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Our File No.: 231548

**Delivered Via Email**

City of Toronto Council  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Sylwia Przewdziecki (councilmeeting@toronto.ca)**

Dear Sirs/Mesdames:

**Re: Item No. PH6.2 – Bill 109 Implementation, Phase 3 – Recommended Official Plan and Municipal Code Amendments Respecting Site Plan Control Proposed Official Plan Amendment No. 688**

We are solicitors for Nipigon Investments Inc. and Nipigon Property Limited in respect of the properties known municipally in the City of Toronto as 26-34 Nipigon Avenue (the “**Lands**”). We are writing to provide our client’s comments regarding the above-noted matter, including but not limited to proposed Official Plan Amendment No. 688 (the “**Draft OPA**”).

We understand that many stakeholders requested that Planning and Housing Committee defer the above-noted matter to allow for appropriate consultation. We are writing to City Council to express similar concerns on behalf of our client, although our client’s interest in this matter relates to the potential application of the Draft OPA and the proposed amendments to the Municipal Code to the ongoing planning process in respect of the Lands.

As background, on August 31, 2023, and after pre-consultation with City staff, Diamond Corp (acting as agent for our client) submitted an official plan amendment and zoning by-law amendment application in respect of the Lands (the “**OPA/ZBA Application**”). At the time, our client confirmed its intention to work with City staff through the approvals process, but indicated a likely need to submit an application for site plan control in advance of any decision regarding the OPA/ZBA Application. For the reasons provided in this letter, our client proceeded with submission of an application for site plan control (the “**SPC Application**”) on October 6, 2023.

Our client has already engaged in extensive pre-consultation discussions regarding the proposed development of the Lands, including a meeting with City staff on May 19, 2023, a meeting with the local councillor on June 7, 2023, and a formal pre-application consultation meeting on July 27, 2023, resulting in a planning application checklist being provided by City staff on August 2, 2023.

Please note that the pre-application consultation meeting, and subsequent checklists, was a combined meeting for the OPA/ZBA Application and the SPC Application.

Our client appreciates City concerns related to certain aspects of Bill 109. In particular, and as noted in our client's cover letter regarding the SPC Application filed on October 6, 2023, our client will not request or otherwise seek to utilize the refund provisions from Bill 109. However, our client is concerned that City staff will refuse to accept the SPC Application and/or deem the SPC Application incomplete as a result of the Draft OPA.

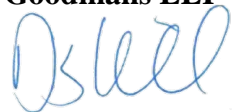
The Draft OPA could establish "in-effect zoning compliance" as a complete application requirement for our client's site plan control application. This approach would eliminate the statutory right of our client to file a site plan control application and is contrary to subsection 114(4.3) of the *City of Toronto Act, 2006*. Perhaps more importantly, this approach would negatively impact the ability of our client to finalize the implementing zoning by-law concurrently with the site plan to ensure consistency between the applications and minimize the potential for subsequent variance applications.

Significant aspects of the City's planning process also utilize complete site plan applications as a milestone for transition. It is important for our client to minimize uncertainty regarding the applicable policy framework to avoid situations where the policy requirements at the time of approval of the OPA/ZBA Application are different from those at the time of submission of the associated SPC Application. Examples include but are not limited to inclusionary zoning and Toronto Green Standards. These concerns can be mitigated through the submission of a concurrent site plan control application. Absent transition or confirmation from the City that it will process our client's concurrent site plan application, our client will have no choice but to appeal the Draft OPA if it is adopted in its current form.

We would also appreciate being included on the notice list for any decision of City Council regarding this matter.

Yours truly,

**Goodmans LLP**



David Bronskill  
DJB/

cc. Client