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File No. 344539/000001

September 10, 2018

Local Planning Appeal Tribunal
655 Bay Street, Suite 1500
Toronto, ON M5G 1E5

Attention: Tomislav Saric

Dear Mr. Saric:

Re: LPAT File: PL180613 – 7 Chestnut Street, Ottawa

We are solicitors for 170 Preston Street, the owner of land at 7 Chestnut Street in the City of Ottawa. 170 Preston Street applied for and was granted minor variances to reduce lot width from 12 metres to 10.98 metres and to reduce lot area from 360m² to 318.5 m². The Committee of Adjustment (the “Committee”) found that the minor variances sought “are minor, that they are desirable for the appropriate development or use of then land and that the general intent and purpose of the Zoning By-law and general intent and purpose of the Official Plan are maintained.” The decision of the Committee has been appealed to LPAT by Dr. Hadi Salmasian (the “Appellant”) and a hearing has been scheduled for one day on October 3rd, 2018.

We seek directions from the Tribunal with respect to materials that we have recently received from the Appellant in this regard. In these materials, the Appellant advises that he will request LPAT to issue a declaratory order that Section 45(1) of the *Planning Act* is unconstitutional and contrary to the Charter and that the Committee and LPAT do not have jurisdiction to make a decision on the variances sought. We believe such matters are beyond the jurisdiction of LPAT and the Appellant should be so advised. Should LPAT agree to hear such issues, then we believe a preliminary motion to LPAT with proper materials filed must be filed.


The Decision of the Committee notes that the Appellant raised constitutional and charter issues during his submissions and that the Committee was advised by City legal counsel that such questions were beyond the jurisdiction of the Committee and that such issues should be brought by means of a Notice of Application to the Superior Court of Ontario. We agree with the City legal counsel in this regard.

Our principle concern is that time not be lost. Time is of the essence to our client. The Appellant, in his Notice of Appeal, focuses on constitutional, charter and jurisdictional arguments. There are no issues raised relating to the minor nature of the variance sought or to the general intent and purpose of the Zoning By-law and Official Plan. However, as an “in the alternative” argument, the issue of appropriate development is raised. The Appellant indicates that he intends to call 5 witnesses or rely on witness affidavits and that a full day will be required for his arguments and evidence alone.

We ask that the LPAT consider a direction that the hearing shall be restricted to the issue of appropriate development, which is within the power of the Committee as set out in Section 45(1) of the *Planning Act*, and that constitutional and charter arguments relating to Section 45 of the *Planning Act* and the resulting jurisdiction of the Committee of Adjustment and LPAT relating to Section 45 appeals will not be heard by LPAT and should be directed to the Superior Court of Ontario.

Thanks you for your consideration of this matter.

Yours very truly,


Emma Blanchard
EB/ms
Encls.

cc: Dr. Hadi Salmasian
Kristina Mahon, City of Ottawa Legal Department
170 Preston Street

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