February 9, 2018

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

Dear Mayor Tory and Members of Council,

RE: EX31.1a Creative Co-Location Facilities Property Tax Subclasses

Toronto is in the midst of an acute affordability crisis that is driving artists out of the city and putting many of its cultural facilities at risk. Artscape operates 11 projects across Toronto that provide affordable work and live/work space to more than 2,300 people and 150 organizations. Our projects have been major catalysts for the revitalization of their neighbourhoods, including West Queen West, Wychwood Park, The Distillery District, Regent Park and others.

The biggest threat to the affordability/sustainability of our existing projects and impediment to the development of new ones is surprisingly not the rising value of land. It is the level of property taxes charged to our creative co-location facilities (CCFs).

Property taxes for Artscape Distillery Studios have risen from $2.37 per square foot in 2013 to a projected $4.97 in 2018, a 106% increase over 5 years. Artscape Youngplace opened in 2012 as an antidote to the gentrification and displacement of artists in West Queen West. Property taxes for Paperhouse Studio (an experimental arts studio rooted in paper as the medium, offering educational programs, artist projects and outreach initiatives) at Artscape Youngplace are $9.18 per square foot in 2018. At Daniels Spectrum in Regent Park, property taxes have reached $6.78 per square foot. Tax consultants are advising us to project more than $12 per square foot for one of our projects in development. **Without changes to property tax policy, it is clear from Artscape's perspective that the future of these co-location projects and Toronto's arts community will be at great risk.**

On behalf of all of Artscape's tenants, I would like to applaud the efforts of the Mayor, Council and City staff to create a new property tax subclass for creative co-location facilities. We appreciate the creativity and collaboration across City departments and between governments in the development of this policy. While we are supportive of the recommendations in EX31.1a, we believe the following tweaks will strengthen the policy and ensure that it provides a lasting fix to the sustainability challenges of creative - co-location facilities (CCFs):

1. **Amend the proposed discount from 30% to 66%.**
2. **Amend the qualifying property criterion related to multiple tenants from *"The property must have a minimum of (10) distinct, full-time tenants that meet the definition of 'Creative Enterprise'"* to "*The property must have a minimum of five (5) tenants that meet the definition***

***of 'Creative Enterprise'*.**" **We have spoken to City staff about this issue and we understand they are open to a friendly motion to change the minimum tenant criteria from 10 to 5.**

What the goals of the new subclass should be:

We believe the new Creative Co-Location Facilities Property Tax Subclasses (CCFPTS) should accomplish the following objectives:

1. **It should seek to create a lasting fix to the property tax challenge faced by CCFs rather than just a quick fix to the increase in property taxes over the past 3 or 4 years.**
2. **It should recognize that the valuations of CCFs can vary dramatically depending on the age of the property and when it was first assessed and therefore set the discount rate at a level that provides substantial relief to all properties within the class.**
3. **It should seek to encourage the development of more CCFs to create and sustain multi-faceted cultural infrastructure including outside the core.**

Setting the right discount rate:

By amending the discount from 30% to 66%, the City would effectively be taxing CCFs at residential rates, including the new multi-family residential property class adopted to spur rental housing. There is an additional precedent for this approach that worked well for many decades. Prior to Current Value Assessment (CVA), non-profits were taxed at the residential rate, approximately 1/3 of commercial rates. When CVA came into effect in 1999, a capping mechanism was put in place to ease the transition to the full commercial rate. Charities were offered a 40% rebate on commercial taxes but creative co-location facilities did not qualify for this support. In addition to the transition from residential to commercial rates, CCFs have been subject to dramatic escalations in property taxes driven by building valuations determined by MPAC that assesses them at the highest and best use, including using rising commercial office valuations. The combination of these issues is threatening the sustainability of CCFs and their subtenants.

Given the growing affordability crisis in Toronto and the threat to cultural facilities that it represents, Toronto should seek to use the new CCFPTS as an incentive to create more affordable space for culture. Because commercial taxes on new commercial spaces are often taxed at more than $10 per square foot, a 30% reduction will not provide enough incentive to make cultural space development in new projects viable.

Why the arguments for less than 66% miss the point:

The Ex31.1a report makes the following incorrect assertions (*in italics*) to make the case that a 30% reduction is adequate:

"Such a rate is consistent with the rate reduction provided to the existing commercial subclasses."

The report does not cite nor are we aware of any other examples where a commercial subclass receives a 30% reduction. The Assessment Act allows for many uses to be taxed at the residential rate, including land used for golf courses, ski resorts, driving ranges and airplane storage facilities.

"In addition, analysis of properties that may qualify under the proposed eligibility criteria for the new subclasses determined that a 30% reduction in rate would benefit creative enterprise tenants located

within eligible properties, enabling such properties to continue to offer substantially below-average market rents in the face of rising property assessments."

It is unclear what analysis supports this assertion. 401 Richmond has seen rates rise by 40% and Artscape Distillery Studios rates have gone up by 106% over the past 5 years.

401 Richmond Street				**Artscape Distillery Studios**			
Year	**Property Taxes**	**Annual % Increase**	**$ per ft^2**	**Year**	**Property Taxes**	**Annual % Increase**	**$ per ft^2**
2013	$479,000	7%	$ 2.72	2013	$103,831	25%	$ 2.37
2014	$512,448	7%	$ 2.91	2014	$120,139	16%	$ 2.75
2015	$542,025	6%	$ 3.08	2015	$133,812	11%	$ 3.06
2016	$568,330	5%	$ 3.23	2016	$150,947	13%	$ 3.45
2017	$615,000	8%	$ 3.49	2017	$166,791	10%	$ 3.81
2018	$660,000	7%	$ 3.75	2018	$217,358	30%	$ 4.97
Combined increases 2013 - 2018		40%		increases 2013 - 2018		**106%**	

In these cases, a 30% reduction will not adequately mitigate the extraordinary increases over the past 5 years much less enable them to continue to offer substantially below-market rents in the face of rising property assessments. If assessments continue to rise at the current trajectory, it stands to reason that the benefit of the subclass would be wiped out within one 4-year assessment cycle.

More importantly, the actual rate per square foot is what matters when it comes to preserving affordability. CCFs that were first assessed after 2012 are paying significantly higher property taxes per square foot than those that led to the sustainability crisis at 401 Richmond Street. Examples of recently developed Artscape CCFs illustrate this point.

Subclass Discount Analysis	**2018 Gross Property Tax**	**Net of 30% Subclass Discount**	**Net of 66% Subclass Discount**
Artscape Properties - Assessed After 2012			
Artscape Wychwood Barns	$ 5.80	$ 4.06	$ 1.93
Artscape Youngplace*			
Low	$ 6.40	$ 4.48	$ 2.13
Avg	$ 8.03	$ 5.62	$ 2.68
High	$ 10.55	$ 7.39	$ 3.52
Daniels Spectrum	$ 6.78	$ 4.75	$ 2.26
Creative Co-location Facilities Assessed Before 2012			
Artscape Distillery Studios	$ 4.97	$ 3.48	$ 1.66
401 Richmond	$ 3.75	$ 2.63	$ 1.25
* Artscape Youngplace is structured as commercial condominium so tax rates vary based on the value of units within the project.			

While there will inevitably be differences in the taxes levied to CCFs based on their valuations, the CCFPTS discount rate should be set at a level that is low enough to solve the sustainability challenge for all eligible properties within the class given that they are serving the same group of subtenants. A 30% reduction for the most highly assessed units at Artscape Youngplace will result in taxes that are $7.39 per square foot that is more than double the rates of 401 Richmond after the discount is applied.

"This rate would provide a material benefit to the owners and operators of creative co-location facilities, while the eligibility requirement that creative enterprise tenants receive substantially below-average market rents ensures that such tenants also benefit."

The material benefit provided to Artscape through the subclass will be marginal and relate only to the portions of our projects that it occupies to serve the needs of its tenants. Under the terms of our leases, property tax is passed through to tenants as part of additional rent. The primary beneficiaries of the subclass will be the tenants, not the facility operators.

"In addition, creative enterprises who are eligible charities located in such properties may apply to receive a further 40% reduction in property taxes under the City's Property Tax Rebate for Registered Charities program, which would bring their taxes close to the residential tax rates."

While this is true, only 17% of Artscape's commercial tenants qualify for the charitable tax rebate program. Some have made the case that the 30% subclass discount when combined with the charitable tax rebate should be seen as equivalent to the residential rate. This would certainly not be the case for Artscape facilities given the relatively low number of charities.

Multiple tenants' criterion:

Our concern about requiring eligible properties to have "10 distinct full-time tenants" is that it will preclude inclusion of multi-tenant properties in the class like Daniels Spectrum. This Artscape project is 60,000 square feet and meets all of the other criteria but has only 5 tenants that meet the 'Creative Enterprise' definition. We appreciate that the City needs to set a high bar for inclusion in the subclass to create a manageable number of qualifying buildings. However, we do not think it makes sense that a building with 10 X 1,000 square foot tenancies would qualify when a significant project like Daniels Spectrum that is 60,000 square feet but has just 5 subtenants would not. As we have seen with Daniels Spectrum, it is particularly important to ensure that future creative co-location projects can adapt multi-tenant models that meet local needs.

Conclusion:

Notwithstanding this request for amendments, we are extremely grateful to all at the City who have worked to make the Creative Co-Location Property Tax Subclass a reality. A 30% discount through the CCFPTS would effectively put a band-aid on the challenge facing CCFs and their tenants. While this would provide some measure of relief, any gains could be wiped out when the next property tax assessments are completed. By increasing the discount to 66%, the City would create a more lasting solution to the challenge for all eligible CCFs while providing an incentive for new CCFs to be developed.

Too much effort has gone into the creation of the subclass for it only to become a stop-gap solution. We urge Council to continue its tradition of demonstrating strong support of its arts community by embracing the 66% solution.

All the best,

Tim Jones, CEO