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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 (phc@toronto.ca)

Dear Sirs/Mesdames:

Re: Item No. PH14.1 – Employment Land Use Permissions – Decision Report - Approval
Proposed Official Plan Amendment No. 668
Proposed Official Plan Amendment No. 680

We are solicitors for First Capital REIT, which along with its affiliated companies have interests in various properties throughout the City of Toronto. In particular, our client and its affiliated companies have numerous properties predominantly occupied by retail and office uses that are designated as *Employment Areas* in the City of Official Plan. The registered owners of these various properties are included in Schedule A to this letter.

On November 29, 2023, we provided our client's comments regarding the proposed policy direction for Official Plan Amendment No. 680 ("**OPA 680**"). Those comments have not been acknowledged in the staff report, let alone addressed in any proposed revisions to OPA 680. As such, we are writing again to the City to express our client's concerns, including on behalf of the registered owners, with the inappropriate emerging policy direction at the City in response to Bill 97 and the draft new *Provincial Policy Statement*.

Given the stated intention by City staff that proposed Official Plan Amendment 668 ("**OPA 668**"), which has received Council endorsement, is intended to work in tandem with OPA 680, this letter should also be treated as our client's written representations to City Council regarding OPA 668.

Bill 97 (the *Helping Homebuyers, Protecting Tenants Act, 2023*) received Royal Assent on June 13, 2023. Bill 97 specifically narrowed the definition of "area of employment" to traditional manufacturing, warehousing and related uses. At the same time, Bill 97 confirmed that office, retail and institutional uses are not business and economic uses, unless directly associated with

manufacturing, warehousing or related uses. This new definition is linked to the draft new *Provincial Policy Statement*, which similarly limits the scope of areas of employment.

The intent of Bill 97 and the new *Provincial Policy Statement* is clear. Areas subject to employment conversion policies and statutory provisions are limited to areas with traditional manufacturing, warehousing or related uses. At the same time, mixed use development is to be encouraged outside of these areas to support complete communities. Where institutional and/or commercial uses are permitted, those areas are not longer considered an "area of employment".

The proposed policy direction for OPA 680 is directly contrary to the legislative intent of Bill 97 June 13, 2023. The policy direction that the City should be implementing would consider which lands within the City truly meet the new definition of area of employment. Instead, through OPA 680, the proposed policy direction is to remove existing land use permissions from all of the City's employment areas without examining whether it is appropriate to do so. This would effectively prevent consideration of expanded development opportunities in accordance with Bill 97 to meet provincial and municipal forecasts while negatively impacting the existing planning function of many of those areas. Further, it essentially removes any distinction between lands designated as *Core Employment Areas* and *General Employment Areas*.

Our client has a number of properties that would be negatively impacted by the removal of existing use permissions. Many of these uses have existed and operated for a significant period of time without impact on surrounding lands. Not only would the City initiative lead to detrimental impacts on existing operations and services but also it would discourage reinvestment given the resulting legal non-conforming status at a policy level. The City initiative is also at odds with initiatives in certain City *Employment Areas* with specific direction for a broad list of permitted uses, including retail and office uses.

We understand that the City staff view is that OPA 668 would allow institutional and commercial permissions to continue generally in all existing employment areas despite OPA 680's removal of those permissions. However, we believe this interpretation is incorrect, meaning that our clients may also need to appeal OPA 668.

On behalf of our client, we respectfully request that Planning and Housing Committee reject the proposed policy direction for OPA 680. Instead, Planning and Housing Committee should direct City staff to review all existing lands designated as *Employment Areas*, determine which of these areas meet the new definition of area of employment, and consider the resulting appropriate land use permissions. Planning and Housing Committee should also direct City staff to clarify the nature of continuing land use permissions through revisions to OPA 668 that appropriately implement Bill 97.

As presently proposed, OPA 680 does not meet the legislative intent of Bill 97, is inconsistent with Provincial policy, and does not represent good land use planning. This would leave our client with no choice but to appeal OPA 680 and, as noted, potentially OPA 668.

We would appreciate being included on the City notice list for any City Council decision regarding OPA 668 or OPA 680.

Yours truly,

Goodmans LLP

David Bronskill
DJB/

cc. Client

SCHEDULE A

REGISTERED OWNERS AND MUNICIPAL ADDRESSES

Registered Owner	Properties of Interest
FCHT Holdings (Ontario) Corporation	110 West Toronto Street 85 Laird Drive 19, 25 & 29 Industrial Street 861 York Mills Road
FCHT Holdings (Ontario) Corporation & Hullmark (102 Atlantic Ltd.)	102 Atlantic Avenue
First Capital (King Liberty-Retail/Office) Corporation	85 Hanna Avenue
First Capital (King Liberty-Barrymore) Corporation	109 Atlantic Avenue
First Capital (Chartwell) Corporation & First Capital Holdings (Ontario) Corporation	2369-2375 & 2331 Brimley Road, 175 Commander Boulevard
First Capital (York Mills) Corporation	808 York Mills Road