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**VIA EMAIL**

Mayor John Tory and Members of Council  
 Toronto City Hall  
 100 Queen Street West  
 Toronto, ON M5H 2N2

**Attention: Ulli S. Watkiss  
 City Clerk**

**Your Worship and Members of Council:**

**RE: Toronto City Council Item No. PH11.4  
 Amendments to the Built Form and Public Realm Policies of the Official  
 Plan**

We are the lawyers for the persons listed on the attached Schedule "A", which are either the owners or have an interest in the properties indicated therein.

On behalf of our clients, we are writing to provide our preliminary comments in respect of the proposed Official Plan Amendment as set out in the *Official Plan Review: Final Recommendation Report - Amendments to the Built Form and Public Realm Policies of the Official Plan* staff report dated November 7, 2019 (the "**Proposed OPA**").

As a general proposition, the Proposed OPA contemplates policy changes that may unnecessarily constrain the ability of a proposed building to respond to site-specific opportunities and constraints. As general built-form guidelines, some of these directions have been employed by the City to review site specific development proposals. Inherent in their application, as guidelines, is the flexibility for developments to appropriately respond to site specific circumstances in a manner that may not comply with the general built form direction contemplated therein. To the extent that the Proposed OPA is intended to elevate historical built form guidelines to Official Plan policy, we submit that greater flexibility is warranted to ensure that a proposal is able to appropriately respond to its context, and in turn achieve the goals and intent of provincial policy and the Official Plan as a whole.

By way of example, the Proposed OPA includes the non-policy textual commentary under the heading "Mid-Rise Buildings" which states the following:

*"Mid-rise building heights are contextual and are informed by the width of the right-of-way onto which they front. In Toronto, where streets vary in width from 16.5 metres to over 40 metres, midrise buildings may vary in height between four and 11 storeys for residential uses, or fewer for office uses, dependent on the adjacent right-of-way width."*

Proposed Policy 3.1.3.4 in turn states that mid-rise buildings will be designed to "have heights generally no greater than the width of the right-of-way that it fronts onto."

From a general, categorical perspective, we submit that the limitation of "mid-rise" buildings to a maximum of 11 storeys is not consistent with how this typology has been developed in the City. The combination of non-policy textual commentary and proposed policy would appear intended to entrench a general categorization of mid-rise buildings, and maximum permitted building height, in a manner that is inappropriately restrictive, and which will undermine provincial and local policy direction to optimize land use and infrastructure. We submit that determinations of maximum permitted height for mid-rise buildings should be made on a site specific basis, with a general focus on achieving a good sense of fit, compatibility, transition, and reinforcing the pedestrian scale of the development, goals which are already addressed in other sections of Toronto's Official Plan.

Other examples of the more-prescriptive built-form controls contemplated for mid-rise buildings under the Proposed OPA include proposed Policy 3.1.3(b) which would require that a building's massing step back generally at a height equivalent to 80% of the adjacent right-of-way width. While we recognize that some policy text in Section 3.1.3 qualifies proposed standards with the word "generally", these policy revisions entrench built-form expectations that may result in suboptimal architectural responses.

The introductory text to Section "3.1.3 Built Form – Building Types" states that:

*"The building types listed in this section are not exhaustive but can help inform innovations in building design."*

The remainder of Section Policy 3.1.3 only considers three building typologies. We submit that the Proposed OPA should provide policy acknowledgement that the different scales of development captured by the three general typologies may be manifested as individual components of individual development proposals.

Similarly, the Proposed OPA introduces standards for outdoor amenity spaces in Policy 3.1.2.13, some of which may constrain the ability of a development site to respond to site specific conditions. For example, we submit that the following policy, which would apply to the provision and design of outdoor amenity space, should be revised as follows:

*"3.1.2.13 (g) accommodate existing and mature tree growth, where feasible."*

Thank you for your consideration of these submissions.

We hereby request notice of any decision in respect of this matter by City Council.

Yours truly,  
**Overland LLP**



Per: Daniel B. Arsenosi  
Partner

c. Clients

## SCHEDULE "A"

<u>Client Name</u>	<u>Properties of Specific Concern</u>
1266845 Ontario Limited York London Holdings	187 King Street East, 65 George Street
6 Dawes Danforth Inc.	6 Dawes Road
Berkley Carlyle (Junction) Inc.	6 Lloyd Avenue and 195, 181, 179, 177, 175, 171, 169, 167, 165, 163 and 161 Mulock Avenue
Dream Asset Management Corporation	Dream owns, directly and through related companies, several properties in the City of Toronto, some which are the subject of site specific applications (for example 49 Ontario Street)
Fortress Carlyle Peter Street Inc.	122-128 Peter Street, 357-359 Richmond Street
Tilzen Holdings Limited	145 Sheppard Avenue East