

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: August 17, 2016

CASE NO(S): PL151158

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

Applicant and Appellant:	Terracap Management Inc.
Subject:	Application to amend Zoning By-law No. 438-86 - Neglect of the City of Toronto to make a decision
Existing Zoning:	Reinvestment Area (RA)
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit a 55-storey mixed use building
Property Address/Description:	401-415 King Street West
Municipality:	City of Toronto
Municipality File No.:	10 197695 STE 20 OZ
OMB Case No.:	PL151158
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OMB Case Name:	Terracap Management Inc. v. Toronto (City)

Heard: July 14, 2016 in Toronto, Ontario

APPEARANCES:

Parties

Counsel

Terracap Management Inc.

C. Lantz
J. Cheng

City of Toronto

G. Whicher

**MEMORANDUM OF ORAL DECISION DELIVERED BY JASON CHEE-HING ON
JULY 14, 2016 AND ORDER OF THE BOARD**

[1] This is the first pre-hearing conference (“PHC”) in these matters. Terracap Management Inc. (“Applicant”, “Appellant”, “Proponent”) has appealed the failure of the City of Toronto (“City”) Council to make a decision on its proposed zoning by-law amendment (“ZBA”) to the City Zoning By-law (“ZBL”) No. 438-86 within the prescribed time period under the *Planning Act* (“Act”).

[2] This proposed ZBA would permit the re-development of 401-415 King Street West (“subject site”) with a 55 storey mixed use building which would include a mid-rise podium base building. The subject site is located at the south east corner of King Street and Spadina Avenue. The proposed uses are retail on the first two floors and residential above. It should be noted at this juncture that it is the City’s position that the proposed building stands at 56 storeys. The proposal contemplates 615 dwelling units, and approximately 2452 square metres of commercial space.

[3] The City has taken the position that the proposal is not supportable in its current form and represents an overdevelopment of the subject site. The proposal does not conform with its Official Plan (“OP”) built form and heritage policies nor does the proposed built form satisfactorily respond to its urban design guidelines.

[4] Two entities and one individual were accorded participant status in these proceedings as follows:

- Al Daimee on behalf of Charlie Condominium (Condominium No. TSCC2298)
- Matthew Smith on behalf of The Hudson Condominium (Condominium No. TSCC 1810)
- Robert Lunney as an individual. Mr. Lunney is the director of the Toronto Entertainment District Residents Association (“TEDRA”). TEDRA is unincorporated. Should this association wish Mr. Lunney to be its spokesperson at these proceedings then there must be a written request made to the Board.

[5] All three participants have an interest in these matters and are opposed to the proposal in its current form. They support the City's position in these proceedings.

[6] The proponent has requested Board-led mediation as a form of alternate dispute resolution. Gord Whicher, counsel for the City indicated that he will seek directions from his client on mediation.

[7] The Board set a hearing date of **February 21, 2017** for ten consecutive days commencing at **10:30 a.m.** for this appeal. The venue will be at:

**Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9**

[8] The Parties will be contacting the Board's Case Coordinator to set a date for a telephone conference call with respect to finalizing the Procedural Order and Issues List.

[9] I will continue with the case management of these matters but I am not seized of the main hearing.

[10] No further notice is required.

[11] Board Rule 107 states:

107. Effective Date of Board Decision A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

[12] Pursuant to Board Rule 107, this decision takes effect on the date that it is e-mailed by Board administrative staff to the clerk of the municipality where the property is located.

"Jason Chee-Hing"

JASON CHEE-HING
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

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