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July 17, 2023

**VIA EMAIL**

City of Toronto, City Clerk's Office  
Toronto City Hall  
10<sup>th</sup> Floor, West Tower  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: John D. Elvidge, City Clerk**

Dear Sirs/Madams:

**RE: Item PH5.2 – Official Plan Amendment No. 668 for Bill 97 Transition – Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas**

We are the lawyers for Nova Construction Company Ltd. ("**Nova**"), owner of the lands municipally known as 1530-1536 Midland Avenue in the City of Toronto (the "**Site**").

On behalf of Nova, we are writing to express our concerns with the current draft of Official Plan Amendment No. 668 (the "**Draft OPA**") which, in our view, undermines the legislative intent and policy direction behind the Province's amendments to the *Planning Act* described below.

**Planning Act Amendments and the Proposed Provincial Planning Statement**

The *Helping Homebuyers, Protecting Tenants Act* ("**Bill 97**"), which received Royal Assent on June 8, 2023, amends the definition of "area of employment" under Section 1(1) of the *Planning Act* to explicitly exclude institutional, commercial, retail and office uses where they are not associated with or related to manufacturing or warehousing uses. As part of a parallel process, the Province proposed a new Provincial Planning Statement ("**Draft PPS**") containing a similar definition that limits the uses permitted within an area of employment to manufacturing, warehousing, and certain associated or ancillary uses.

The amendments to the *Planning Act* under Bill 97 also include two transition provisions under Sections 1(1.1) and (1.2) that authorize municipalities to permit the continuation of institutional and commercial uses within an area of employment where the use was lawfully established prior to the day the *Planning Act* amendments come into force. We note that the above-noted amendments to the *Planning Act* are awaiting proclamation by the Lieutenant Governor and the Draft PPS is posted for public comment on the Environmental Registry of Ontario until August 4, 2023, and these changes are therefore not yet in force.

**Concerns with OPA 668**

Draft OPA 668 proposes to authorize the continuation of all legally existing uses otherwise excluded from the amended definition of “areas of employment” under the *Planning Act* within the City’s “Core Employment” and “General Employment” Areas. This blanket approach is contrary to the legislative intention of the *Planning Act* amendments approved through Bill 97 and the Provincial direction to limit permitted uses within employment areas to industrial, warehouse, and certain associated or ancillary uses.

The Site is the subject of a conversion request that will also be considered by City Council on July 19, 2023 (Item No. PH5.3). Our client’s planning consultant (The Biglieri Group Ltd.) submitted correspondence to the City’s Planning and Housing Committee dated April 27 and June 1, 2023 in support of the requested conversion. An oral deputation was also undertaken by The Biglieri Group Ltd. in support of the requested conversion at the Planning and Housing Committee Meeting on June 1, 2023. We adopt the conclusions of those submissions that the Site ought to be supported for conversion to “General Employment Areas” and “Mixed Use Areas”. We note that the requested conversion would help to facilitate a significant increase to the number of jobs created by the Site (from 108 to 316 jobs), as well as 224 purpose-built rental units.

However, in addition to the site-specific attributes of the Site, regard should be had to the purpose of Bill 97 to refine the definition of “areas of employment” that, under the *Planning Act*, have heightened protections for conversions to other uses. Bill 97 confirms that, from a provincial policy standpoint, office, retail, and institutional uses should not be considered as business and economic uses akin to manufacturing and warehousing uses that attract the protections of the *Planning Act*.

Although Bill 97 allows a municipality to enact protections in respect of legally established uses that exist within employment areas, the Draft OPA applies that protection overly broadly and without any satisfactory planning rationale to determine whether such protections should be applied on any given lands. As a result, the Draft OPA attempts to preserve the current status quo despite clear legislative and policy changes that have been advanced by the Province, which limit the scope of uses that fall within the protections of an area of employment.

We urge City Council not to adopt the Draft OPA in its current form and request notice of all further meetings and decisions related to this item. Our contact information is provided herein.

Yours truly,  
**Overland LLP**

  
Per: Michael Cara  
Associate

- c. L. Shiff, Nova Construction Company Ltd.
- M. Testaguzza and S. Saraf-Uiterlinden, The Biglieri Group Ltd.