

Justine Reyes
Associate
Direct 416-730-8377
Cell 437-424-3244
jreyes@overlandllp.ca

Overland LLP
5255 Yonge St, Suite 1101
Toronto, ON M2N 6P4
Tel 416-730-0337
overlandllp.ca



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 262 Carlingview Hospitality Inc. ("**Carlingview**") and Easton's Group of Hotels Inc., an agent for Carlingview. Carlingview is the registered owner of the property municipally known as 262 Carlingview Drive in the City of Toronto (the "**City**").

The property noted above is subject to an Employment designation in the Toronto Official Plan and contains a hotel use, which is currently permitted by the Official Plan (the "**Properties**").

On behalf of Carlingview and Easton's Group of Hotels Inc., we are writing to provide our comments on proposed Official Plan Amendment No. 680 ("**OPA 680**") and Official Plan Amendment No. 668 ("**OPA 668**"), which has not yet been enacted by the City. In addition to the submissions provided herein, we previously submitted correspondence to the City regarding OPA 668 on behalf of Easton's Group of Hotels Inc. and note that our submissions with respect to OPA 680 also apply to OPA 668. A copy of our correspondence regarding OPA 668 dated July 4, 2023 is enclosed.

We have reviewed the numerous submissions that have been made by other owners of Employment designated property and largely agree with the submissions that note the significant problems with OPA 680 (and OPA 668) and their inconsistency with recent amendments to the *Planning Act* by the Province via Bill 97. We urge City Council not to adopt OPA 680 (nor OPA 668) as currently drafted.

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 areas of employment (such as the restriction of appeals on conversion requests) shall only apply to traditional manufacturing, warehousing, and related uses. Conversely, properties 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 future development of those land 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 of 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 or modify their operations without the need to go through the process of an application under the *Planning Act* to re-establish existing permissions. Similarly, owners should be allowed to operate, expand, or modify commercial operations on their sites without the potential limiting imposition of a “legal non-confirming” regime (which seems to be the intent of the “lawfully established” policies in OPA 668.

Furthermore, in our submission, OPA 680 and OPA 668 represent a two-pronged effort to preserve the current status quo for employment lands despite clear Provincial efforts to limit the scope of uses that fall within the protections of the “area of employment” definition. 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 97 was intended to unlock the redevelopment

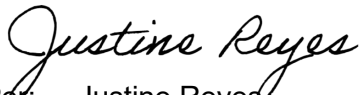
potential of underutilized sites that are not comprised of core employment uses, OPA 680 and OPA 668 represent a step backwards and reintroduce procedural hurdles that place non-residential lands in silos and frustrate the creation of complete communities.

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 clients, we urge City Council not to adopt OPA 680 and not to proceed further with OPA 668 in their current form and to refer these matters back to City Staff so that existing employment lands can be reviewed on a case-by-case basis to determine which sites should continue to be protected under the new definition of "area of employment" under Bill 97 and the draft PPS 2024, and whether greater flexibility is warranted, rather than a one-size fits all approach, to encourage opportunities for redevelopment.

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

Yours truly,

Overland LLP



Per: Justine Reyes
Associate

Encl.

c. Clients

Daniel B. Artenosi
Partner
Direct 416-730-0320
Cell 416-669-4366
dartenosi@overlandllp.ca

Overland LLP
5255 Yonge St, Suite 1101
Toronto, ON M2N 6P4
Tel 416-730-0337
overlandllp.ca



July 4, 2023

VIA EMAIL

Planning and Housing Committee
Toronto City Hall
10th 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) 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.