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July 23, 2024

**VIA EMAIL**

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

**Attention: John D. Elvidge, City Clerk**

Your Worship and Members of Council:

**RE: Item PH14.1 – Employment Area Land Use Permissions – Decisions Report – Approval**

**AND Item PH5.2 – Official Plan Amendment Bill 97 Transition – Authorizing the  
RE: Continuation of Institutional and Commercial Uses in Employment Areas – Final Report**

We are the lawyers for West Four Hundred Inc., which is the registered owner of the lands municipally known as 2201 Finch Avenue West in the City of Toronto (the “City”). On behalf of our client, we made submissions to the City regarding Official Plan Amendment No. 668 (“**OPA 668**”) prior to its consideration by City Council in 2023.

We attach our previous correspondence to City Council regarding OPA 668, which was considered by City Council in July 2023, but for which the Official Plan Amendment has not yet been enacted and note that our submissions with respect to Official Plan Amendment No. 680 (“**OPA 680**”) also apply to OPA 668.

On behalf of West Four Hundred Inc., we are writing to express our concerns with the current draft of OPA 680 which, in our view, directly undermines the legislative intent and policy direction behind the Province’s amendments to the *Planning Act* in Bill 97 described below.

**Planning Act Amendments and the draft Provincial Planning Statement (2024)**

The *Helping Homebuyers, Protecting Tenants Act* (“**Bill 97**”), which received Royal Assent on June 8, 2023, included an amendment to the definition of “area of employment” under Section 1(1) of the *Planning Act*. This new definition of what constitutes an employment area is also reflected in the current draft of the proposed Provincial Planning Statement (2024) (“**PPS 2024**”):

**Employment Area:** means those areas designated in an official plan for clusters of business and economic activities including manufacturing, research and development in

connection with manufacturing, warehousing, goods movement, associated retail and office, and ancillary facilities. An employment area also includes areas of land described by subsection 1(1.1) of the Planning Act. Uses that are excluded from employment areas are institutional and commercial, including retail and office not associated with the primary employment use listed above. [Emphasis added.]

The new definition that is reproduced above specifically excludes institutional, commercial, retail and office uses from the definition of “areas of employment” where such uses are not associated with or related to manufacturing and warehousing uses.

The intention behind Bill 97 and the PPS 2024 is clear: in an effort to address residential housing needs across the Province, the protections that apply to employment lands (such as the requirement that conversion requests only be considered through a municipal comprehensive review) shall only apply to traditional manufacturing, warehousing and related uses. Conversely, lands that are currently being used for other commercial/non-residential uses, such as institutional, commercial, retail and office space, or are planned to accommodate such uses, should not be considered “areas of employment” and are encouraged to be improved with a greater mix of uses, including residential uses where appropriate.

### **Concerns with OPA 680**

OPA 680 will have the effect of removing institutional and commercial land use permissions, including office uses, from all of the City’s employment designated lands, without considering how this could negatively affect the future development of those lands or current existing uses on those lands. This will perpetuate restrictions on the use and potential conversion of sites that are currently designated “General Employment” and “Core Employment” areas, which is contrary to the clear statutory intention of Bill 97 and the draft PPS 2024. For example, in the absence of a site-specific rationale, commercial/non-residential uses that are permitted today should continue to be allowed in the future, so that landowners have the ability to expand their operations without the need to go through the process of an application under the *Planning Act* to re-establish existing permissions, but also without the potential limiting imposition of a “legal non-conforming” regime (which seems to be the intent of the “lawfully established” policies in OPA 688).

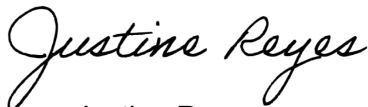
In our submission, OPA 680 and OPA 668 represent a two-pronged effort to preserve the current status quo despite clear Provincial efforts to limit the scope of uses that fall within the protections of an “area of employment.” Together, these municipally initiated amendments will prevent the introduction of additional uses, including residential uses, on lands that can and should accommodate a greater mix of uses. Additionally, OPA 680 also eliminates existing land use permissions without any consideration of the site-specific implications of doing so. Insofar as Bill 197 was intended to unlock the redevelopment potential of underutilized sites that are not comprised of core employment uses, OPA 680 and OPA 668 represent a step backwards and reintroduce procedural hurdles that place non-residential lands in silos and frustrate the creation of complete communities.

We submit that it is premature to adopt OPA 680 on a City-wide basis without conducting a more comprehensive analysis of the specific properties affected. On behalf of our client, we urge City Council not to adopt OPA 680 in its current form and to refer this matter back to City staff so that existing employment lands can be reviewed on a case-by-case basis to determine which sites meet the new definition of “area of employment” under Bill 197 and the PPS 2024, and whether greater flexibility is warranted to encourage opportunities for redevelopment.

Council should also reconsider moving forward with OPA 668 with its problematic approach to “lawfully established uses”, as outlined in our earlier correspondence.

We thank you for the opportunity to provide comments and request notice of any meetings and decisions related to this matter. Our contact information is provided herein.

Yours truly,  
**Overland LLP**

A handwritten signature in black ink that reads "Justine Reyes". The signature is written in a cursive, flowing style.

Per: Justine Reyes  
Associate

Encl.

c. Client

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July 4, 2023

**VIA EMAIL**

Planning and Housing Committee  
Toronto City Hall  
10<sup>th</sup> Floor, West Tower  
100 Queen Street West  
Toronto, ON M5H 2N2

Attention: Nancy Martins, Administrator

Dear Members of the Planning and Housing Committee:

**RE: Item PH5.2 – City-Initiated Official Plan Amendment No. 668 for Bill 97 Transition - Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas**

We are the lawyers for multiple clients who are the owners of various properties across the City of Toronto (the “**City**”). We have reviewed the draft Official Plan Amendment No. 668 which generally proposes to permit the continuation of institutional and commercial uses in the City’s *Employment Areas* despite their express exclusion from the definition of “area of employment” in the *Planning Act*, R.S.O. 1990, c. P. 13, as amended (“**Draft OPA 668**”).

On behalf of our clients listed on the enclosed Appendix “A”, we write to provide our preliminary concerns with Draft OPA 668.

**Planning Act Amendments and the Proposed Provincial Planning Statement**

The *Helping Homebuyers, Protecting Tenants Act* (“**Bill 97**”), which received Royal Assent on June 8, 2023, amends the definition of “area of employment” under Section 1(1) of the *Planning Act* to explicitly exclude institutional, commercial, retail and office uses where they are not associated or ancillary to manufacturing or warehousing uses. The province has simultaneously proposed a new Provincial Planning Statement (“**Draft PPS**”) which contains a similar definition, limiting the uses permitted within an area of employment to manufacturing, warehousing and certain associated or ancillary uses.

The amendments to the *Planning Act* under Bill 97 additionally contain two transition provisions under Subsections 1(1.1) and (1.2) that authorize municipalities to permit the continuation of institutional and commercial uses (including retail and office uses) within an area of employment

where the use was lawfully established prior to the day the *Planning Act* amendments come into force.

We note that the amendments to the *Planning Act* noted above are awaiting proclamation by the Lieutenant Governor and are not yet in force. Similarly, the Draft PPS has been posted for public comment on the Environmental Registry of Ontario until August 4, 2023, and accordingly, it is not yet in force.

### **Concerns with OPA 668**

Draft OPA 668 proposes to authorize the continuation of all legally existing uses otherwise excluded from the amended definition of “areas of employment” under the *Planning Act* within the City’s identified *Core Employment Areas* and *General Employment Areas*. This blanket approach is contrary to the legislative intention of the *Planning Act* amendments approved through Bill 97 and the provincial direction to limit permitted uses within areas of employment to industrial, warehousing and certain associated or ancillary uses. To the extent that Section 1(1) of the *Planning Act* will authorize the City to permit the continuation of legally existing uses that are otherwise prohibited within an area of employment, we submit that implementation of such authorization requires a qualitative, site or area specific assessment to determine whether, in such circumstances, the permission is necessary to ensure the ongoing viability of an area that includes the uses intended by the province to constitute an area of employment.

As proposed, Draft OPA 668 would effectively negate the legislative intention of the recent amendments made to Section 1(1) of the *Planning Act* and will serve to restrict opportunities for the redevelopment of underutilized sites within the City. It would appear that this is the very intent of Draft OPA 668, by proposing to maintain the status quo despite the clear legislative intention of the Bill 97 *Planning Act* amendments to the contrary.

We further submit that the consideration and adoption of Draft OPA 668 is premature at this time. In particular, the Staff Report prepared by the Chief Planner and Executive Director, City Planning, dated June 19, 2023, states that further Official Plan Amendments will be brought forward in the Fall, which seek to review the permitted uses in areas of employment as a result of the *Planning Act* amendments introduced by Bill 97. Further consideration of Draft OPA 668 should await the consideration of any further policy modifications that may be proposed through the City’s ongoing review of the Official Plan employment policies, to ensure a comprehensive and coordinated approach to implementing the legislative amendments introduced by Bill 97 and the policy directions flowing from the Draft PPS, as may be modified and approved in its final form by the province.

We request that the undersigned and Justine Reyes (at [jreyes@overlandllp.ca](mailto:jreyes@overlandllp.ca)) be provided with notice of any further reports or decisions made in respect of this matter. Please contact the undersigned and Justine Reyes if you have any questions regarding this correspondence.

Yours truly,  
**Overland LLP**

A handwritten signature in black ink, appearing to read "D. Artensosi", is written over a horizontal line.

Per: Daniel B. Artensosi  
Partner

Encl.

**APPENDIX "A"**

**LIST OF CLIENTS**

- Easton's Group of Hotels Inc.
- West Four Hundred Inc.
- 2465855 Ontario Ltd.