



February 1, 2022

Via Email: [clerk@toronto.ca](mailto:clerk@toronto.ca)

City Council  
Toronto City Hall  
100 Queen St. W., 2nd Floor  
Toronto, ON M5H 2N2

[sleisk@cassels.com](mailto:sleisk@cassels.com)  
Tel: +1 416 869 5411  
Fax: +1 416 640 3218  
File: 51989-2

Attention: Mayor and Members of Council

Dear Sirs/Mesdames:

**Re: PH30.1: Mandatory Pre-Application Consultation: Recommended Amendments to the Official Plan and to the Municipal Code**

We are the lawyers for the Building Industry and Land Development Association (“BILD”) with respect to the above noted matter. BILD submitted correspondence to the Planning & Housing Committee on January 10, 2022, a copy of which is attached hereto. We have reviewed the Supplementary Report and, for the reasons set out below, **BILD requests that staff be directed to report back to Council on the status of the implementation measures being undertaken in advance of the November 1, 2022 effective date of the By-law. Should adequate measures not be in place to ensure the efficient administration of the mandatory pre-application process, BILD requests that the By-law be amended to defer the coming into force of the mandatory pre-application requirements accordingly.**

BILD represents approximately 1,500 member companies and is the voice of the home building, land development and professional renovation industry in the Greater Toronto Area and Simcoe County. BILD members have participated in monthly working group sessions with City staff from the Concept 2 Keys Office respecting the proposed mandatory pre-application consultation. We thank City staff for the positive consultation to date. We have reviewed the Supplementary Report and participated in subsequent discussions with City staff and are writing to provide the following additional comments.

Applicants have a statutory right to submit development applications to the City and have these considered by the City in accordance with the *Planning Act*, as well as other applicable policy and legislation. The potential impact of failing to obtain a pre-consultation meeting, and thereby preventing an application from being submitted, can be devastating to a project, both in lost opportunity and increased cost. This will result in further delays to the delivery of housing, infrastructure and jobs, as well as significant legal claims against the City of Toronto. BILD is pleased that staff recognize the importance of proper implementation, and the need to ensure process improvements are in place prior to the mandatory pre-consultation requirements of the By-law coming into force on November 1, 2022.

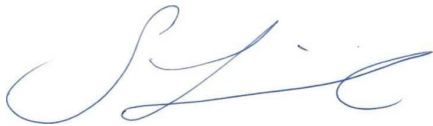
It is undisputed that the current process is ineffective to deliver pre-application consultation meetings within a reasonable time period. Staff have reported that over the prior two years, 29-33% of applicants that requested a meeting did not obtain a meeting *within the same year*. Given the increased resources required and the number of process improvements identified by staff and highlighted in the Supplementary Report to deliver a mandatory pre-application consultation process, it is critical to ensure a new process is in place, with demonstrated performance, before the By-law comes into force.

For the above noted reasons, BILD requests that staff be directed to provide a status update to Council on the process improvement measures undertaken prior to the proposed November 1, 2022 effective date. If adequate measures have not been put in place, BILD requests, and it is in the City's interest, to defer the date the mandatory pre-consultation comes into force. BILD members look forward to their continued consultation with City staff on the implementation measures and guidelines.

Thank you in advance for your consideration of this correspondence.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in blue ink, appearing to read 'Signe Leisk', with a stylized flourish at the end.

Signe Leisk  
Partner

SL/cm



January 10, 2022

Via Email (phc@toronto.ca)

Planning and Housing Committee  
10th floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Attention: Nancy Martins

sleisk@cassels.com

Tel: +1 416 869 5411

Fax: +1 416 640 3218

File : 51989-

Dear Chair and Committee Members:

**Re: PH30.1: Mandatory Pre-Application Consultation: Recommended Amendments to the Official Plan and to the Municipal Code - Final Report**

We are the lawyers for the Building Industry and Land Development Association (“BILD”) with respect to the above noted matter. BILD supports pre-application consultation and is appreciative of the stakeholder engagement on this item. However, for the reasons set out below, **BILD requests a brief deferral for staff to establish, in consultation with BILD, applicable application requirements and meeting timelines within the proposed by-law to ensure a fair and transparent pre-application process.**

BILD represents approximately 1,500 member companies and is the voice of the home building, land development and professional renovation industry in the Greater Toronto Area and Simcoe County. BILD members participated in monthly working group sessions with City staff from the Concept 2 Keys Office respecting the proposed mandatory pre-application consultation. We thank City staff for the positive consultation to date and look forward to the additional scheduled meetings. City staff are to be commended for their proactive engagement, solution-oriented approach, openness and willingness to have candid conversations.

This item is of extreme significance to BILD and its members and it will be important to ensure that processes and procedures are put in place that will work for all stakeholders. The following points elaborate on BILD’s request to defer this item at this time, to allow for additional needed consultation.

Pre-consultation meetings are an important step in the development process, ensuring early communication and clear mutual understanding of the anticipated requirements for a complete application. Staff report that in 2020 alone, there were 483 development applications, and 449 requests for a pre-application consultation meeting, demonstrating a clear desire of applicants to meet with staff in advance of submitting a development application. Yet staff also report that in 2020 the City was only able to grant a meeting *within the same year* to 67% of applicants. In

2019, pre-pandemic, staff reported granting meetings to only 71% of requests *within the same year*. Delay in the application process further increases costs and exacerbates existing delays in the delivery of housing, contrary to Bill 108, the *More Homes, More Choices Act, 2019*.

Demand will only increase with a mandatory pre-application meeting process. BILD members repeatedly report the inability to obtain a meeting with City staff, largely due to a lack of staff resources to accommodate such requests.

BILD supports the City's efforts in ensuring the pre-consultation process is standardized, productive, and effective for all parties. However, it must be recognized that applicants have a statutory right to submit development applications to the City and to have it considered by the City in accordance with the *Planning Act*, as well as other applicable policy and legislation. As a result, BILD has significant concerns that any mandatory process not only provide clear standards for applicants, but also ensure responsibility and accountability of the City to provide a pre-application consultation meeting within a reasonable timeframe. All aspects of the development application process must have clear application requirements and associated timelines to ensure an open and fair process.

In particular,

1. Mandatory Meeting Timeline. Throughout the consultation BILD members have repeatedly noted the need to identify applicable timelines for all steps in the pre-consultation process to ensure meetings are provided in a timely manner. The 9 step process proposed by staff in Attachment 4 is unnecessarily cumbersome and will result in further delays. Requiring external agencies to also be present, while potentially beneficial, is beyond the authority granted under the *Planning Act* and will further strain resources and delay meetings. BILD requests that the draft by-law be amended to require that a pre-consultation meeting with City staff be held within 30 days of a request, failing which an application may be submitted in the absence of a pre-consultation meeting. External agencies may be invited to attend, but attendance should not be mandatory.
2. Clear Application Requirements. The proposed draft by-law requires the submission of "any information and materials required by the Chief Planner and Executive Director, City Planning or their designate". This is broader than the statutory requirements for a planning application itself. Clear pre-application requirements must be set out in the by-law in advance and should be limited to the City's current requirements.
3. Complete Application Checklists. One of the key benefits of the pre-consultation meeting is the development of a checklist of information and material that is being requested by the City to constitute a complete development application. Timelines should be included for the delivery of a checklist within two weeks of a pre-application consultation meeting.

4. Avoid Duplicative Meetings. One pre-application consultation meeting should be all that is required for concurrent applications. The proposed by-law should be amended to remove the discretion to require multiple meetings for concurrent applications. Concurrent applications rely upon the same information and material to be submitted and there is no need to require additional meetings before a concurrent application is filed. Additional meetings should only be required for non-concurrent applications when there is new information and material required to determine additional requirements for a complete application.
5. Ensure Adequate Resources. A successful pre-application consultation process is entirely dependent on the City devoting the necessary resources to respond to applicants in a timely manner. Increased staffing will be required to ensure the City is in a position to meet with and respond to applicants within a reasonable time. The staff report indicates that the implementation of mandatory pre-application consultation has been included in the 2022 operating budgets of affected City divisions. It is further contemplated that the cost of the pre-application consultation will be recovered from applicants through the imposition of a new fee for this purpose. If an additional fee is to be charged, thereby further increasing the costs of development, it is imperative that City divisions are staffed appropriately to ensure an applicant's statutory right to submit a development application is not unreasonably delayed.

For the above noted reasons, BILD requests a brief deferral and that staff be directed to return the item for Committee's consideration only at the point that the above noted matters are addressed in the consultation sessions being held with BILD, in order to ensure that a balanced and reasonable pre-consultation process is established, with clear and transparent requirements and obligations for all. With clear direction, these outstanding items can be addressed in the proposed by-law without any resulting delay to the proposed implementation period.

Thank you in advance for your consideration of this request.

Yours truly,

Cassels Brock & Blackwell LLP



Signe Leisk  
Partner

SL//cm