

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: March 14, 2023

CASE NO(S).:

OLT-22-002205

PROCEEDING COMMENCED UNDER section 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant/Appellant	53 Yonge Portfolio Inc. and 55 Yonge Portfolio Inc.
Subject:	Application to amend the Zoning By-law – Neglect to make a decision
Description:	To amend Citywide Zoning By-law 569-2013 to permit an increase in the overall height and density on the site.
Reference Number:	BL 569-2013
Property Address:	53 & 55 Yonge Street
Municipality/UT:	Toronto/Toronto
OLT Case No:	OLT-22-002205
OLT Lead Case No:	OLT-22-002205
OLT Case Name:	53 Yonge Portfolio Inc. & 55 Yonge Portfolio Inc. v. Toronto (City)

PROCEEDING COMMENCED UNDER section 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Subject:	Application to amend the Zoning By-law – Neglect to make a decision
Description:	To permit a 67-storey mixed-use building
Reference Number:	BL 438-86
Property Address:	53 & 55 Yonge Street
Municipality/UT:	Toronto/Toronto
OLT Case No:	OLT-22-002207
OLT Lead Case No:	OLT-22-002205

Heard: February 27, 2023 via Video Hearing

APPEARANCES:

<u>Parties</u>	<u>Counsel/Representative*</u>
53 Yonge Portfolio Inc. & 55 Yonge Portfolio Inc.	Michael Foderick and Daniel Angelucci
City of Toronto	Sarah O'Connor
Calloway Real Estate Investment Trust Inc. and Halmont Properties Corp.	Rodney Gill and David Bronskill (<i>in absentia</i>)
bcIMC Realty Corporation	Donya Yarahmadi and Calvin Lantz (<i>in absentia</i>)
CREC commercial fund LP	Andy Margaritis
Toronto Standard Condominium Corporation No 2665	C. Brown* and N. Zamir* (both <i>in absentia</i>)

**MEMORANDUM OF ORAL DECISION DELIVERED BY SHARYN VINCENT ON
FEBRUARY 27, 2023 AND INTERIM ORDER OF THE TRIBUNAL**

BACKGROUND

[1] 53 Yonge Portfolio Inc. and 55 Yonge Portfolio Inc. ("Applicant/Appellant") had appealed against the failure of the City of Toronto ("City") Council to make decisions with respect to applications to amend the zoning of lands known municipally as 53 and 55 Yonge Street.

[2] At a prior case management conference, Party status was conferred to four owners of abutting or proximate properties who had satisfied the Tribunal, differently constituted, of their respective genuine interest in the proceeding.

[3] Prior to the commencement of the hearing scheduled to consider the merits of the appeals, the Tribunal was advised that through a revised, with-prejudice offer to the City, all of the concerns of the City and other Parties had been addressed, and therefore, the Applicant/Appellant sought and was granted permission to present the

revised development concept for the consideration of the Tribunal.

[4] On consent, two witnesses were proffered to give sworn, *viva voce* evidence to the Tribunal in support of the revised development concept, referred to as the settlement proposal.

[5] The Tribunal qualified Alex Savanyu, a land use planner, and Steve Krossy, P. Eng., a transportation engineer, to assist the Tribunal in its deliberations through opinion evidence limited to their respective areas of expertise.

THE SITE

[6] The consolidated site is “L” shaped and is currently developed with a 12 storey office building on 55 Yonge Street and a 5 storey office building on 53 Yonge Street. Both of the existing buildings are generally built to their respective street lines, with main entrance doors from Yonge Street. Both buildings are currently serviced via shared, private rear lanes to loading and limited underground parking. Neither building is considered to be of historic interest.

SETTLEMENT PROPOSAL

[7] Prior to hearing any evidence, counsel for CREC Commercial Fund, owner of 20 Wellington Street, abutting to the east and also known as 88 Scott Avenue, qualified their attendance as being not in objection to the settlement achieved with the other Parties, but advising that complete resolution between the proponent and his client had not been realized.

[8] The final proposal before the Tribunal for consideration is a 66 storey mixed use building, comprising a 14 storey base building topped with a 52 storey tower.

[9] Similar to the existing built form on the site, the new footprint will occupy the

majority of the site with the exception of rounded corners on the northwest, northeast and southeast corners of the building. In addition, and in order to improve upon the existing public realm, the ground floor and mezzanine will be set back approximately 2.7-2.9 metres along Yonge, thereby creating a curb to building face distance of 6.36 metres along Yonge, 7.48 metres at the corner, and 2.48-2.53 metres along Colborne.

[10] The proposal incorporates both indoor and outdoor amenity spaces for the occupants of the building, the majority being located at floors 15, 16 and 57.

[11] In total, 511 residential units are proposed with a wide mix of unit sizes including 55 two-bedroom, 22 two-bedroom plus den, and 55 three-bedroom units.

FINDINGS OF THE TRIBUNAL

[12] Having heard and considered the sworn, uncontested *viva voce* and written evidence of the two witnesses, the Tribunal was satisfied, and finds that:

- the proposal represents an appropriate and desirable redevelopment, which consolidates and optimizes two underutilized sites located within the strategic Urban Growth Centre within the Financial District;
- the proposal retains employment uses and introduces residential uses which are both transit supportive while equally representing opportunities for active transportation options, thereby achieving numerous policy directions supporting intensification in designated growth areas;
- the final built form is contextually appropriate, the design of which has already been acknowledged as being award winning;
- the proposed high quality, distinctive silhouette, is intentionally sculpted to ensure no off-site shadow impacts on the St. James Cathedral and park located three blocks to the east at the intersection of Church and King Streets;
- the massing of the tower, including the podium height, and animation of the public realm on this corner property align with the massing policies of

- the Official Plan, the various applicable Site and Area Specific Policies, and the relevant urban design guidelines, all as elaborated in Exhibit 1;
- intensification at this site is desirable and is contextually compatible, is in conformity to provincial policy as implemented through the Official Plan, as amended, and represents good planning.

ORDER

[13] **The Tribunal hereby** allows the appeal in part and approves in principle the settlement proposal represented in the with-prejudice settlement offer dated December 1, 2022 to Council, together with the architectural drawings filed as part of that offer, all as recorded as Tab 31, Exhibit 5 to this proceeding.

[14] **The Tribunal withholds its Final Order** until advised that all of the following have been satisfied:

- (1) the proposed zoning by-law amendment is in final form satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor;
- (2) the owner has provided a revised Functional Servicing Report and Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report ("Engineering Reports") to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General manager, Toronto Water;
- (3) the owner has designed and provided financial securities for any upgrades or required improvements to the existing municipal infrastructure identified in the accepted engineering reports, to support the development, all to the satisfaction of the Chief Engineer, and Executive Director, Engineering and Construction Services, and the General Manager, Toronto Water, should it be determined that improvements or upgrades are required to support the development, according to the accepted engineering reports accepted by the Chief Engineer and Executive Director, Engineering and

- Construction Services and the General Manager, Toronto Water; and
- (4) the owner has addressed all outstanding issues raised by the Toronto Transit Commission as they relate to the zoning bylaw amendment application, including necessary setbacks from Toronto Transit Commission infrastructure, to the satisfaction of the Toronto Transit Commission.

“Sharyn Vincent”

SHARYN VINCENT
VICE-CHAIR

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.