

VIA EMAIL

July 22, 2024

ATTN: Mayor Olivia Chow and City Council

City Council
Toronto City Hall
100 Queen Street West
Toronto
Toronto, ON M5H 2N2

Dear Mayor Olivia Chow and Members of City Council

**Re: PH14.1 – Employment Area Land Use Permissions – Decision Report
Various Properties
Comments on Behalf of CP REIT Ontario Properties Limited,
Canadian Property Holdings (Ontario) Inc., and Loblaw Properties
Limited**

Our File: CHO/TOR/24-02

We are the planning consultants for CP REIT Ontario Properties Limited, Canadian Property Holdings (Ontario) Inc., and Loblaw Properties Limited (herein referred to collectively as the “Owners”), regarding the City of Toronto Employment Area Land Use Permissions Review process, which has resulted in draft OPA 680. We are submitting this comment letter to the City of Toronto on behalf of the Owners, which own the properties specifically identified in Appendix “A”.

On behalf of the Owners, we have been monitoring the City of Toronto’s updates to the *Employment Areas* policies in accordance with Bill 97 – *Helping Homebuyers, Protecting Tenants Act*. The properties identified in Appendix “A” that are within the General Employment Area land use designation are developed with commercial uses, including retail uses. The Owners have previously submitted letters with preliminary comments on this matter, including the following:

- “Re: Council Item PH5.2 - Official Plan Amendment for Bill 97 Transition - Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas - Final Report”, prepared by Aird & Berlis dated July 18, 2023 [Attached as Appendix “B”];
- “Re: Item PH8.14 - Directions to Amend Official Plan Employment Area Policies: Proposals Report Planning and Housing Committee Meeting November 30, 2023”, prepared by Aird & Berlis dated November 29, 2023 [Attached as Appendix “C”]; and
- “Re: PH14.1 – Employment Area Land Use Permissions – Decision Report – Approval”, prepared by Zelinka Priamo Ltd., dated July 10, 2024 [Attached as Appendix “D”].

We monitored the July 11, 2024 Planning and Housing Committee Meeting, and are concerned by the direction of the City of Toronto with respect to OPA 680 and OPA 668, for the reasons summarized in the aforementioned correspondence. We continue to have concern that OPA 680 creates a precarious existence for the continued operations of the Owners' lands, and in our opinion is contrary to the intent of Bill 97. The intent of Bill 97 is not to threaten the viability of existing retail, office, and institutional uses in areas with an Official Plan designation of *General Employment Area*, but is rather an opportunity for the City of Toronto to comprehensively review what areas should remain as Areas of Employment, and what areas of the City are no longer appropriate for this classification. In our opinion, the adoption of OPA 680 continues to be premature and there is lack of clarity for what is classified and considered as "lawfully established", among other matters.

We encourage Council to refer OPA 680 back to City staff to consider a response to Bill 97 that involves a comprehensive review the Employment Areas, consistent with its intent, to determine what areas of the City do meet the Province's definition of Areas of Employment, and which should be removed from this classification. Only by undertaking such an exercise in land use planning, can the City ensure that existing businesses and Areas of Employment are protected for the long-term.

We would welcome the opportunity to meet with Staff to discuss our comments further. In addition, please kindly ensure that the undersigned is notified of any further meetings with respect to this matter as well as notice of the decision of the approval of OPA 680.

Should you have any questions, or require further information, please do not hesitate to call.

Sincerely,

ZELINKA PRIAMO LTD.



Jonathan Rodger, MScPI, MCIP, RPP
Principal Planner

cc. Choice Properties REIT (via email)
Loblaw Properties Limited (via email)
David Neligan, Aird & Berlis LLP (via email)

APPENDIX A:

Land Holdings and Designations of Canadian Property Holdings (Ontario) Inc., and Loblaw Properties Limited

Property Address	City of Toronto Official Plan Designation	Registered Property Owner
1965 Lawrence Avenue West	Core Employment Area	CP REIT Ontario Properties Limited
650 Dupont Street	General Employment Area and Mixed Use Areas	CP REIT Ontario Properties Limited
681 Silver Star Boulevard	General Employment Area	CP REIT Ontario Properties Limited
51 Gerry Fitzgerald Drive	General Employment Area	CP REIT Ontario Properties Limited
514 Carlingview Drive	Core Employment Area	CP REIT Ontario Properties Limited
42-46 Overlea Boulevard	General Employment Area	Canadian Property Holdings (Ontario) Inc.
330 Queen's Plate Drive	General Employment Area	CP REIT Ontario Properties Limited
2549 Weston Road	General Employment Area	CP REIT Ontario Properties Limited
17 Leslie Street	General Employment Area	CP REIT Ontario Properties Limited
11 Redway Road	General Employment Area	CP REIT Ontario Properties Limited
100 Disco Road	Core Employment Area	Canadian Property Holdings (Ontario) Inc.
825 Don Mills Road	General Employment Area	Loblaw Properties Limited

APPENDIX B:

“Re: Council Item PH5.2 - Official Plan Amendment for Bill 97 Transition - Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas - Final Report”, prepared by Aird & Berlis dated July 18, 2023

July 18, 2023

By E-Mail

Mayor Olivia Chow and Members of Toronto City Council
Toronto City Hall
100 Queen Street West, 13th Floor
Toronto ON M5H 2N2

Attention: John D. Elvidge, City Clerk

Dear Mayor Chow and Members of Council:

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

We act on behalf of Choice Properties Limited Partnership (“Choice”), owners of multiple properties within the City of Toronto currently designated as *General Employment Areas* within the City’s Official Plan. On behalf of our client we have been monitoring the City’s proposed response to Bill 97 through the proposed introduction of Official Plan Amendment 688 discussed in the Final Staff Report, dated June 19, 2023. We write to express our concerns with the draft OPA 688 recommended by the Planning and Housing Committee on July 5, 2023.

Background

Choice has an ownership interest in several Employment Area sites impacted by OPA 688, including but not limited to the following:

- 17 Leslie Street;
- 2549 Weston Road;
- 681 Silver Star Boulevard;
- 825 Don Mills Road;
- 11 Redway Road;
- 330 Queens Plate Drive;
- 51 Gerry Fitzgerald Drive;
- 3685 Keele Street;
- 1020 Islington Street; and
- 5661 Steeles Ave.

Although each of these sites are designated as Employment Areas within the City’s Official Plan, they each contain large scale commercial and retail uses that are no longer identified as intended uses for “areas of employment” under Bill 97 and OPA 688.

Several of the above sites have been considered for conversion to *Mixed Use Areas* or *Regeneration Areas* through the city’s latest Municipal Comprehensive Review (“MCR”), and many of these sites maintain active appeals of OPA 231, the City’s previous MCR exercise.

Concerns with respect to OPA 668

i. OPA 688 is Premature

Council's consideration of OPA 668 at this time is premature given that the relevant sections of the *Planning Act* amended by Bill 97 are not yet proclaimed. Importantly, these sections of the Act include the new definition of "Area of Employment" and subsections setting out the proposed transition provisions. Further, the related definition of "Employment Areas" contained within the newly proposed Provincial Planning Statement ("PPS") are still subject to public consultation and approval by the Minister of Municipal Affairs and Housing. Given OPA 668 is intended to implement the to-be-proclaimed changes to the *Planning Act* and will need to be consistent with the new PPS, it makes little sense to adopt changes to the Official Plan until these legislative and policy instruments are finalized and in full force and effect.

ii. OPA 688 is Contrary to the Intentions of Bill 97

The clear intention of Bill 97 and the new definition of "Areas of Employment" is to limit employment areas to traditional manufacturing, warehousing or related uses. Office, retail and institutional uses are explicitly not included in this definition, signalling an intention to exclude these uses from restrictive *General Employment* and *Core Employment* designations and policies.

Bill 97 provided the City with an opportunity to undertake a detailed assessment of the appropriateness of the *General Employment Areas* and *Core Employment Areas* designations on lands which are currently planned and used for office, retail and institution uses, and determine whether those sites should appropriately be redesignated given the new statutory definition of "Areas of Employment" and the policy framework proposed in the New PPS.

Instead, OPA 688 seeks to crystallize these lands as areas of employment notwithstanding their existing use and planned function no longer fits within these designations.

iii. OPA 688 is Unclear with Respect to the Continuation of Lawfully Existing Uses

The Official Plan should appropriately provide clear guidance to landowners and the public on the appropriate use of lands within the City. While OPA 688 recognizes "lawfully established" existing uses and allows them to continue, it does not clearly define this term, nor provide guidance for on how these uses can grow and continue to contribute to the economic vitality of the City. For landowners like Choice, who would be operating "lawfully established" non-employment uses on employment lands, this lack of clarity creates precarity and confusion as to how it can optimize the utility of its lands.

Conclusion

For the reasons set out, Choice request that Council refer this matter back to staff to reconsider the most effective way to implement the intentions of Bill 97 and the new PPS. We ask to be notified of any further decisions made by City Council, or any Committee of Council, in connection with this matter.

July 18, 2023
Page 3

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in black ink, appearing to read 'DN', with a long horizontal line extending to the right.

David Neligan
Partner

DN:DPN

53668119.1

APPENDIX C:

“Re: Item PH8.14 - Directions to Amend Official Plan Employment Area Policies:
Proposals Report Planning and Housing Committee Meeting November 30, 2023”,
prepared by Aird & Berlis dated November 29, 2023



David Neligan
Direct: 416.865.7751
E-mail: dneligan@airdberlis.com

November 29, 2023

BY EMAIL: phc@toronto.ca

Our File No. 110669

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

Dear Chair Perks and Members of the Planning and Housing Committee:

**Re: Item PH8.14 - Directions to Amend Official Plan Employment Area Policies:
Proposals Report
Planning and Housing Committee Meeting November 30, 2023**

Aird & Berlis LLP acts on behalf of Choice Properties Limited Partnership (“Choice”), owners of multiple properties within the City of Toronto currently designated as *General Employment Areas* within the City’s Official Plan. On behalf of Choice, we have been monitoring the City’s proposed response to Bill 97 and the updated definition of *Areas of Employment* that it introduces into the *Planning Act*, R.S.O 1990, C. p.13, as amended.

Like many other property owners with lands in the City’s *Employment Areas*, we wrote to Council earlier this summer to express concerns with the City’s previously adopted (but not yet enacted) OPA 668. Among other things, we argued that OPA 668 was premature, was contrary to the intentions of Bill 97, and was unclear with respect to the treatment of and continuation of lawfully existing uses.

We are disappointed to have read the Directions Report from the Chief Planner and Executive Director, City Planning, (the “Staff Report”) currently before this Committee that presents draft policy directions that continue to ignore these stated concerns.

Background

Through OPA 231, adopted by Council more than 10 years ago, the City developed two classes of *Employment Areas* within the City: *General Employment Areas* and *Core Employment Areas*. This dichotomy recognized that employment uses are not homogenous. A wide spectrum of employment uses exist between traditional manufacturing and warehousing uses, to office and retail, each contributing differently to the City’s economy and the Growth Plan’s targets for employment growth. Through OPA 231, retail, office and other similar uses were permitted in *General Employment Areas* located on the periphery of employment zones, while manufacturing, warehouse and other traditional employment uses continued to be permitted in both *Core* and *General Employment Areas*.

Choice, like many other affected landowners, owns numerous properties within the *General Employment Areas* designation where they operate large scale retail uses (grocery stores) within retail plazas or as standalone stores. Many of their properties are also improved with office uses.

These uses have existed for a long time, and they serve both the surrounding *Employment Areas* as well as the local community beyond.

The City's proposed policy direction seeks to render these long-standing uses as legally non-conforming within *Employment Areas*. This classification threatens their ongoing viability and their ability to grow and adapt to changing economic factors. This is not what the Province intended with Bill 97.

The City's Policy Direction is Inconsistent with the Intentions of Bill 97

The clear intention of Bill 97 and the new definition of *Areas of Employment* is to limit employment areas to traditional manufacturing, warehousing or related uses. Office, retail and institutional uses are explicitly not included in this definition, signalling an intention to exclude these uses from restrictive *General Employment* and *Core Employment* designations and policies.

Bill 97 is not intended to threaten the viability of existing retail, office and institutional uses within *General Employment Areas*. That would run counter to every stated provincial policy to promote business and economic growth. Instead, Bill 97 should be interpreted as an opportunity for the City to re-evaluate its existing stock of employment lands, to undertake a detailed assessment of the appropriateness of the *General Employment Areas* and *Core Employment Areas* designations on lands which are currently planned and used for office, retail and institution uses, and to determine whether those sites should appropriately be redesignated given the new statutory definition of *Areas of Employment* and the policy framework proposed in the new Provincial Planning Statement ("PPS").

The recommended policy direction advanced through the Staff Report represents a misapprehension of the intent of the legislation, and a missed opportunity to improve the function of both the City's *Employment Lands* and the surrounding lands that service them.

The City's Policy Direction is Premature

While it is understandable that the City wishes to have a framework in place once the amended definition of *Areas of Employment* is brought into force and effect, there is no need to rush the process. The relevant sections of the *Planning Act* amended by Bill 97, including both the revised definition and the proposed transition provisions, are not yet proclaimed. Further, the related definition of *Employment Areas* contained within the upcoming PPS are still subject to approval by the Minister of Municipal Affairs and Housing. Given that the City's employment policies are intended to implement the to-be-proclaimed changes to the *Planning Act* and will need to be consistent with the new PPS, it makes little sense to adopt changes to the Official Plan until these legislative and policy instruments are finalized and in full force and effect.

The Recommended Consultation is Inadequate

The recommendation before this Committee is as follows:

"Planning and Housing Committee direct the Chief Planner and Executive Director, City Planning Division, to continue consultation on the draft policy directions with Councillors, industry, other stakeholders, and the general public, and report back with

recommended Official Plan amendments before the Province proclaims the amended Planning Act definition of "area of employment"

This recommendation completely ignores consultation with the hundreds of landowners, including Choice, who own properties within the *General Employment Areas* designation that contain retail, office and institutional uses. These are the landowners that are most directly affected by the proposed policy direction and who, up to now, have been ignored throughout this consultation process. Consultation with affected landowners must be prioritized by the City.

Summary

For the reasons set out above, we request that this Committee refer this matter back to staff to reconsider the most effective way to implement the intentions of Bill 97 and the new PPS, and to involve affected landowners in these discussions. We further ask to be notified of any further decisions made by this Committee or Council in connection with this matter.

Yours truly,

AIRD & BERLIS LLP



David Neligan
DPN

55152978.2

APPENDIX D:

“Re: PH14.1 – Employment Area Land Use Permissions – Decision Report – Approval”,
prepared by Zelinka Priamo Ltd., dated July 10, 2024



VIA EMAIL

July 10, 2024

ATTN: Nancy Martins, Administrator Planning and Housing Committee

Planning and Housing Committee

Toronto City Hall

100 Queen Street West

Toronto

Toronto, ON M5H 2N2

Dear Chair Perks and Members of the Planning and Housing Committee

**Re: PH14.1 – Employment Area Land Use Permissions – Decision Report
– Approval
Various Properties
Comments on Behalf of CP REIT Ontario Properties Limited,
Canadian Property Holdings (Ontario) Inc., and Loblaw Properties
Limited**

Our File: CHO/TOR/24-02

We are the planning consultants for CP REIT Ontario Properties Limited, Canadian Property Holdings (Ontario) Inc., and Loblaw Properties Limited (herein referred to collectively as the “Owners”), the landowner of the following properties in the City of Toronto:

Property Address	City of Toronto Official Plan Designation	Registered Property Owner
1965 Lawrence Avenue West	Core Employment Area	CP REIT Ontario Properties Limited
650 Dupont Street	General Employment Area and Mixed Use Areas	CP REIT Ontario Properties Limited
681 Silver Star Boulevard	General Employment Area	CP REIT Ontario Properties Limited
51 Gerry Fitzgerald Drive	General Employment Area	CP REIT Ontario Properties Limited
514 Carlingview Drive	Core Employment Area	CP REIT Ontario Properties Limited
42-46 Overlea Boulevard	General Employment Area	Canadian Property Holdings (Ontario) Inc.
330 Queen's Plate Drive	General Employment Area	CP REIT Ontario Properties Limited
2549 Weston Road	General Employment Area	CP REIT Ontario Properties Limited
17 Leslie Street	General Employment Area	CP REIT Ontario Properties Limited

11 Redway Road	General Employment Area	CP REIT Ontario Properties Limited
100 Disco Road	Core Employment Area	Canadian Property Holdings (Ontario) Inc.
825 Don Mills Road	General Employment Area	Loblaw Properties Limited

In conformance with the Toronto Official Plan, all of the above-noted properties under the *Employment Areas and General Employment Area* designations are developed with commercial uses, including retail uses, while the three above-noted properties under the *Employment Areas and Core Employment Area* designations are developed with industrial and/or warehousing uses.

On behalf of the Owners, we have been monitoring the City of Toronto's updates to the *Employment Areas* policies in accordance with Bill 97 – *Helping Homebuyers, Protecting Tenants Act*. The Owners have previously submitted letters with preliminary comments on this matter, including the following:

- “Re: Council Item PH5.2 - Official Plan Amendment for Bill 97 Transition - Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas - Final Report”, prepared by Aird & Berlis dated July 18, 2023 [Attached as Appendix A]; and
- “Re: Item PH8.14 - Directions to Amend Official Plan Employment Area Policies: Proposals Report Planning and Housing Committee Meeting November 30, 2023”, prepared by Aird & Berlis dated November 29, 2023 [Attached as Appendix B].

We have reviewed the Staff Report and associated attachments dated June 24, 2024, including the draft Recommended Official Plan Amendment 680 (“OPA 680”). The Staff Report recommends that Council adopt OPA 680 as presented in Attachment 1 to the report. Having reviewed these materials, we offer the following preliminary comments on behalf of the Owners:

- **The adoption of OPA 680 is premature.** Subsection 1(1) of the *Planning Act* has not yet been proclaimed and will not be in full force and effect until this future date, which remains undetermined. Further, Official Plan Amendment 668 (“OPA 668”), upon which draft OPA 680 relies and purports to work in tandem with, has not yet been approved by the Minister. In addition, the proposed new Provincial Planning Statement (“PPS”) has not yet been brought into effect, which draft OPA 680 will need to be consistent with. We suggest further consultation with stakeholders and the resolution of the above-noted precursors is necessary prior to adoption. We suggest that the approach to addressing the changes to the definition of *Area of Employment* should be consolidated into a single comprehensive process, instead of a piecemeal approach.
- **The distinction between the *Core Employment Area* and *General Employment Area* designations is unclear and would be eroded as a result of draft OPA 680.** Ancillary retail and service uses are currently permitted in the *Core Employment Area*, whereas these uses are more broadly permitted in the *General Employment Area* without an “ancillary” qualifier. Draft OPA 680 proposes to limit the *General Employment Area* with a similar qualifier: that retail and service uses must be “associated” with a permitted industrial use identified in the *Core Employment Area*. The effect is that these separate designations, intended to function distinctly, have been effectively merged in terms of applicable policy.

- **Draft OPA 680 does not provide clarity as to the conditions of associated uses that may be permitted.** Draft Policy 4.6.1 adds the qualifier that offices are permitted only where "associated"; Draft Policy 4.6.3 adds the same "associated" qualifier with regard to retail. In both cases, it is unclear how the "associated" term is defined, and what the criteria for determining if a use is associated will be. We request clarity on whether an office, retail, restaurant, and/or service use is considered "associated" if it serves employees of the respective Employment Area, and/or what other conditions must be met to conform to Draft Policy 4.6.3. Draft Policy 2.2.4.2(d) states "Employment Areas will be used exclusively for business and economic activities in order to: [...] d) provide opportunities for new office buildings, where permitted". As there is a lack of clarity, we request additional specificity as to where these new office buildings would be permitted.
- **Draft OPA 680 is not consistent with the intent of Bill 97.** As noted by Aird & Berlis (November 29, 2023 – Appendix B), the intent of Bill 97 is not to threaten the viability of existing retail, office, and institutional uses in areas with an Official Plan designation of *General Employment Area*. In our submission, the City should reevaluate the Official Plan designations that apply to properties that do not fit with the new definition of *Areas of Employment* created by Bill 97. In other words, lands within an existing *General Employment Area* designation that contain uses such as office, retail, restaurant, and service should be considered for redesignation to a more appropriate designation that is consistent with Provincial direction, rather than being left with uncertain "lawfully established" policies under OPA 668.
- **Draft OPA 680 does not address the uncertainty of continuation of lawfully existing uses.** As noted by Aird & Berlis (July 18, 2023 – Appendix A), OPA 668 did not provide appropriate guidance on lawfully established uses for properties that met the previous definition of *Area of Employment*, but may not meet the new definition. In our submission, policies surrounding the continuation, expansion, and/or modification of such uses are notably absent from either OPA 668 or draft OPA 680, creating an uncertain planning policy framework and precarious existence for landowners and tenants of such uses.

We would welcome the opportunity to meet with Staff to discuss our comments further. In addition, please kindly ensure that the undersigned is notified of any further meetings with respect to this matter as well as notice of the decision of the approval of OPA 680. Should you have any questions, or require further information, please do not hesitate to call.

Sincerely,

ZELINKA PRIAMO LTD.

Jonathan Rodger, MScPI, MCIP, RPP
Principal Planner

cc. Choice Properties REIT (via email)
Loblaw Properties Limited (via email)
David Neilgan, Aird & Berlis LLP (via email)