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September 27, 2023

Our File No.: 000031

Delivered Via Email

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

Attention: Nancy Martins, Administrator

Dear Sirs/Mesdames:

Re: Item No. PH6.2 – Bill 109 Implementation, Phase 3 – Recommended Official Plan and Municipal Code Amendments Respecting Site Plan Control Proposed Official Plan Amendment No. 688

We are solicitors for Choice Properties REIT, which has interest in various properties throughout the City. We are writing to provide our client’s comments regarding the above-noted matter, including but not limited to proposed Official Plan Amendment No. 688 (the “**Draft OPA**”).

Our client is requesting that this matter be deferred to allow for further consultation regarding the Draft OPA and the proposed amendments to the Municipal Code. The staff recommendations being considered raise significant concerns regarding impacts on the efficiency of the planning process. While our client appreciates City concerns related to certain aspects of Bill 109, our client disagrees with the City’s proposed new process, which will lengthen the planning process in a manner contrary to the legislative intent of Bill 109.

A particular concern is that the Draft OPA and the proposed amendments to the Municipal Code would eliminate concurrent review and processing of zoning by-law amendment and site plan control applications, thereby leading to unnecessary and duplicative review and planning processes. These proposed changes are especially problematic when significant aspects of the City’s planning process utilize complete site plan applications as a milestone for transition.

- The Draft OPA would establish “in-effect zoning compliance” as a complete application for site plan control applications. Not only does this proposed approach eliminate the statutory right to file a site plan control application, but also it is contrary to subsection 114(4.3) of the *City of Toronto Act, 2006*, which only allows the City to require additional information and material and not a test of zoning compliance.

- The proposed amendments to Section 415-19.2 of Chapter 415 of the Municipal Code that would prohibit concurrent mandatory pre-application consultation are contrary to subsection 114(4) of the *City of Toronto Act, 2006*, which limits the City's jurisdiction only to requiring a pre-application consultation meeting as opposed to setting terms and conditions for such pre-application consultation.
- As noted above, significant aspects of the City's planning process utilize complete site plan applications as a milestone for transition. Examples include but are not limited to inclusionary zoning and Toronto Green Standards, meaning that the City's proposed approach will introduce greater financial uncertainty for proposed developments, and therefore increase the cost of housing overall, by eliminating the ability of an applicant to create certainty regarding significant conditions of approval and matters of implementation. At a minimum, the City needs to reconsider its use of complete site plan applications as a milestone if it intends to limit the ability of applicants to file such applications.
- The Draft OPA and proposed amendments to the Municipal Code are not accompanied by corresponding revisions to the zoning by-law amendment review process, in that the City will still require submission of detailed and duplicative zoning materials. Put another way, if the City is intent on eliminating concurrent rezoning and site plan applications, then the City should propose corresponding changes to its planning process to expedite review of rezoning applications.
- There is good reason to enable concurrent rezoning and site plan applications. The current practice enables the implementing zoning by-law amendment to be finalized concurrently with the site plan, or at least on the basis of a site plan application with potential resubmissions. This approach ensures that the rezoning and site plan applications are consistent and minimizes the potential for subsequent variance applications.

Given the significant issues identified with the Draft OPA and the proposed amendments to the Municipal Code, our client again respectfully requests deferral of this item, failing which our client would have no choice but to appeal the Draft OPA. Our client encourages additional consultation with stakeholders to find options that address the City's concerns while maintaining an efficient planning process.

We would also appreciate being included on the notice list for any decision of City Council regarding this matter.

Yours truly,

Goodmans LLP

A handwritten signature in blue ink, appearing to read "D. Bronskill".

David Bronskill
DJB/

cc. Client

1417-0915-8663