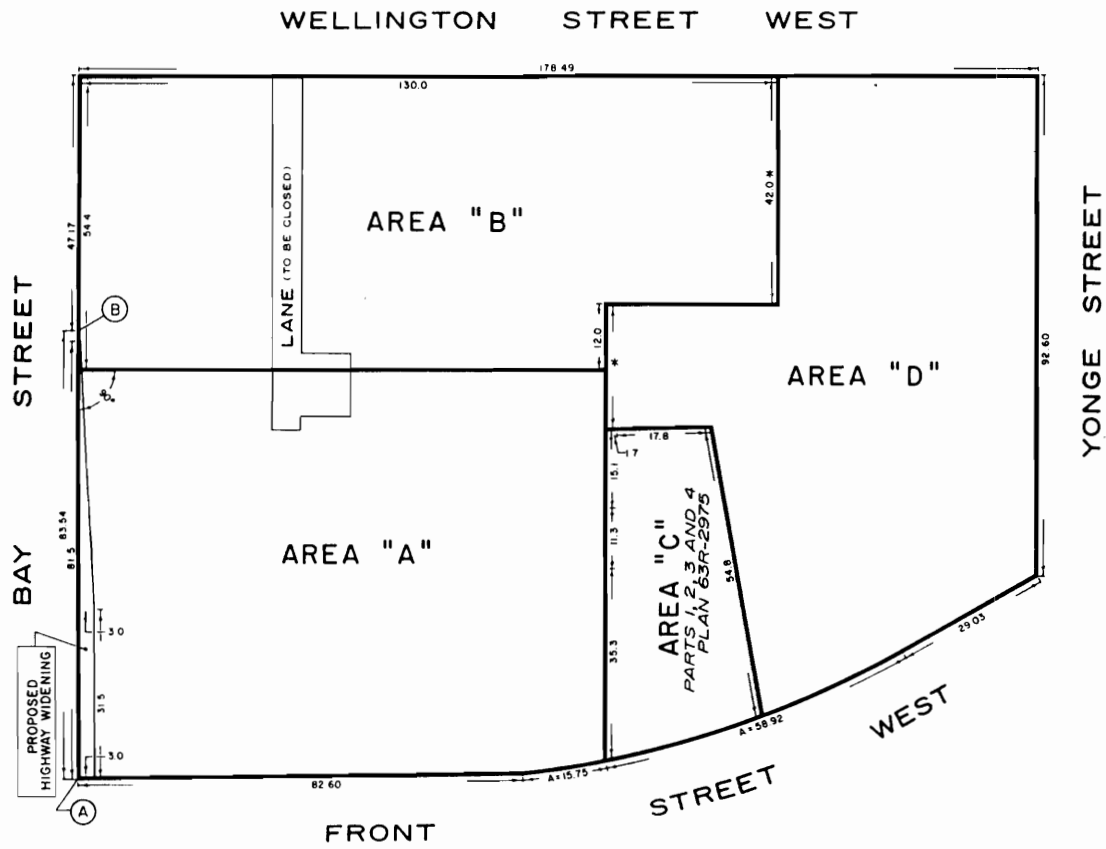

ARTHUR C. EGGLETON,
Mayor.


BARBARA G. CAPLAN
Deputy City Clerk.


Council Chamber,
Toronto, December 14, 1987.
(L.S.)



MAP A



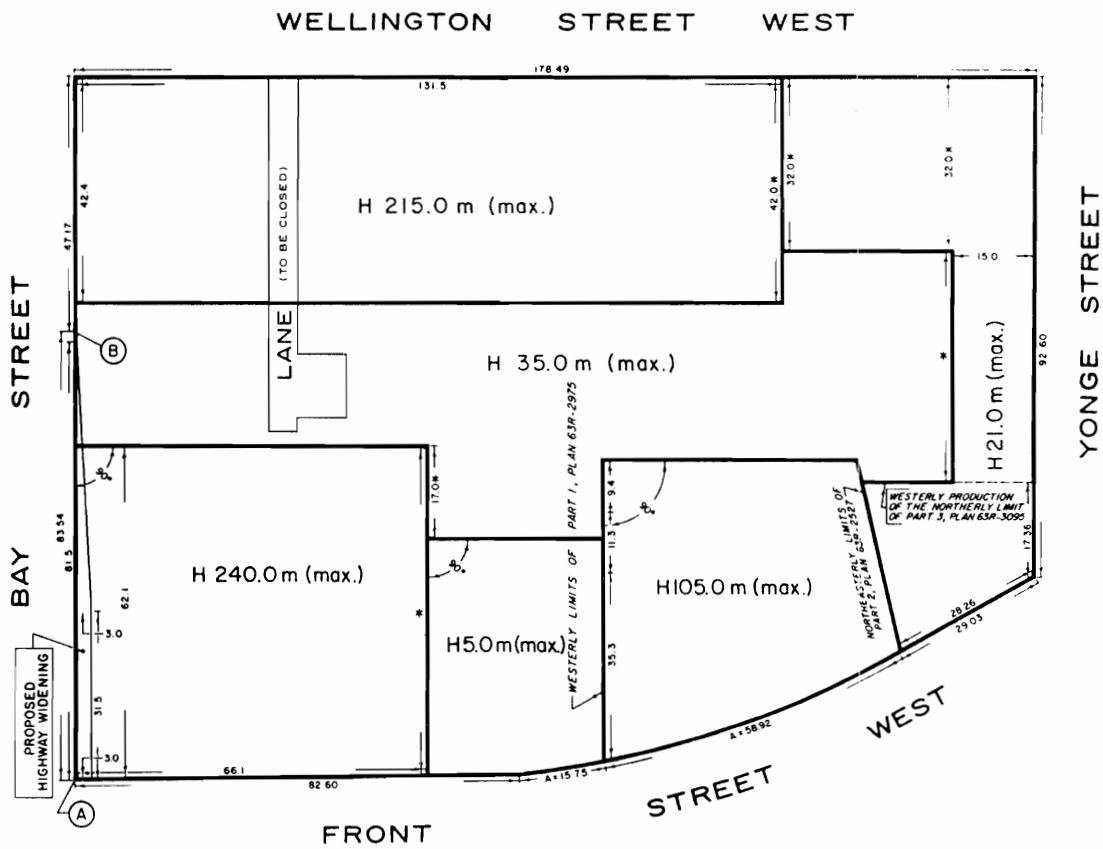
NOTE - * DENOTES PARALLEL TO LINE (A)-(B)

 LANDS REFERRED TO IN SECTION 1
(EXCLUSIVE OF LANDS EXPROPRIATED
BY CITY OF TORONTO BY-LAW 17781)

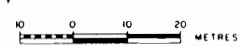


DEPARTMENT OF PUBLIC WORKS
SURVEY AND MAPPING SECTION
TORONTO DECEMBER, 1987
FILE W9-LC4 DRAWN V.G.
MAP NO 50G-323

MAP B



NOTE - H DENOTES HEIGHT IN METRES ABOVE GRADE
* DENOTES PARALLEL TO LINE (A)-(B)



DEPARTMENT OF PUBLIC WORKS
SURVEY AND MAPPING SECTION
TORONTO DECEMBER, 1987
FILE W9 LC4 DRAWN V G
MAP N° 50G 323

*10 DOCUMENT 001294

*20 FOLDER 44-88 ~~Copy~~ Original

*30 AGENCY Ontario Municipal Board Order
Ministry of Municipal Affairs Order
Ministry of Municipal Affairs and Housing Order
Ministry of Housing Order
Ministry of
City Clerk's ^{Declaration} ~~Certificate~~

Dated March 9, 1988.

Entered in Order Book No. _____ Folio No. _____

on

44-88

43-88



Department of the City Clerk

City Hall, Toronto, Ontario, Canada M5H 2N2

Roy V. Henderson / City Clerk

Records and Archives Division

Barbara Caplan / Deputy City Clerk

Robert A. Halifax / Director of Records and City Archivist 392-7042

March 11, 1988

Mr. R. E. Millward
Commissioner
Planning and Development Department
20th Floor, East Tower
City Hall

Dear Mr. Millward:

Re: By-law Nos. 485-87, 562-87,
643-87, 644-87 and 44-88

I enclose copies of Declarations dated March 9, 1988 pursuant to Subsection 20 of Section 34 of the Planning Act.

Yours truly,

Director of Records
and City Archivist

akl

Enclosures

Copies to: Buildings and Inspections Department (2)
Toronto Assessment Commissioner
Secretary-Treasurer, Committee of Adjustment
City Surveyor
Department of Public Works
Senior Administration Clerk, City Clerk's Department
City Solicitor (3)
Ministry of Municipal Affairs
Metro Planning
Mr. Dan Shimski, Buildings and Inspections Department

Legal Department

DENNIS Y. PERLIN
CITY SOLICITOR

PATRICIA F. FORAN
DEPUTY CITY SOLICITOR

MORRIS J. WINER, Q.C.
CORPORATION COUNSEL

PAUL C. HARRIS
JOHN A. PATON
ASSISTANT DEPUTY CITY SOLICITORS

CITY OF TORONTO



CITY HALL
TORONTO M5H 2N2

8802497

SOLICITORS

W.E. WARD
R. MORI
L.N. BOAKE
J.D. PHILLIPS
A.A. WERETELNYK
P.L. GORDON
A.T. KOWALISHIN
D.B. LEIBSON
S.M. BRADLEY
J. DE FALCO
G.M. TOWNEND
B.A.B. SIMPSON

H. PASTUSZAK
W.V. HAWRYLIW
S. EMERSON
D.M. MORRELL
A.M. GORDON
T. YAO
C.M. CAMERON
R.D. BALFOUR
S.L. UNGAR
R.M. FEIG
S. HANIFORD

Please reply attention of:

Sharon Haniford

Telephone: 392-6975

March 7, 1988

Roy V. Henderson, Esq.
City Clerk
2nd Floor
City Hall

Dear Sir:

Re: Declaration respecting By-law No. 44-88

Since no objection has been filed to the above by-law, and since By-law No. 43-88, being O.P.A. No. 442 has received Ministerial approval on February 11, 1988, I enclose a form of declaration pursuant to subsection 20 of Section 34 of the Planning Act, 1983, for your signature.

The original declaration should be placed with the original by-law in your possession. Copies should be sent to the various officials who normally receive copies of Orders approving by-laws and three copies should be sent to me.

Yours truly,

A handwritten signature in black ink, appearing to read 'D. Perlin', written over a horizontal line.

For Dennis Y. Perlin
City Solicitor

SH:mk
Encl.

**IN THE MATTER OF a Declaration
under Subsection 34(2) of the
Planning Act, 1983**

- and -

**IN THE MATTER OF By-law No.44-88
of The City of Toronto respecting
certain lands bounded by Yonge Street
Front Street West, Bay Street and
Wellington Street West**

I, **Roy V. Henderson**, of the City of Toronto, in the Municipality of Metropolitan Toronto, being the Clerk for The Corporation of the City of Toronto, solemnly declare that the notice of passing of By-law No. 44-88 of the City of Toronto, passed by Council of the City of Toronto on the December 14, 1988, was given in the manner and in the form and to the persons and agencies prescribed by the regulations made by the Lieutenant Governor-in-Council under Section 69 of the Planning Act, 1983, and within the time prescribed by Subsection 34(17) of the Planning Act, 1983.

I hereby further solemnly declare that no notice of appeal respecting such by-law was filed by any person with the City Clerk by the 17th of January, 1988, being the last date allowed for appeal under Subsection 34(18) of the Planning Act, 1983.

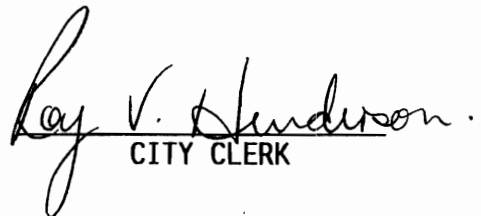
I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

I have been advised that By-law No. 43-88, being O.P.A. No. 442, for the area known as the Yonge, Front, Bay and Wellington Lands, was approved by the Ministry on February 11, 1988.

DECLARED BEFORE ME AT)
THE City of Toronto in)
the Municipality of)
Metropolitan Toronto)
this 9th day of)
March, 1988)


A Commissioner, etc.

BARBARA G. CAPLAN
A COMMISSIONER, ETC.,
JUDICIAL DISTRICT OF YORK
DEPUTY CITY CLERK - TORONTO


CITY CLERK