

Justine Reyes
Associate
Direct 416-730-8377
Cell 437-998-1856
jreyes@overlandllp.ca

Overland LLP
5255 Yonge St, Suite 1101
Toronto, ON M2N 6P4
Tel 416-730-0337
overlandllp.ca



October 10, 2023

VIA EMAIL

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

Attention: Sylwia Przewdziecki, City Council Secretariat

Your Worship and Members of City Council:

RE: Item PH6.2
Bill 109 Implementation, Phase 3 – Recommended Official Plan and Municipal Code Amendments respecting Site Plan Control

We are the lawyers for multiple clients, who are the owners of various properties and/or have planning and development interests across the City of Toronto (the “City”).

We have reviewed the Report for Action titled “*Bill 109 Implementation, Phase 3 - Recommended Official Plan and Municipal Code Amendments respecting Site Plan Control*” dated September 14, 2023, proposed Official Plan Amendment No. 688 (“**Draft OPA 688**”) and the related proposed amendments to Chapter 415, Article V and Chapter 415-19.2 of the City’s Municipal Code (the “**Proposed Municipal Code Amendments**”).

Both Draft OPA 688 and the Proposed Municipal Code Amendments will be considered by City Council at its meeting commencing on October 11, 2023.

On behalf of our clients listed on the enclosed **Appendix A** and their related entities, we write to request that City Council not approve Draft OPA 688 or the Proposed Municipal Code Amendments in their current form and that the matter be deferred to allow for further consideration of the concerns raised herein.

Our concerns and comments with respect to Draft OPA 688 and the Proposed Municipal Code Amendments are generally set out below.

Contrary to the Purpose of Recent Legislative Changes

Draft OPA 688 proposes to amend Schedule 3 of the City’s Official Plan, which contains the City’s additional complete application requirements for various planning and development applications, to add in-effect zoning compliance as a new requirement for complete applications for site plan approval. The Proposed Municipal Code Amendments generally relate to various procedural matters in the development application review process, which include, but are not limited to, the

establishment of validity periods for Planning Application Checklist Packages and the removal of concurrent consultation meetings for applications for site plan approval with other planning and development applications.

While our clients understand there are issues raised by the City in respect of the review timelines implemented by the *More Homes for Everyone Act, 2022* (“**Bill 109**”), our clients have a general concern that the changes proposed by Draft OPA 688 and the Proposed Municipal Code Amendments are contrary to the legislative intention of Bill 109 and current provincial planning policy as set out in the Provincial Policy Statement, 2020 and the Growth Plan for the Greater Golden Horseshoe, 2019.

As proposed, we submit that Draft OPA 688 and the Proposed Municipal Code Amendments are inconsistent with a fundamental principle of the *Planning Act*, as set out in section 1.1(d), which is “*to provide for planning processes that are fair by making them open, accessible, timely and efficient.*” By contrast, we submit that Draft OPA 688 and the Proposed Municipal Code Amendments will create undue delays in the application and development review processes which in turn will unduly delay the creation of much needed new housing in the City.

Proposed Changes to Complete Application Requirements

Our clients have concerns with the proposed requirement for an applicant to achieve in-effect zoning compliance as a component of a complete application for site plan approval. We submit that this requirement is inappropriate and exceeds the legislative requirements set out in section 114 of the *City of Toronto Act, 2006*.

Requiring zoning compliance for a proposed development prior to the submission of an application will only serve to delay the formal application review process, prolong development timelines, and increase the costs of development – all of which will affect the timely and efficient delivery of housing in the City.

Applicants have a statutory right to make an application for site plan approval and to have that application considered by the City in accordance with the *City of Toronto Act*. While the City has the authority to require “*other information and material that the City considers it may need*” for the review of an application for site plan approval, and where such requirements for other information and material are contained in in-force official plan policies pursuant to subsection 114(4.3) of the *City of Toronto Act*, it is crucial to note that this is restricted to the provision of *information or material* and cannot be used as a means to extend the authority of the City to require something that the municipality lacks the legal jurisdiction to impose.

We submit that the City cannot impose a requirement for in-effect zoning compliance as a means to frustrate the exercise of an applicant’s statutory right to make an application for site plan approval in order to delay the commencement of the statutory review period.

These concerns are compounded by the proposed addition of subsection D (8) to Chapter 415-19.2 of the Municipal Code which directs that pre-application consultation meetings for applications for site plan approval will not be permitted to occur concurrently with applications for

official plan amendments, zoning by-law amendments or draft plan of subdivision approval. Further, neither Draft OPA 688 nor the Proposed Municipal Code Amendments provide a timeline for the scheduling of a mandatory pre-application consultation meeting, adding to the uncertainty surrounding the timelines for the submission and review of any development application.

An application for site plan approval should be able to proceed in tandem with other planning applications, both at the pre-application consultation phase and the application review phase, to implement the proposed development standards for a site. To the extent that any amendments are required to support an application for site plan approval, such requirements should be addressed through conditions of site of approval, in keeping with current practice.

Request for Notice

We hereby request notice of any decision by City Council or any committee of Council in respect of this matter. Please contact the undersigned if you have any questions regarding this correspondence.

Yours truly,
Overland LLP



Per: Justine Reyes
Associate

Encl.

APPENDIX A – LIST OF CLIENTS

- Carlyle Communities Inc.
- Ont GTA Properties Inc.
- Policy Investment Ltd.
- Maplegrove York Apartments Ltd.
- Double Z Investments Limited
- 2076203 Ontario Limited
- 2076204 Ontario Limited
- Menkes Developments Ltd.
- Black Tusk Group Inc.
- BTG Management Inc.
- BTG Acquisitions Inc.
- Sorbara Development Properties LP
- Sorbara Development Group Inc.
- New-Can Realty Ltd.
- Concert Properties Ltd.
- Concert Real Estate Corporation
- 181 Eglinton Holdings Inc.
- Graywood CD GP Inc.
- Kenneth-Sheppard Limited
- Pem (Eglinton) LP
- Mount Davisville Properties Inc.
- Muzzo Brothers Group Inc.
- Taheri Development Inc.
- Pier 27 Toronto (North) Inc.
- Pier 27 Toronto (Northeast) Inc.
- Pier 27 Toronto Inc.
- Pier 27 Toronto (West) Inc.
- FMC Front Street Developments Inc.
- Cityzen Development Group
- Bayview Village Developments Inc.
- Fitzrovia Residential Inc.
- Maddox Sherbourne Inc.