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September 27, 2023

VIA EMAIL

Planning and Housing Committee
100 Queen Street West
10th Fl., West Tower
Toronto, ON M5H 2N2

Attention: Nancy Martins, Administrator

Dear Members of the Planning and Housing Committee:

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

We are the lawyers for the Gupta Group and Easton's Group of Hotels Inc., the owner of various properties 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 (the "**Staff Report**"), the proposed Official Plan Amendment No. 688 ("**Draft OPA 688**") and the related amendments to Chapter 415, Article V and Chapter 415-19.2 of the City's Municipal Code (the "**Proposed Municipal Code Amendments**") that will be considered by the Planning and Housing Committee (the "**Committee**") at its meeting of September 28, 2023.

On behalf of our client and its related entities, we write to provide our preliminary comments with respect to Draft OPA 688 and the Proposed Municipal Code Amendments generally and as they relate to the review timeline for site plan approval applications.

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 development applications, to add in-effect zoning compliance as a new requirement for site plan approval applications. 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 site plan approval applications with other development applications.

As noted on Page 2 of the Staff Report, the changes to the development review process proposed through Draft OPA 688 and the Proposed Municipal Code Amendments are being sought in response to the review timelines implemented by the *More Homes for Everyone Act, 2022* ("**Bill 109**"), and to specifically mitigate the risk to revenue generated by the City through the processing of development applications.

While our client understands this as an issue raised by the City, it has a general concern that the changes proposed by Draft OPA 688 and the Proposed Municipal Code Amendments are overly onerous and contrary to the legislative intention of Bill 109, provincial direction to accelerate the development approval process and to the purpose of the *Planning Act* as set out in Section 1.1 (d).

As a general proposition, changes to the development review process should be focused on streamlining and improving organizational structures, processes and technology to facilitate the delivery of housing and other non-residential developments in accordance with provincial direction. Our client is concerned that as proposed, Draft OPA 688 and the Proposed Municipal Code Amendments will only serve to fragment the development review process and result in significant further delays in the approval of development applications.

Proposed Changes to Complete Application Requirements

Our client has 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 under 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*. The duty to consult is the only statutory prerequisite that the City may place on an applicant prior to the submission of a site plan control application, pursuant to subsection 114 (4) of 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 (4.6) 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.

Accordingly, 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 a site plan approval application 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 site plan control applications 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 or 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 zoning 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 thank the Committee for the opportunity to provide input on Draft OPA 688 and the Proposed Municipal Code Amendments. We ask that you please provide us with notice of any decision by City Council in respect of this matter by regular mail (to the service address noted above) and via e-mail. Please contact the undersigned if you have any questions regarding this correspondence.

Yours truly,
Overland LLP



Per: Justine Reyes
Associate