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October 10, 2023  
File No.: 142455.1083

By E-mail  
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City Council  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Attention: Ms. Sylwia Przewdziecki, Manager, City  
Council Secretariat

Dear Mayor Chow and Members of Council:

**Re: Item PH6.2 - Bill 109 Implementation, Phase 3 - Recommended Official Plan and  
Municipal Code Amendments respecting Site Plan Control  
Letter of Concern  
bcIMC Realty Corporation**

We are counsel to bcIMC Realty Corporation and related companies, the owners of various properties in the City of Toronto, including those municipally known as 250 The East Mall; 2901 Bayview Avenue and 630 Sheppard Avenue East; and 25 King Street West, 199 Bay St, 30 Wellington Street West, and 21 Melinda Street. In addition to these property interests, our client acquires interest in lands in the City from time to time.

We are writing to express our client's serious concerns regarding the proposed Official Plan Amendment No. 688 ("**OPA 688**"), which is being recommended by City staff and the Planning and Housing Committee for Council's adoption, together with related amendments to the Municipal Code. OPA 688 will require that applicants demonstrate "in-effect zoning compliance" before the City will deem a Site Plan Control Approval application complete and begin processing that application. In this way, OPA 688 will replace the City's historic practice of concurrently processing Zoning By-law Amendment and Site Plan Control Approval applications, and instead, move to a sequential processing of these two types of applications.

The City is advancing OPA 688 to avoid the mandatory application fee refunds that municipalities must issue if they fail to meet the requisite development application processing timelines introduced through the Province's Bill 109, *More Homes for Everyone Act, 2022*<sup>1</sup> ("**Bill 109**"). While Bill 109 was introduced by the Province to accelerate the pace of development approvals in response to the housing crisis in Ontario, OPA 688 will have the opposite effect, introducing inefficiencies, additional costs, and further delay to the development approval process—all of which will be added to the cost of housing. In this way, OPA 688 undermines the legislative intent of Bill 109. The present practice of concurrently processing Zoning By-law Amendment and Site Plan Control Approval applications allows for a coordinated preparation and review of supporting documents, plans, and reports. By contrast, in requiring the sequential processing of these applications, materials that would have been prepared and reviewed in a

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<sup>1</sup> S.O. 2002, c. 12.

coordinated, joint process will now be assembled and assessed in two, distinct processes, taking place one after the other. This leads to duplication, redundancy, and additional time and expense—all of which frustrates the legislative and policy direction for increasing the supply of housing in the face of an affordability crisis.

OPA 688 is demonstrably inconsistent with the Provincial Policy Statement (2020) and the Growth Plan for the Greater Golden Horseshoe (2019), particularly in the strong policy direction for the development of an appropriate affordable and market-based range and mix of housing options and densities, all in view of the affordable housing needs of current and future residents.<sup>2</sup> Moreover, OPA 688 frustrates the objectives of the *Planning Act*, including the purpose of providing for “planning processes that are fair by making them open, accessible, timely and efficient”.<sup>3</sup> OPA 688 does not constitute good planning and is not in the public interest.

In addition, OPA 688 appears to exceed the City’s jurisdiction. Under subsection 114(4.3) of the *City of Toronto Act, 2006*,<sup>4</sup> the City may require that applicants provide “other information or material that the City considers it may need” in processing a Site Plan Control Approval application. In line with this statutory provision, the City’s Official Plan presently identifies documents like Noise Impact Studies, Transportation Impact Studies, and other technical studies and plans in its list of other “information or material” that may be required for a complete Site Plan Control Approval application. By contrast, OPA 688 requires not merely additional “information or material”, but rather, the occurrence of a legal and factual event—that the zoning for the development proposal has come into force and effect—prior to processing applications for Site Plan Control Approval. Gatekeeping applications on this basis goes beyond the scope of subsection 114(4.3) of the *City of Toronto Act, 2006*, and in this way, OPA 688 and the related Municipal Code amendments are arguably *ultra vires* the City’s legal authority and will be challenged at the Ontario Land Tribunal and through the courts.

For these reasons, City Council must refuse the proposed OPA 688 together with the related amendments to the Municipal Code.

Please provide us with notice of all upcoming meetings of Council or Committees of Council at which this matter will be considered, and we ask to be provided with Council’s decision with respect to this and any related item.

Yours truly,



For: Calvin Lantz

CL/jsc

cc. Jonathan S. Cheng, Stikeman Elliott LLP  
Client

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<sup>2</sup> For example, Provincial Policy Statement (2020), Policies 1.1.1(b), 1.4.3, among others; Growth Plan for the Greater Golden Horseshoe (2019), Policies 1.2.1, 2.1, 2.2.1.4, 2.2.6(a)(i), among others.

<sup>3</sup> *Planning Act*, R.S.O. 1990, c. P.13, s. 1.1(d).

<sup>4</sup> S.O. 2006, c. 11, Sched. A.