



Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7
Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.ca

Direct Line: 416.597.5929
abenedetti@goodmans.ca

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Our File No.: 211669

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: Planning and Housing Committee: Item PH6.2 – Bill 109 Implementation, Phase 3 – Recommended Official Plan (OPA No. 688) and Municipal Code Amendments Respecting Site Plan Control RioCan Management Inc.

We are solicitors for RioCan Management Inc., and its related entities (“**RioCan**”), the owners of retail focused commercial and mixed use properties¹ in the City of Toronto. We write on behalf of RioCan to provide comments regarding Official Plan Amendment No. 688 (the “**Draft OPA**”) and the proposed amendments to the Municipal Code. Further to the reasons outline below, our client respectfully suggests that consideration of Item PH6.2 be deferred to allow for further consultation regarding the Draft OPA and the proposed amendments to the Municipal Code.

Although our client appreciates the concerns raised by City staff in regard to the implementation of specific aspects of Bill 109, the City’s proposed response to these concerns, which would eliminate concurrent review and processing of zoning by-law amendment and site plan control applications, raises a number of significant issues that have the potential to lengthen and frustrate the planning process in a manner contrary to the legislative intent of Bill 109.

Specifically, the Draft OPA and the proposed amendments to the Municipal Code would eliminate key time and process saving steps in the planning process including concurrent pre-application meetings and the concurrent review and processing of applications. In addition, the Draft OPA

¹ The RioCan properties include but are not limited to 815-845 Eglinton Ave E (Leaside Junction Inc.), 800-836 Warden Avenue (RioCan Holdings Inc.), 2181 Steeles Ave W, 2061-2081 Steeles Ave W, 100 Gerry Fitzgerald Dr, (Riotrin Properties (Steeles) Inc.), 740-750 Dupont St (RioCan Living LP), 30 Weston Rd & 1980 St Clair Avenue West (Riotrin Properties (Weston) and other properties that RioCan may come to acquire in the City of Toronto.

and the proposed amendments to the Municipal Code have not fully considered the impacts of the proposed changes on significant aspects of the City's planning process that utilize a complete site plan application as a milestone for transition.

In particular our client is concerned that:

- The Draft OPA would establish “in-effect zoning compliance” as a complete application requirement for site plan control applications. Not only does this proposed approach eliminate the statutory right to file a site plan control application, but it is also contrary to subsection 114(4.3) of the *City of Toronto Act, 2006*, which only allows the City to require information and material as opposed to 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 on such pre-application consultation.
- As noted above, significant aspects of the City's planning process utilize the filing of complete site plan applications as a milestone for transition. Examples include but are not limited to: inclusionary zoning, the calculation of developments charges and the Toronto Green Standards, meaning that the City's proposed approach and the Draft OPA 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.
- The Draft OPA and proposed amendments to the Municipal Code focus on the site plan approval process and are not accompanied by corresponding revisions to the zoning by-law amendment review process. This results in the City's process still requiring the submission of zoning materials that duplicate the level of detail provided with site plan control applications. If the City insists on eliminating concurrent rezoning and site plan applications, then the City must also propose corresponding changes to its planning process to expedite review of rezoning applications at the same time as the changes currently proposed in Item PH6.2 are considered.
- Further, the accompanying Staff Report suggests that new Terms of Reference may refer to the City's Zoning Applicable Law Certificate Program as the means to determine if the Draft OPA requirement to establish “in-effect zoning compliance” is met. The suggestion that a complete application for site plan approval requires an applicant to complete an unappeasable City procedural review process further illustrates the inherent issues with subsection 114(4.3) of the *City of Toronto Act, 2006* and the need to take the time to more fully consider the associated process requirements before moving forward with Item PH6.2.

- 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 respectfully suggests that deferral of Item PH6.2 is the best option, failing which our client would have no choice but to appeal the Draft OPA. Our client encourages additional consultation in an effort to find improvements to the planning process 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



Anne Benedetti
AKB/

cc. Melissa Bruzzese, RioCan