

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: May 11, 2020

CASE NO(S): PL151116
PL151118

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: OTP Management Ltd., Ribbon East Corp. and Ribbon West Corp.
Subject: Request to amend the Official Plan - Failure of the City of Toronto to adopt the requested amendment
Existing Designation: Mixed Use Area
Proposed Designated: Site Specific (To be determined)
Purpose: To permit a 57-storey mixed use tower
Property Address/Description: 31A Parliament Street and 370 and 370A Cherry Street
Municipality: City of Toronto
Approval Authority File No.: 14 174007 STE 28 OZ
LPAT Case No.: PL151116
LPAT File No.: PL151116
LPAT Case Name: OPT Management Ltd. v. Toronto (City)

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

Applicant and Appellant: OTP Management Ltd., Ribbon East Corp. and Ribbon West Corp.
Subject: Application to amend Zoning By-law No. 438-86 - Refusal or neglect of the City of Toronto to make a decision
Existing Zoning: IC D2 N0.5
Proposed Zoning: Site Specific (To be determined)
Purpose: To permit a 57-storey mixed use tower
Property Address/Description: 31A Parliament Street and 370 and 370A Cherry Street
Municipality: City of Toronto

Municipality File No.: 14 174007 STE 28 OZ
 LPAT Case No.: PL151116
 LPAT File No.: PL151117

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Cityscape Holdings Inc. and Dream Distillery District Commercial (GP) Inc
 Subject: Request to amend the Official Plan - Failure of the City of Toronto to adopt the requested amendment
 Existing Designation: Mixed Use Area
 Proposed Designated: Site Specific (To be determined)
 Purpose: To facilitate a 34-storey mixed-use building
 Property Address/Description: 60 Mill Street
 Municipality: City of Toronto
 Approval Authority File No.: 11 219591 STE 28 OZ
 LPAT Case No.: PL151118
 LPAT File No.: PL151118
 LPAT Case Name: Cityscape Holdings Inc. v. Toronto (City)

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

Applicant and Appellant: Cityscape Holdings Inc., Dream Distillery District Commercial (GP) Inc
 Subject: Application to amend Zoning By-law No. 438-86 - Neglect of the City of Toronto to make a decision
 Existing Zoning: IC D2 N0.5 under By-law 438-86 and Site Specific By-law 1994-0396, 749-2003 and 5-2010
 Proposed Zoning: Site Specific (To be determined)
 Purpose: To facilitate a 34-storey mixed-use building
 Property Address/Description: 60 Mill Street
 Municipality: City of Toronto
 Municipality File No.: 11 219591 STE 28 OZ
 LPAT Case No.: PL151118
 LPAT File No.: PL151119

Heard: May 5, 2020 by telephone conference call

APPEARANCES:**Parties****Counsel**

OTP Management Ltd., Ribbon East Corp. and Ribbon West Corp.

Mark Noskiewicz and Joe Hoffman

2575867 Ontario Inc.

Mark Flowers

City of Toronto

Matthew Longo and Sara Amini

**MEMORANDUM OF ORAL DECISION DELIVERED BY GERALD S. SWINKIN
ON MAY 5, 2020**

[1] This session of the Local Planning Appeal Tribunal (the “Tribunal”) was a status hearing held by telephone conference call at the instance of the Tribunal. The prompt for the session was in order to ascertain the progress of the Parties in satisfying the conditions for issuance of the final Order which had been laid down by the Tribunal (in its prior incarnation as the Ontario Municipal Board) in its decision issued on July 6, 2017 regarding the appeals under Case Nos. PL151116 and PL151118.

[2] The Tribunal here notes that in addition to the counsel shown above appearing on behalf of the Parties, also participating in the call was Kristin Scythes, who was a participant in the original hearing.

[3] Preceding the hearing, Mark Noskiewicz sent in a letter to the Tribunal dated March 11, 2020, which provided a capsule summary of the status of these matters. Mr. Noskiewicz elaborated on that in the call.

[4] At the time of the hearing in 2017, Mr. Noskiewicz and his associate, the late Michael Stewart were counsel to all of the appellant Parties, which appeals affected 31A Parliament Street and 370 and 370A Cherry Street, being a collective parcel (which will be referred to hereinafter as “31A Parliament”) and 60 Mill Street, being a distinct parcel on the north side of Mill Street (hereinafter referred to as “60 Mill Street”). The two parcels were under separate corporate ownerships but the Tribunal understood that

there was some commonality as to the principals of those owners, the precise details of which were not explored by, or divulged to, the Tribunal at that time, or now.

[5] The appellant parties had, in addition to common counsel, many common consultants. However, there were distinct architects for the two projects.

[6] As explained by Mr. Noskiewicz, since that time, 60 Mill Street has gone through changes of ownership and is now owned by 2575867 Ontario Inc. (the principals of which are the Easton\Gupta group). Mark Flowers has been retained by that owner to represent them in this proceeding, which he confirmed to the Tribunal.

[7] Mr. Flowers appeared in the 2017 hearing on behalf of an abutting owner, 1150782 Ontario Inc. the owner of 31 Parliament Street. That ownership is now Lanterra Parliament Developments Ltd. Although Mr. Flowers acknowledged that he still represents that owner and that his presence on the call reflects that fact, he did not come with any specific position of that party in this session.

[8] Mr. Noskiewicz advised of two principal things. The first was that his clients, respecting 31A Parliament, have been working with the City of Toronto (the "City") and the other involved agencies on addressing the many conditions which were laid down to be satisfied and have made considerable progress in that regard but that there remains further work to be done in order to reach the state of final sign off.

[9] The second matter of advice was that the current owner of 60 Mill Street had submitted to the City an application for zoning amendment, seeking an amendment to approve the construction and use of a 31-storey hotel for that property.

[10] Mr. Flowers confirmed that such application had been submitted on behalf of that current owner on December 24, 2019 and had been confirmed as a complete application by the City on February 3, 2020. In addition, a companion site plan application was filed with the City on January 16, 2020. Mr. Flowers also confirmed that City staff had prepared a Preliminary Report on the application and that a community

consultation meeting had been scheduled in March but had to be cancelled due to the Covid-19 restrictions.

[11] Put in a broad stroke fashion, arising out of the Tribunal's 2017 Decision, 60 Mill Street had been approved in principle for construction up to 12 storeys (representing new construction on top of the existing six-storey Rack House 'D') for uses of the owner's determination which could include office, residential or hotel, or a mix of same.

[12] Mr. Flowers advised that the current owners have taken no steps to satisfy the conditions which were set by the Tribunal for the proposal as approved in principle by the Tribunal in 2017. However, their preference would be to leave that approval in principle intact for the time being.

[13] At this juncture, the Tribunal received input from counsel for the City that introduced a significant new factor relating to bringing the 2017 approvals into effect. Matthew Longo announced that it was the City's view and position that the 2017 Tribunal approval was an integrated approval that, in order to be fulfilled, had to involve finalizing the matters set down by the Tribunal at that time for the precise developments that were contemplated by the Decision.

[14] Given the step taken by the current owner of 60 Mill Street, that would create tremendous jeopardy for the owners of 31A Parliament Street and perhaps render the achievement of their zoning impossible.

[15] The Tribunal was advised by counsel that this position of the City was only very recently raised and that the Parties have not had a chance to conduct any kind of more fulsome discussion concerning it and whether it may be resolved so as to allow the projects to proceed independently.

[16] The Tribunal was not asked by counsel to weigh in on the matter at this session and the Tribunal abstained from doing so. The Tribunal recognized the very complicated background to the proposals and the effort that went into their settlement.

As such, the proposed significant modification to 60 Mill Street does represent a material departure from what was before the Tribunal previously. The ramifications of that change will have to be considered within the context of this planning area. Whether that change will have ramifications for the principled approval of 31A Parliament Street, at this stage, is an open question and the Tribunal, as an initial step, is leaving that to the Parties to explore.

[17] It was the direction of the Tribunal that the Parties make arrangements for conducting discussions amongst themselves in order to address this matter and ultimately advise the Tribunal what those discussions have yielded. A consensus amongst the Parties on the way forward should be communicated to the Tribunal, if such consensus can be achieved. If the Parties have not arrived at a consensus, the Tribunal should be so advised along with the recommendations of the Parties as to how the Tribunal should proceed for the purpose of administering the final approval anticipated by the Tribunal's 2017 Decision. With that input from counsel, the Tribunal will give direction as to how the matter will be addressed.

[18] Counsel for the Parties are requested by the Tribunal to deal with this matter as soon as reasonably possible and to thereafter communicate with the Case Co-ordinator at the Tribunal on how matters have transpired.

"Gerald S. Swinkin"

GERALD S. SWINKIN
MEMBER

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Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
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