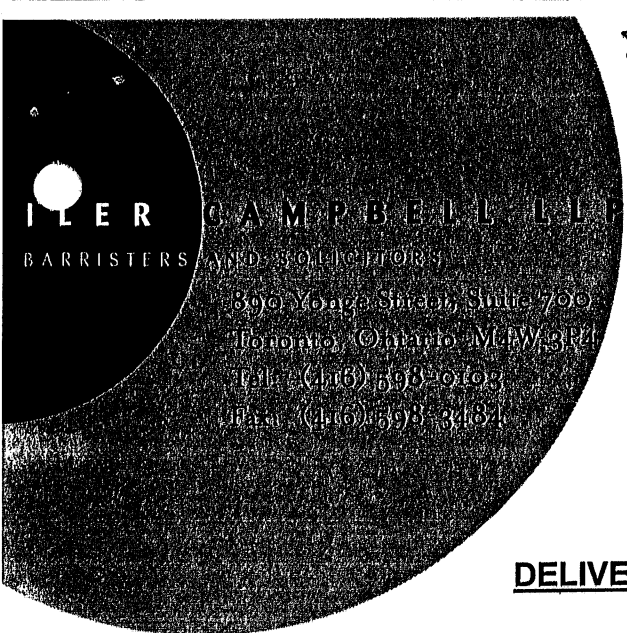


Sept 25



September 25, 2007

**DELIVERED BY FACSIMILE TRANSMISSION AND COURIER**

David Miller, Mayor  
City of Toronto  
100 Queen Street West, 2nd Floor  
Toronto Ontario M5H 2N2

Adam Giambrone, Councillor  
City of Toronto  
City Hall  
100 Queen Street West, Suite C42  
Toronto Ontario M5H 2N2

Ms. Dawne Jubb  
Legal Services, City of Toronto  
Metro Hall, 26<sup>th</sup> Floor, Stn. 1260  
55 John St.  
Toronto, Ontario M5V 3C6

Dear Mayor Miller, Councillor Giambrone and Ms. Jubb,

Re: Active 18 Association – OMB Appeal (OMB Cases #PL051203, 060087, 060443)  
Our File B.5975

---

**This letter is confidential and without prejudice until the matter is presented to counsel.**

We act for Active 18 Community Association on the planning case regarding 150 Sudbury site in the West Queen West Triangle. This is to advise the Active 18 supports the settlement of this case between the City and Landmark Developments as set out in the correspondence from Landmark.

**History**

Active 18 is an incorporated community organization which has participated in all phases this protracted planning case. The 150 Sudbury case is closely linked with two other cases, 1171 Queen and 48 Abell, both of which are – subject to certain details -

settled. The three cases were heard together at the OMB and were subsequently appealed together both to the OMB and to the Divisional Court by the City supported by Active 18. The City settled 1171 Queen and 48 Abell. 150 is set to be argued in the Divisional Court on October 12. Active 18 is a party to that appeal.

Active 18 has – mostly – sided with the City in this long and difficult case. There have recently been negotiations between the City, Artscape and Landmark to try to find a satisfactory resolution. We have had detailed discussions with all parties regarding their positions.

### **The Settlement Proposal**

The proposed settlement has pros and cons. At the end of the day it gives the City and community its only 'win' in the Triangle fight, on the key issue jobs and employment related space. That win, **a large Artscape owned and operated, employment oriented, building of artist live-work studios**, is excellent. It should not be passed by. The Landmark / Artscape proposal is an excellent one on its own merits. They are to be congratulated for work putting it together. There is significant generosity here from Landmark and its owner, developer, Alan Saskin.

As the OMB case has shown, a substantial portion of the employment in the area is arts related and this Artscape project will help sustain the character of the neighbourhood as an arts employment hub. We desperately need this given the pending demolition of the 48 Abell building which has the studio facilities which are now the heart of the neighbourhood.

We have discussed the details of the operation of this building with Artscape. We are satisfied that they have obtained the best possible 'deal' in terms of cost, unit size etc. and defer to their judgment on these details. We defer to them on the fine points at this stage.

### **Context**

The context of the proposed settlement is important. The OMB has set a benchmark for the area of height and density that is higher than the City sought. The City fought this well at the OMB hearing but lost. The City appealed but then, in July the day before it successful on the Leave application, the City abandoned its appeals against the OMB decision for the other two developments. By doing this the City deferred to the OMB new height benchmark. What's done is done. All this means the new neighbourhood will be built to 18 stories upper limit, not a more desirable 14. The proposed settlement with Landmark gives them more height. In our view the height of the Landmark building is not disproportionate with what we are getting from the other developers. The City and Landmark are to be congratulated for some difficult bargaining to work out massing of the revised Landmark buildings which 'works' for the new neighbourhood, given the OMB benchmark.

## **Parks**

We considered in great detail the issue of parks for the new neighbourhood. This final trade off with Landmark does cost the neighbourhood a small parkette. But there is reasonable public access open space on the Landmark site that integrates with similarly designated space in the other two projects. Aside from that there is a decent new park across the road between Abell and Lisgar. It requires the Green-P parking lot running north to Queen to make a good new public park. We rely on the repeated assurances from City staff that this will be completed. With the public access open space in the three projects and some decent street tree planting, this package of parks and open space achieves the goal we set before the OMB case even started.

If the settlement is seen as a trade of some park space for a large studio building, we believe the trade off is acceptable.

## **Continuing the Litigation**

I note in passing that if we – the City and Active 18 - win in Divisional Court what we win is that we are sent back to the OMB for another lengthy hearing. There is no assurance we will do better. And I also note that the Reasons of Justice Lax on the Leave to Appeal application have already noted a strong judicial disapproval of the OMB ignoring the employment policies the City sought to uphold. A point has been made.

## **Conclusion**

While the height and density for the Triangle is not ideal the compensating factors of the live/work studio space to be provided to Artscape is a major advantage to the neighbourhood. The City fought long and hard in this case to preserve employment space in the Triangle. We thank the City for this effort and urge Council to continue to press for cheap employment in the City. We have backed the City all the way on this issue at the OMB and on the appeals. Alas the OMB was not sympathetic. We believe it was wrong in rejecting this position. But we are where we are.

This proposal is a sensible settlement. It is clear 'win' for the neighbourhood and the City.

Yours truly,  
**ILER CAMPBELL LLP**



Charles Campbell

E-mail: [ccampbell@ilercampbell.com](mailto:ccampbell@ilercampbell.com)

/ae/CMC

cc: Kevin Beaulieu  
cc: Elise Hug  
cc: Chris Phibbs