

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



ISSUE DATE: June 24, 2019

CASE NO(S): PL161152

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

Applicant and Appellant:	Fortress Carlyle Peter Street Inc.
Subject:	Application to amend Zoning By-law No. 438-86 and 569-2013 - Refusal or neglect of City of Toronto to make a decision
Existing Zoning:	RA
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the development of a 46-storey mixed-use building consisting of 435 dwelling units
Property Address/Description:	122-128 Peter Street and 357 Richmond Street West
Municipality:	City of Toronto
Municipality File No.:	15 255425 STE 200Z
OMB Case No.:	PL161152
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OMB Case Name:	Fortress Carlyle Peter Street Inc. v. Toronto (City)

Heard: June 19, 2019 by telephone conference call

APPEARANCES:

Parties

Counsel

Fortress Carlyle Peter Street Inc.

D. Artenosi

City of Toronto

M. Longo

401 Richmond Ltd.

M. Barrett

Ricki's Construction and Painting Inc.

J. Alati and A. Margaritis

**MEMORANDUM OF ORAL DECISION DELIVERED BY HELEN JACKSON ON
JUNE 19, 2019 AND ORDER OF THE TRIBUNAL**

[1] This was a Pre-hearing Conference ("PHC") held by telephone conference call ("TCC") in the matter of an appeal to the Ontario Municipal Board, now continued as the Local Planning Appeal Tribunal (the "Tribunal") by Fortress Carlyle Peter Street Inc. (the "Applicant"), under s. 34(11) of the *Planning Act* of the failure of the City of Toronto (the "City") to make a decision on an application for a zoning by-law amendment to permit the development of a 46 storey mixed use building with 435 dwelling units on the lands described above.

[2] By way of background, a settlement had been achieved in this matter following Tribunal-assisted mediation. The settlement included proposed development of the lands at 120 Peter Street, owned by Ricki's Construction and Painting Inc. ("Ricki's"). The Applicant and Ricki's had an agreement whereby the Applicant would purchase the lands at 120 Peter Street. The sale was to close on August 13, 2018. The sale did not close and the arising dispute went to the Superior Court. The judgement is now being appealed by Ricki's.

[3] At a previous PHC a three day hearing was scheduled to commence Wednesday, August 7, 2019 at 10 a.m. In preparation for the hearing, a Procedural Order was issued November 15, 2018 that included the issues of Ricki's and 401 Richmond Ltd. The parties' list of witnesses was circulated May 9, 2019.

[4] The Tribunal was advised at today's TCC that Ricki's does not intend to call any witnesses and will withdraw its issues. Ricki's request that its status be converted to Participant status for the hearing. However, Ricki's wishes to retain Party status should events unfold as a result of the civil matter before the Court wherein Ricki's lands are

removed from the Applicant's proposed development. This would have the effect of Ricki's being a directly adjacent neighbour to the Applicant's lands, and hence the desire to be a Party to any amended or new development application proposal. The Tribunal was satisfied that this is a reasonable approach as it allows the hearing to proceed whilst protecting Ricki's future rights, and granted the request.

[5] The Tribunal was advised that there is one remaining contested issue by 401 Richmond Ltd. related to access with respect to a knock out panel. The Applicant indicated that they will work towards resolving this remaining issue prior to the hearing, so that the hearing becomes a settlement hearing.

[6] Based on the above, the dates set in the Procedural Order for the exchange of witness statements and visual material are no longer required.

[7] The parties are directed to consult with the Case Coordinator should this matter completely settle so that one or more of the hearing dates currently scheduled may be released.

[8] This Member is not seized of the hearing.

"Helen Jackson"

HELEN JACKSON
MEMBER

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Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
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