

**VIA EMAIL**

June 28, 2021

City of Toronto Clerk's Office  
Planning and Housing Committee  
100 Queen Street West, 10th Floor, West Tower  
Toronto ON  
M5H 2N2

Attention: Ms. Nancy Martins, Administrator, Planning and Housing Committee

Dear Ms. Martins:

**Re: Zoning Conformity for Official Plan Employment Areas  
Preliminary Comments on Behalf of Choice Properties REIT  
Various Properties  
Toronto, Ontario  
Our File: CHO/TOR/20-02**

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We are the planning consultants for Choice Properties REIT ("Choice") with respect to the City of Toronto Zoning By-law Zoning Conformity Review for Employment Areas ("Zoning Conformity"). Choice owns a number of sites within the City of Toronto including the following (note that the full list of lands affected by the draft Zoning By-laws has yet to be confirmed and there may be additional properties to be noted):

- 10 Lower Jarvis St.;
- 100 Disco Rd.;
- 11 Redway Rd.;
- 1400 Neilson Rd.;
- 17 Leslie St.;
- 222 Lansdowne Ave.;
- 25 Photography Dr.;
- 2549 Weston Rd.;
- 330 Queen's Plate Dr.;
- 3671 Dundas St. West;
- 372 Pacific Ave.;
- 3730 Lake Shore Blvd. West;
- 39 East Liberty St.;
- 390 Dufferin St.;
- 42-46 Overlea Blvd.;
- 500 Lake Shore Blvd West;
- 51 Gerry Fitzgerald Dr.;
- 650 Dupont St.;
- 681 Silver Star Blvd.;
- 201 Lloyd Manor Rd.;
- 123 Parkway Forest Dr.; and

- 825 Don Mills Rd.

Our client remains an appellant to the ongoing OLT (formerly LPAT and OMB) proceedings related to OPA 231, including with respect to a number of site-specific appeals that have yet to be heard.

On behalf of Choice, we have been monitoring the City of Toronto Zoning Conformity Review which in part seek to implement the policies of OPA 231. We reviewed the Staff Report dated June 10, 2021 and the associated draft Zoning By-laws in Attachments 1-9. We understand that the June 10, 2021 Staff Report will be considered at the June 28, 2021 Planning and Housing Committee meeting. Further, we understand that the draft Zoning By-laws in Attachments 1-9 of the Staff Report are recommended for adoption.

We offer the preliminary comments below on behalf of Choice.

### **Meaningful Notice for Review**

While physical distribution of notice was provided, we are concerned that notice provided in advance of the statutory Public Meeting scheduled for June 28, 2021 was insufficient to allow interested parties to make meaningful comments in advance of the public meeting. Given the ongoing pandemic and directives to work from home, digital notice of the forthcoming virtual Public Meeting should have been provided. The failure of the City to adapt its notice processes to the realities of the continuing pandemic is of particular concern, as the draft Zoning By-law amendments have City-wide implications and affect numerous properties (including those owned by our client). Notwithstanding that electronic notice would have been appropriate, it would be reasonable to allow a longer review period, considering the scope and magnitude of the proposed City-wide changes. Sufficient opportunity to review the draft Zoning By-laws should be provided, and **we suggest a deferral of the decision and that further public consultation be considered.**

### **Recognition of Existing Uses**

We understand that there are a number of conditions that are specifically exempted from the draft Zoning By-laws. This includes lands that have site specific zoning provisions. However, in our submission the list of exclusions from the draft Zoning By-laws is not sufficient, and as a result, numerous properties will be rendered legal non-conforming. The proliferation of legal non-conforming uses is a concern that has the potential to cause future conflicts with long-term implications. It would create a precarious existence for numerous uses, including schools, churches, hotels, etc., through which no lapse in use whatsoever can occur (through renovations, temporary closures, change in tenant or ownership, etc.) without risking the use no longer being permitted. Because the uses would not be identified as permitted in the Official Plan or Zoning, even reasonable planning applications (such as a Minor Variances) could be refused on the basis of non-conformity

**In our submission, legally existing land uses should be recognized** and permitted in perpetuity. The draft Zoning By-laws should be designed so as to prohibit unwanted new uses from locating on a site, but recognizing the uses that were established legally at the time of passing of the zoning by-law.

## **Lands Not Designated as Employment Areas**

Choice owns sites that continue to be zoned for employment industrial purposes, even though they are no longer designated as Employment Areas under the City of Toronto Official Plan. The Staff Report notes that these lands are excluded and that they may be addressed through Phase 2 of the Zoning By-law Review or through a site specific application. Our understanding, however, is that the Phase 1 Zoning By-law Amendments to be considered June 28, 2021, also seek to remove permitted uses for lands not designated as Employment Areas.

We are concerned with significant changes proposed to lands not designated Employment Areas as part of Phase 1 of the Zoning By-law Review, which will potentially remove uses on Choice properties, where it is not appropriate at this time. Additionally, there is lack of clarity as to how non-Employment Areas designated lands are to be addressed through Phase 2, and when. We suggest that all lands not designated Employment Areas be recognized through site specific zoning as part of Phase 1. It is inappropriate to remove permitted uses from these properties at this time, and such changes may not conform to the Official Plan.

**As we only became aware of the Public Meeting on June 24, 2021, our detailed review of the implications of the draft Zoning By-laws is underway. Accordingly, we may provide further comments as required.**

We would welcome the opportunity to meet with Staff to discuss our comments further.

**Please kindly ensure that the undersigned is notified of any further meetings with respect to this matter as well as Notice of the approval of the Zoning By-law Amendments.**

Yours very truly,

**ZELINKA PRIAMO LTD.**



Rob MacFarlane, MPL, MCIP, RPP  
Planner

cc. Choice Properties REIT (via email)  
Aird and Berlis LLP (via email)