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BY EMAIL

City of Toronto  
Planning and Housing Committee  
100 Queen Street West  
10th Floor, West Tower  
Toronto, ON M5H 2N2  
Email: [phc@toronto.ca](mailto:phc@toronto.ca)

Attention: Nancy Martins

Dear Members of the Planning and Housing Committee:

**Re:** PH6.1 – Final Recommendation Report: Official Plan Amendment – Policies to  
Address the Loss of Dwelling Rooms

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Please be advised that Aird & Berlis LLP represents 2692201 Ontario Inc. which, along with its affiliated entities, has a direct interest in the above noted matter.

We are writing to convey our client's objection to the proposed City-wide Official Plan Amendment No. 453 to Section 3.2.1 Housing of the City's Official Plan ("OPA 453"). For the reasons that follow, it is our opinion that the proposed policies are vague and uncertain as drafted and unduly restrictive. In our respectful submission the draft policies are a result of the City's reliance on the private market to address social housing needs. Additionally, the application of the draft policies has not been coordinated with other Official Plan goals, including focusing growth in Mixed Use Areas and along Avenues, and in that way are inconsistent with and do not conform to Provincial policies.

#### *Minimum Threshold*

The draft policies stipulate that any redevelopment of a building or related group of buildings that requires planning approvals (other than a site plan) and that "would result in the loss of six or more dwelling rooms" will not be approved unless "at least the same amount of residential gross floor area is replaced and maintained as dwelling rooms or rental bachelor units". We note that the original version of the proposed policies contemplated a threshold of ten dwelling rooms, which we submit is more appropriate.

The proposed threshold is far too low and would capture hundreds of properties City-wide, many of which, based on their size, might not have the means necessary to carry out the required replacements. The effect of such a low threshold is that any moderate intensification

will be next to impossible as full replacement of the dwelling rooms would be required. In this regard, OPA 453 could have a negative impact on the feasibility and economic vitality of many ongoing and future projects that are comprised of dwelling rooms, and could disincentive owners from pursuing such projects.

Further, the rationale underlying this threshold is insufficient to justify the significant restrictions to private property rights that would result from the implementation of these policies. The Final Report indicates that the rationale for this threshold is that it is more representative of the number of dwelling rooms in individual rooming house properties across the City and is consistent with the demolition and replacement policies for rental units. Respectfully, we submit that the threshold should not be determined simply on the basis of the most common type of rooming house or what is applicable to rental units. The basis for this rationale appears to be a desire for the proposed policies to have as much applicability as possible, rather than a reasoned policy rationale. It is important to note also that dwelling rooms are distinguishable from rental units in many significant respects and such distinctions should be considered when deciding whether or not the standards that apply to the replacement of rental units is appropriate with respect to the replacement of dwelling rooms.

#### *Affordability*

The draft policies would require that "for a period of at least 15 years, the rents for replacement dwelling rooms and replacement rental bachelor units will be similar to the dwelling room rents in effect at the time the development application is made" or, if there is no returning tenant, at the applicable "dwelling room tier", which would be based on the dwelling room rents in effect at the time of the development application in question. The draft policies also stipulate that "the City will seek opportunities to secure the provision of additional replacement rental dwelling rooms or replacement rental units to achieve at least the same number of existing dwelling rooms lost and to secure rents for replacement housing for a period of at least 49 years".

The effect of these requirements is to essentially remove from the owners of properties that fall within the applicable threshold control over their ability to capitalize on their investment property and participate in any meaningful way in a free market. While our client acknowledges the goal of balancing access to affordable housing with private property rights, we submit this aim can be achieved through less extensive affordability requirements. We note that the 15 year affordability requirement is even more cumbersome than the 10 year requirement with respect to rental units, despite the fact that those who operate rooming houses may have less capacity to withstand decreased revenues on account of the fact that dwelling rooms typically generate less revenue than rental units to begin with.

Notwithstanding that the 49 year affordability period is aspirational as the proposed policies would only stipulate that such a period would be "sought" by the City, rather than imposed, the prospect of such a horizon in the absence of any concrete provision for government incentives, financing or otherwise is aggressive and unjustified. Moreover, the manner in which this policy is worded is vague and uncertain in respect of what circumstances or actions would trigger this policy. It is unclear, for example, how one would achieve continuity with the policy as worded.

#### *Recommendation to amend Subsection 111(3) of the City of Toronto Act, 2006*

Beyond the proposed policies themselves, the Final Report includes a recommendation that Council request the Province of Ontario to amend Subsection 111(3) of the *City of Toronto Act*,

2006 to give the City the authority to amend Chapter 667 of the Toronto Municipal Code to permit the regulation of residential rental properties that contain six or more dwelling rooms in a similar manner as the City of Toronto is permitted to regulate properties that contain six or more dwelling units.

We request that the Committee decline to make this recommendation to Council. The prospect of these significant changes being made to the regulatory landscape with respect to properties containing six or more dwelling rooms was not raised or addressed through the original public consultation process with respect to OPA 453 that lead to the production of the Consultation Summary Report prepared by Lura Consulting. The rationale for this recommendation appears to arise not from this report, but from further consultations with stakeholders that were conducted for the purpose of soliciting feedback regarding the early draft versions of OPA 453.

As noted above, dwelling rooms are distinguishable in many significant respects from rental units. The rationale for applying the rental unit demolition and replacement regulatory regime within the dwelling room context is entirely lacking and unclear. A change that proposes significant restrictions to private property rights should not be made on the basis of seemingly arbitrary and inadequate policy rationale.

*Conclusion*

For the aforementioned reasons, we object to the proposed policies under OPA 453 and would request that the Committee decline to follow the recommendations of staff with respect to this matter.

Please provide our client, through our office, with notice of any decision with respect to OPA 453.

Thank you.

Yours truly,

AIRD & BERLIS LLP



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EPKC/RH

c. Client  
Andrew Dales

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