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November 8, 2021

**VIA EMAIL**

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

**Attention: City Clerk**

Your Worship and Members of City Council:

**RE: Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and  
Draft Implementation Guidelines  
Item PH28.1**

We are the lawyers for the clients listed in Schedule "A" to this letter. We are writing to express our concerns regarding the Inclusionary Zoning recommendations made at the October 28, 2021 meeting of the Planning and Housing Committee that we understand will be before City Council for consideration at its meeting that commences on November 9, 2021.

We have reviewed previous correspondence and submissions by and on behalf of BILD in this matter and we generally support the comments and position advanced by BILD with respect to Inclusionary Zoning. As well, we have reviewed the correspondence submitted by developer and other development industry representatives. While we acknowledge the important objective of providing affordable housing, we generally echo the underlying concerns raised about the particular Inclusionary Zoning regime that has been proposed.

While we support the recommendations in the Staff Report dated October 15, 2021 for transparent and predictable transition to an Inclusionary Zoning regime, we remain concerned about the possibility for premature imposition of Inclusionary Zoning and its impact on development projects that are in progress or in the pipeline. The rules regarding transition should be simple and straightforward and should not apply where *Planning Act* applications are underway or where development permissions have already been obtained for a property. For projects not yet underway, we generally agree with City Staff's approach that there should be a phase-in period. We note Staff are proposing September 18, 2022. We submit that the transition period should not be any date earlier than that.

The lack of financial incentives for developers of affordable housing is not consistent with Inclusionary Zoning regimes in other municipalities and jurisdictions. It is also contrary to the recommendations of the City's own consultant. Financial incentives must be considered as part of any Inclusionary Zoning regime in order to ensure that the cost of and responsibility for


providing affordable housing is not visited unilaterally or disproportionately on new development. This will only serve to increase the cost of housing.

The City's move to establish an Inclusionary Zoning regime prior to the formal identification of any Protected Major Transit Station Areas within the City of Toronto (the two that have been designated by the City so far remain before the Minister of Municipal Affairs for approval) is also problematic. Until appropriate minimum development permissions have been established in these important areas of the City, the impact of the proposed affordability requirements (which may yet go beyond those recommended in the City Staff report) are speculative.

We understand that the recommendations of the Planning and Housing Committee included a request to examine additional areas of the City to which the Inclusionary Zoning regime might be made to apply. Similar to the concerns about uncertainty expressed above, we are concerned with the lack of certainty with respect to the geographic extent and applicability of Inclusionary Zoning. Areas in which the regime will apply should be identified well in advance and not be subject to significant revisions just prior to the adoption of the City's instruments.

While the *Planning Act* provides no direct appeal mechanism for our clients in respect of the proposed Inclusionary Zoning regime, we are nevertheless **requesting written notice** of City Council's decision in this matter (along with any further reports and committee or Council meetings with respect to Inclusionary Zoning). In the event, the Minister of Municipal Affairs determines to appeal the City's Inclusionary Zoning instruments pursuant to Sections 17(36), 17(36.1.3), 34(19), and 34(19.4), some or all of our clients, including others not listed on Schedule "A", may seek party status to such an appeal. Our contact information for providing notice is set out herein.

Yours truly,  
**Overland LLP**

  
Per: Daniel B. Arsenosi  
Partner

Schedule "A" encl.

**Schedule "A"**

- 128 Peter Street Limited Partnership
- 1386073 Ontario Inc.
- 1742875 Ontario Inc.
- 1720194 Ontario Inc.
- 221 Sterling Road Holdings Inc.
- 5047373 Ontario Inc.
- 6 Dawes Danforth Inc.
- Adsco Properties Inc.
- Berkley Carlyle (Junction) Inc.
- Berkeley Carlyle (Junction) LP
- Double Z Investments Limited
- Freed Grand Park Development Inc.
- Freed Grand Park 3 Development Inc.
- Maplegrove York Apartments Ltd.
- Novi Properties
- Ont GTA Properties Inc.
- Pem (Eglinton) GP Inc.
- Pem (Eglinton) LP
- Policy Investment Ltd.
- St. Gaspar's Developments Corp.
- Tilzen Holding Limited