

October 27, 2021

Planning and Housing Committee  
10<sup>th</sup> Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Ms. Nancy Martins, Committee Administrator**

Dear Chair and Members of the Planning and Housing Committee:

**Re: NOTICE OF CONCERN/OBJECTION to the proposed Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and Draft Implementation Guidelines as they affect a number of our clients' properties located in the City of Toronto**

**And Re: REQUEST FOR RECEIPT OF ANY AND ALL FUTURE REPORTS in respect of the proposed Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and Draft Implementation Guidelines**

**And Re: REQUEST FOR NOTIFICATION of any meetings of Council, Committee of Council, Community Council and/or Public Meetings and/or Community Information Meetings where the proposed Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and Draft Implementation Guidelines are to be considered**

**And Re: REQUEST FOR NOTIFICATION of the passage of the proposed Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and Draft Implementation Guidelines**

**Planning and Housing Committee Item Number: PH28.1**

We are the solicitors for a number of property owners throughout the City, who have acquired sites which are located within the boundaries of Protected Major Transit Station Areas (PMTSAs), to which the above-noted implementing documents apply. Our clients acquired these properties based upon the then existing planning regime in effect, after conducting their due diligence, reviewing the various permissions contained in the "in force" policies, and relied on these policies in purchasing their property.

We have attempted to provide a list of our clients' concerns, with our clients' sincere hope that such concerns can be fully addressed prior to Council proceeding to consider the passage of any implementing documents. The following sets out our clients' concerns:

**Lack of consultation**

The City's Open House meeting to discuss the significant revisions to the draft implementing documents and general Inclusionary Zoning (IZ) framework was held one week prior to the meeting of the Planning and Housing Committee, with only a limited question and answer portion. Considering the sweeping impact of these amendments, and the number of interested parties, we respectfully submit that one hour and a half-long meeting one week prior to Planning and Housing Committee is not enough time for a meaningful consultation with City Staff. Our client ought to have been provided with an opportunity to properly review the proposed implementing documents and revised approach to IZ, and to meaningfully consult with City Staff.

**Lack of financial incentives**

While the City's presentation and Report from the Chief Planner made it clear they have canvassed the approach to IZ in other municipalities, the City has neglected to mention that financial incentives are used in these jurisdictions to effectively implement IZ. Without such incentives, the City is taking the position that IZ functions only as a cost to be borne by the development community, as opposed to a collaborative effort between developers and the City to respond to the current housing crisis.

As a result of the City's lack of financial incentives for developers providing IZ, the policies will result in developers being forced to seek increased heights and densities well beyond those that would be previously contemplated, in order to address the economic impacts on the development. In addition, the lack of financial incentives will result in the increased costs for developments to be passed along to the non-IZ units within a development, having the effect of raising the cost of housing in the City.

Finally, as currently proposed, the definition of affordability in the proposed implementing documents has been revised from the City's current market-based approach to an income-based approach resulting in rates for affordable units being far lower than market rates. Without financial incentives, the discrepancy between the market rate and the affordable housing definition will result in costs borne solely by the developer.

**Limiting IZ to PMTSAs**

The fact that IZ is being limited to sites within PMTSA boundaries will discourage developers from purchasing and developing sites within those boundaries, instead seeking sites located immediately outside the PMTSA. The proposed IZ policies, in our respectful submission, are in direct conflict with the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe, which encourage development in PMTSAs. The application of such policies to our clients' lands, in their current form, will discourage true, viable, transit-supportive development in PMTSAs.

Furthermore, an unintended consequence of limiting IZ to PMTSAs is clustering affordable housing in only certain areas of the City. The Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe encourage the provision of a range and mix of housing options throughout the City, while in our respectful submission, the IZ policies would have the effect of concentrating affordable housing within the PMTSAs while areas of the City that can accommodate more density are excluded from these policies. These established areas outside of PMTSAs have capacity in their community facilities, parks and schools and are appropriate areas for growth but are simply not considered due to the locational requirements of the policies.

### **Implementing documents require clarity and further drafting**

In our respectful submission, the proposed implementing documents require further drafting, as they do not include the specificity required for such an impactful policy. For example, in the transition section of the proposed Zoning By-law Amendment, it should be explicitly stated that buildings without an affordable housing component are exempt if they meet the criteria for transition. While this concept is implied by the transition language, it must be drafted to be more straightforward.

As currently drafted, the proposed Zoning By-law Amendment does not “stand on its own,” in that it refers to external sources for calculation of certain items such as mortgage payments and standard condominium fees. These terms should be included in the draft Zoning By-law Amendment, as they are otherwise open to differing interpretations or confusion in their application.

In the spirit of “fairness”, it is critical that if an applicant/owner has a site that is already zoned with “as of right” permissions, it ought to be absolutely clear that IZ can only apply to requests that fall outside of those “as of right” permissions.

In addition, if a Section 37 Agreement is executed, the approvals in accordance with the associated by-law must be honoured, without any additional requirements for IZ requirements. It would be unfair for an applicant/owner to have entered into a binding agreement with the City pursuant to Section 37, offered and agreed to a specific business deal, to then have additional costs added to those same approvals, which in essence, would breach the terms of such Section 37 Agreement.

While we have attempted to explain a few of our clients’ concerns with the City’ IZ documents and policies, this is not an exhaustive list as our clients continue to have concerns with the City’s approach to IZ as a whole. We respectfully request that at the very least, the draft IZ documents be amended to address the above concerns before they are passed, so that our clients will not be prejudiced by the proposed IZ policies.

Should you have any questions, please do not hesitate to contact the writer.

Yours very truly,

A handwritten signature in black ink, appearing to be 'AJB', with a large loop on the left and a tail extending to the right.

Adam J. Brown