



Maggie Bassani  
Direct: 416.865.3401  
E-mail: mbassani@airdberlis.com

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Email: [phc@toronto.ca](mailto:phc@toronto.ca)

Planning and Housing Committee  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Dear Members of Planning and Housing Committee:

**Re: Item 2023.PH5.2 - Official Plan Amendment for Bill 97 Transition - Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas - Final Report**

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We represent Rakely Eglinton Corporate Centre, Limited Partnership with respect to the lands municipally known as 40 Rakely Court, Toronto (the “Property”).

On behalf of our client, we have reviewed the Final Staff Report, dated June 19, 2023, with respect to the proposed Official Plan Amendment for Bill 97 Transition - Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas (“Draft OPA 668”), to be considered by the Planning and Housing Committee at its meeting on July 5, 2023. We write to convey our client’s concerns with Draft OPA 668.

### **Concerns with respect to Draft Official Plan Amendment 668**

#### **Draft Official Plan Amendment 668 is Premature**

City Council’s consideration and adoption of Draft OPA 668 at this time is premature and inappropriate given that the relevant sections of Bill 97 (being Subsection 1(1) with the new definition of “Area of Employment” and Subsections 1(1.1) and (1.2) authorizing the proposed transition provisions), and the new proposed Provincial Planning Statement (“PPS 2023”) are not yet in force and in effect.

Until Bill 97 and PPS 2023 are fully in force, there could potentially be further amendments made to the *Planning Act* and PPS 2023. Accordingly, City staff should not be rushing to bring forward these transition provisions.

#### **Draft Official Plan Amendment 668 is Contrary to the Intention of Bill 97**

Draft OPA 668 is contrary to the province’s intention behind the new scoped definition of “Area of Employment”, which is to facilitate the delivery of much-needed housing in existing institutional and commercial areas not associated with manufacturing and industrial uses. Under the new definition, these areas would no longer be subject to employment conversion requirements.

Although Bill 97 allows the City to adopt transition provisions through an Official Plan Amendment, the City’s “blanket” approach to Draft OPA 668 (i.e. capturing all lands in the City with existing

institutional and commercial areas not associated with manufacturing and industrial uses) would frustrate the province's objective and simply maintain the status quo as it relates to introduction of residential uses in employment lands by requiring landowners to proceed through a conversion process. The authority to adopt transition provisions ought to be used sparingly and on a site-specific basis, in order to implement the province's intention. Draft OPA 668, if adopted, would render the new definition of "Area of Employment" to be meaningless.

### **The Phrase "Lawfully Established" Is Unclear**

The proposed transition provisions in Draft OPA 668 authorize uses that have been "lawfully established" on the parcel of land the day before the new definition comes into force. Although the phrase "lawfully established" is generally understood to mean that the use is constructed and existing on the site, any transition provision should clarify the definition of the phrase "lawfully established" to provide certainty in interpretation going forward.

### **Conclusion**

As proposed by staff, it is our opinion that the current Draft OPA 668 does not represent good planning.

For the reasons stated above, we request that Planning and Housing Committee (1) refer this matter back to staff, (2) direct staff to consider and address the issues identified above, and (3) direct staff to bring forth a recommendation report only once the new definition of "Area of Employment" and PPS 2023 are in force.

We ask to be notified of any decisions made by City Council, or Committee of Council, in connection with this matter.

Yours truly,

AIRD & BERLIS LLP



Maggie Bassani

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cc: Client