

July 18, 2023

By E-Mail

Mayor Olivia Chow and Members of Toronto City Council
Toronto City Hall
100 Queen Street West, 13th Floor
Toronto ON M5H 2N2

Attention: John D. Elvidge, City Clerk

Dear Mayor Chow and Members of Council:

**Re: Council Item PH5.2
Official Plan Amendment for Bill 97 Transition - Authorizing the Continuation of
Institutional and Commercial Uses in Employment Areas - Final Report**

We act on behalf of Choice Properties Limited Partnership (“Choice”), owners of multiple properties within the City of Toronto currently designated as *General Employment Areas* within the City’s Official Plan. On behalf of our client we have been monitoring the City’s proposed response to Bill 97 through the proposed introduction of Official Plan Amendment 688 discussed in the Final Staff Report, dated June 19, 2023. We write to express our concerns with the draft OPA 688 recommended by the Planning and Housing Committee on July 5, 2023.

Background

Choice has an ownership interest in several Employment Area sites impacted by OPA 688, including but not limited to the following:

- 17 Leslie Street;
- 2549 Weston Road;
- 681 Silver Star Boulevard;
- 825 Don Mills Road;
- 11 Redway Road;
- 330 Queens Plate Drive;
- 51 Gerry Fitzgerald Drive;
- 3685 Keele Street;
- 1020 Islington Street; and
- 5661 Steeles Ave.

Although each of these sites are designated as Employment Areas within the City’s Official Plan, they each contain large scale commercial and retail uses that are no longer identified as intended uses for “areas of employment” under Bill 97 and OPA 688.

Several of the above sites have been considered for conversion to *Mixed Use Areas* or *Regeneration Areas* through the city’s latest Municipal Comprehensive Review (“MCR”), and many of these sites maintain active appeals of OPA 231, the City’s previous MCR exercise.

Concerns with respect to OPA 668

i. OPA 688 is Premature

Council's consideration of OPA 668 at this time is premature given that the relevant sections of the *Planning Act* amended by Bill 97 are not yet proclaimed. Importantly, these sections of the Act include the new definition of "Area of Employment" and subsections setting out the proposed transition provisions. Further, the related definition of "Employment Areas" contained within the newly proposed Provincial Planning Statement ("PPS") are still subject to public consultation and approval by the Minister of Municipal Affairs and Housing. Given OPA 668 is intended to implement the to-be-proclaimed changes to the *Planning Act* and will need to be consistent with the new PPS, it makes little sense to adopt changes to the Official Plan until these legislative and policy instruments are finalized and in full force and effect.

ii. OPA 688 is Contrary to the Intentions of Bill 97

The clear intention of Bill 97 and the new definition of "Areas of Employment" is to limit employment areas to traditional manufacturing, warehousing or related uses. Office, retail and institutional uses are explicitly not included in this definition, signalling an intention to exclude these uses from restrictive *General Employment* and *Core Employment* designations and policies.

Bill 97 provided the City with an opportunity to undertake a detailed assessment of the appropriateness of the *General Employment Areas* and *Core Employment Areas* designations on lands which are currently planned and used for office, retail and institution uses, and determine whether those sites should appropriately be redesignated given the new statutory definition of "Areas of Employment" and the policy framework proposed in the New PPS.

Instead, OPA 688 seeks to crystallize these lands as areas of employment notwithstanding their existing use and planned function no longer fits within these designations.

iii. OPA 688 is Unclear with Respect to the Continuation of Lawfully Existing Uses

The Official Plan should appropriately provide clear guidance to landowners and the public on the appropriate use of lands within the City. While OPA 688 recognizes "lawfully established" existing uses and allows them to continue, it does not clearly define this term, nor provide guidance for on how these uses can grow and continue to contribute to the economic vitality of the City. For landowners like Choice, who would be operating "lawfully established" non-employment uses on employment lands, this lack of clarity creates precarity and confusion as to how it can optimize the utility of its lands.


Conclusion

For the reasons set out, Choice request that Council refer this matter back to staff to reconsider the most effective way to implement the intentions of Bill 97 and the new PPS. We ask to be notified of any further decisions made by City Council, or any Committee of Council, in connection with this matter.

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Yours truly,

AIRD & BERLIS LLP

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David Neligan
Partner

DN:DPN

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