TDS Helps Successfully Challenge Controversial Infill Development

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A proposed infill development that was planned to begin construction in Charleswood next year will not proceed after it was found to be not in keeping with the site's current zoning. This noteworthy decision was reached thanks in large part to the efforts of TDS.

The City of Winnipeg had originally approved the development, which was put forward by Landmark Planning, back in February of 2022. The plan was for an L-shaped complex to build near the Northeast corner of Roblin Boulevard and Moray Street that consisted of two towers: one with eight storeys at a height of 84 feet and another with 10 storeys standing at 104 feet.

A group of local residents—spearheaded by WWC 389, a neighbouring condo corporation—appealed the potential development, enlisting the services of TDS to aid in their campaign.

"The bylaws guide us," says Jennifer Hanson, an associate lawyer who practises municipal law and planning development and zoning law with TDS. "My job is to be objective and ensure that zoning bylaws are interpreted correctly in each scenario and to the benefit of the people or groups I'm representing."

Unique in this case was the usage of new amendments to *The City of Winnipeg Charter* (and similar amendments to *The Planning Act*), that affords objectors who meet the required criteria in terms of volume and substance to appeal decisions made by the Winnipeg City Council to the Manitoba Municipal Board, a quasi-judicial tribunal that assesses property development and zoning issues before providing recommendations back to City Council.

According to Jen, "This new legislation was put in place to help provide all involved parties greater control over and transparency into these important decisions. It gives everyone the opportunity to be heard."

The case for the dismissal of the development in Charleswood was challenged on a number of grounds. These included existing residents' concerns over traffic, safety, and aesthetics. As it stood, the building project would've brought a 500% intensification to the neighbourhood—something that, ultimately, the board deemed too oppressive for the

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existing zoning bylaw of the area.

Jen leaned on her experience, which includes over a decade in the sector, as well as TDS' bench strength and collaborative philosophy to develop an approach and strategy that would be effective for her clients.

"The expertise at this firm is astonishing. We have so many files and so many lawyers with experience—I was going in and out of offices to discuss strategy and how to approach this new appeal process."

The hearing, which took place this past July, was originally scheduled for a single day. So detailed and substantial was TDS' presentation that the hearing was quickly expanded to a total of three full days.

"It can be a little daunting. The City is such a big institution with a lot of resources and many professional working for them, and we were working with large group of clients. Plus, the timelines with the new legislation are really tight. We had to be very factual, very organized, very flexible and very quick."

The developer argued that the building project's proximity to active transportation and transit routes would have provided housing options to local residents who were aging out of their current, nearby homes. The development was intended to serve as a 55+ community.

In the end, the Manitoba Municipal Board "considered the size and scale of the proposed development and proposed rezoning to be incompatible with the character, context and built form of the surrounding dwellings and established neighborhood," said the board, who went on to communicate their belief that "the site is appropriate for some level of infill development" and that the site's current zoning, which is residential multi-family small, would still allow for development of diverse housing "in a form and density that are sensitive and complimentary to the character and features of this unique site and area."

This outcome is something that Jen sees as a positive for everyone.

"I think it is going to set a precedent for communities working more harmoniously with developers and ratepayers. I'd expect to see more appeals and hearings both in Winnipeg and in rural Manitoba."

Jennifer Hanson has been with TDS for a year and half. In addition to her years of experience in the areas of municipal law and planning, development and zoning law, she also has knowledge of municipal labour and employment law, municipal arbitration and mediation, access to information and privacy law, expropriations and municipal real property.

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