

September 27, 2023

VIA EMAIL: [phc@toronto.ca](mailto:phc@toronto.ca)  
[clerk@toronto.ca](mailto:clerk@toronto.ca)

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

Attention: Nancy Martins, Administrator

Dear Chair and Committee:

**Re: Planning and Housing Committee Meeting 6 – September 28, 2023  
Agenda Item PH6.2 – Bill 109 Implementation, Phase 3 –  
Recommended Official Plan (OPA 688) and Municipal Code Amendments  
respecting Site Plan Control  
- Request for Deferral**

---

Aird & Berlis LLP acts on behalf of Marlin Spring Investments Limited (“**Marlin Spring**”). Marlin Spring is a fully integrated real estate company that strategically acquires, develops, constructs and repositions assets throughout North America. Through its portfolio companies, Marlin Spring focuses on three core strategies: the Development and Construction of low, mid and high-rise communities across Ontario, as well as the acquisition and enhancement of both Multi-Family Rental Properties and Retirement Communities throughout North America. The Marlin Spring Development and Construction pipeline includes over 9,000 units in projects across Toronto and the GTA.

We have reviewed proposed Official Plan Amendment No. 688 (“**OPA 688**”) and proposed amendments to the City of Toronto Municipal Code (the “**Municipal Code**”) with Marlin Spring, as well as the accompanying Staff Report dated September 14, 2023 regarding implementation of Bill 109, *More Homes for Everyone Act, 2022* (“**Bill 109**”). We have identified a number of concerns and comments with the draft Amendments, including but not limited to the following:

- **Focus on mitigating City’s risk:** While Marlin Spring can appreciate the new challenge posed to municipalities by Bill 109, focusing the City’s implementation strategy around the mitigation of risk runs contrary to a core purpose of Bill 109: building more housing more quickly. Furthermore, such focus detracts from City Council’s commitment to deliver 285,000 new Toronto homes by 2031;

- **Two-step implementation process:** The proposed new process allows the City to implement an onerous requirement of zoning compliance in the first step, while allowing the City to clarify when and how zoning compliance will be applied in the second step by revising the Terms of Reference at a later date. This phased approach will cause uncertainty for landowners, and is indicative that adoption of draft OPA 688 is in fact premature;
- **Zoning compliance as a pre-condition to a complete site plan application:** There is no basis in statute for this requirement and, in our opinion, this requirement is not authorized by a comprehensive reading of the Planning Act. The fact that this OPA is proposed at all is an acknowledgement that the City also lacks a policy basis for this requirement. The result will be substantial delay to any party seeking to have development applications processed in a comprehensive manner. While the Staff Report states that this requirement ensures “that any necessary relief from and compliance with the in-effect zoning by-law have already been achieved and that site plan drawings are ready for detailed review and approval,” it is common that the level of detail achieved during the site plan process can result in important changes to the development that impact the built form standards set out in the site-specific zoning by-law. Processing concurrent zoning and site plan applications allows for such changes to be made quickly and easily before zoning is approved. The zoning compliance requirement will instead result in increased subsequent zoning amendments and minor variance applications, which will cause additional and unnecessary delay and costs to applicants. Furthermore, the requirement for zoning compliance will result in an unnecessary duplication of pre-application consultation meetings; and
- **12-month validity period for Planning Application Checklist (“PAC”) packages issued prior to April 3, 2023:** Imposing a retroactive validity period for applicable PAC packages is a punitive measure that does not consider the many valid reasons for which applicants may require more than a year to prepare a site plan application: including engaging consultants for detailed design work and allowing sufficient time to prepare application materials, as well as financing and ownership changes.

Generally speaking, in our view the proposed OPA 688 and amendments to the Municipal Code increase administrative pressure for the City, as well as costs and uncertainty for applicants. In our respectful submission, rather than implementing processes that will allow the City to review and approve development applications more efficiently, the draft amendments are an attempt to shift the responsibility imposed on municipalities by the Province onto applicants – which undermines the very purpose of the legislation.

September 27, 2023

Page 3

Marlin Spring welcomes the opportunity to engage with the City with respect to the draft OPA 688 and amendments to the Municipal Code and to address those concerns outlined above and any additional concerns which may arise through further review. We respectfully request that this matter be deferred so that the concerns outlined herein may be addressed.

We ask to be provided with notice of any future meetings and decisions related to these matters.

Thank you for your consideration of this request.

Yours truly,

AIRD & BERLIS LLP



Eileen P.K. Costello  
EPKC/NM

cc: Client

54416322.1

AIRD BERLIS