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May 20, 2025

VIA E-MAIL

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 No. 2025.PH21.1
Toronto Proposed Official Plan Amendment No. 804
West Four Hundred Inc.

We are the lawyers for West Four Hundred Inc., being the registered owner of the property municipally known as 2201 Finch Avenue West (the "**Property**"), in the City of Toronto (the "**City**").

We have reviewed proposed Official Plan Amendment No. 804 ("**Proposed OPA 804**") and the Report for Action from the Chief Planner and Executive Director, City Planning, titled *Official Plan Amendments to align with Provincial Legislative and Policy Changes related to Employment Areas – Decision Report*, dated April 23, 2025 (the "**Staff Report**").

We are writing to set out our client's concerns with Proposed OPA 804, many of which are consistent with the written submissions filed by various landowners in advance of City Council's consideration of this Item. We request that City Council refer this Item back to City Staff to allow for further consultation on the Proposed OPA 804 to address the concerns raised.

BACKGROUND

The *Helping Homebuyers, Protecting Tenants Act, 2023* ("**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*. As amended, the definition specifically excludes institutional, commercial, retail and office uses from an *area of employment* where they are not associated or ancillary to a manufacturing or warehouse use. Similar changes to the definition of *employment areas* were also made in the Provincial Planning Statement (2024) (the "**PPS 2024**").

The amendments to the *Planning Act* under Bill 97 also introduced provisions authorizing municipalities to permit the continuation of primary institutional and commercial uses (including retail and office uses) within an area of employment where the use was lawfully established on a parcel of land prior to October 20, 2024 (the "**Exemption Provisions**").

In October 2024, City Council adopted Official Plan Amendments Nos. 668 and 680 ("**OPA 668 and OPA 680**") in response to the amendments under Bill 97, which proposed to remove institutional and commercial (including office) land use permissions for *Employment Areas*. At the same time, and in reliance on the Exemption Provisions, the City purported to permit the continuation of primary institutional and commercial uses, on a general basis, throughout the City's existing *Employment Areas*.

Through the consultation process for OPA 668 and OPA 680, City Staff advanced an interpretation of the Exemption Provisions that would allow the City to permit primary institutional and commercial uses (including office) in *Employment Areas*, so long as the use was legally permitted (but not necessarily in existence) prior to October 20, 2024. OPA 668 and OPA 680 were the subject of significant correspondence in the lead-up of City Council's consideration of these items.

On October 18, 2024, the Minister of Municipal Affairs and Housing (the "**Minister**") filed O. Reg. 396/24, which amended O. Reg. 525/97 to remove the exemption for Ministerial approval for OPA 668 and OPA 680. Accordingly, the Minister is the approval authority for OPA 668 and 680. As of the date of this correspondence, a final decision on OPA 668 and 680 has not been made by the Minister.

A copy of our letter to the Minister dated December 9, 2024, which includes copies of the correspondence filed with the City on behalf of our client for OPA 668 and OPA 680, is enclosed as **Appendix "A"**.

CONCERNS WITH OPA 804

Failure to Undertake a Comprehensive Review of Existing Employment Areas

The legislative amendments introduced under Bill 97, and the corresponding provincial policy direction in the PPS 2024, demand a comprehensive, qualitative assessment of existing *Employment Areas* to determine whether certain lands should be planned for non-*area of employment* uses, which may include institutional, commercial and residential uses, where appropriate. This interpretation is supported by the comments from the Province noted in the Staff Report:

> … *MMAH has requested that the City bring forward a new OPA that identifies employment lands to be removed.*
>
> *In making this request, the Province has emphasized the importance of protecting major facilities and areas used for primary employment uses like manufacturing, warehousing, goods movement, and research and development*… [Emphasis added.]

It is our understanding that in preparing Proposed OPA 804, City Staff undertook a limited analysis of the City's *Employment Areas* as it relates to "office parks" that do not act as a buffer to more sensitive uses.

No other lands in addition to “office parks” appear to have been considered by Staff for removal from the City’s *Employment Areas*, despite clearly meeting many or all the criteria put forward by Staff for removal from an *area of employment*, namely that:

(i) land within the *Employment Area* are currently designated *General Employment Area*;

(ii) there are existing sensitive land use permissions;

(iii) most existing uses in these areas are classified as institutional and commercial uses, including retail and office; and

(iv) there are no or very few existing “major facilities” within the *Employment Area*.

For example, the Property is located at the southwestern corner of the intersection of Finch Avenue West and Arrow Road, just west of Highway 400. The Property is designated *General Employment Areas* under the Official Plan and is currently improved with a 1-storey commercial plaza and 5-storey office building. The area surrounding the Property contains a mix of commercial, retail, institutional and employment uses. The Property has immediate access to the constructed Finch West LRT.

The Property is proposed to be maintained as part of an *Employment Area* and designated *General Employment Areas* under Proposed OPA 804 despite containing a mix of non-*area of employment* primary commercial and institutional uses, including a variety of restaurants, hair studios, professional consulting offices, an event centre and the Ontario Courts of Justice.

No “major facilities” (as defined in the City’s Official Plan) are located on the Property, with the Finch Transformer Station located on the opposite side of Finch Avenue West (an eight-lane, major arterial road), in the northeastern quadrant of the intersection of Finch Avenue West and Signet Drive.

The limited review of the City’s *Employment Areas* falls decidedly short of the comprehensive and qualitative site or area specific assessment that is required to determine which sites should continue to be protected under the new definition of *area of employment* and the direction provided to the City by the Province as noted above. We submit that this narrow review will not make available lands that are well suited to accommodate non-*area of employment* uses, and will in turn result in the sub-optimal use of land and infrastructure. The Property is an obvious example of lands that should be redesignated to *Mixed Use Areas* to allow for the ongoing expansion and evolution of the existing commercial and institutional uses.

In its current form, Proposed OPA 804 is not consistent with the PPS 2024 and does not have regard to matters of provincial interest as set out in Section 2 of the *Planning Act*.

Improper Use of the Exemption Provisions

Proposed OPA 804 seeks to implement, on a substantive basis, the same revisions to the City of Toronto Official Plan proposed through OPA 668 and OPA 680, subject to the qualification noted below as it pertains to a very limited review of the City’s existing *Employment Area* land base. As further explained below, Proposed OPA 804 represents a renewed effort by the City to preserve

the status quo for *Employment Areas* despite the clear statutory intention of Bill 97 and the PPS 2024.

The PPS 2024 and the legislative intent of Bill 97 are clear: *areas of employment* are to be planned for traditional manufacturing, warehousing, and related uses. By focusing the definition of *areas of employment*, lands currently planned for other forms of non-residential uses, such as institutional, commercial, retail and office space, should be afforded greater flexibility for development in order to implement key provincial policies, which include the optimization of land use and infrastructure. Where appropriate, this may entail, by way of example, opportunities to promote greater housing in response to the current housing crisis.

Proposed OPA 804 seeks to remove institutional and non-*area of employment* commercial land use permissions within *General* and *Core Employment Areas*. Proposed OPA 804 further seeks to permit the continuation of primary non-*area of employment* uses provided that they were lawfully established prior to October 20, 2024. The City's purported use of the Exemption Provisions is consistent with the proposed policy language used in OPA 668.

While the Exemption Provisions provide an opportunity to permit existing, lawfully established, non-*area of employment* uses within an *Employment Area*, we submit that the use of the Exemption Provisions should not occur on a general, City-wide basis. Rather, the use of the Exemption Provisions requires a qualitative assessment, on a case-by-case basis, to determine whether an existing, lawfully established, non-*area of employment* use should be expressly permitted within an *Employment Area*.

To the extent that the Exemption Provisions permit recognition of lawfully established uses, we submit that such uses must physically exist, as a statutory precondition, in order to permit existing non-*area of employment* uses within an *Employment Area*. In fact, the amendments to the *Planning Act* under Bill 97 included subsection 1(1.2) to expressly provide *"for greater certainty"* that the Exemption Provisions *"shall not authorize a use that is excluded from being a business and economic use under paragraph 2 of the definition of "area of employment" in subsection (1) on any parcels of land in the area on which the use was not lawfully established"* prior to October 20, 2024.

Uses that may have been permitted (planned for) but did not physically exist prior to October 20, 2024, do not meet the precondition of lawfully established. To the extent that Proposed OPA 804 may be intended to advance a far-reaching interpretation that the Exemption Provisions authorize the City to "permit" uses that were simply permitted prior to October 20, 2024, but not in existence, Proposed OPA 804 exceeds the authority conferred on the City under the Exemption Provisions and it is not consistent with the PPS 2024.

Where a use did physically exist prior to October 20, 2024, the City may seek to permit such use within an *Employment Area*. However, the use of the Exemption Provisions in this instance will have the effect of limiting the potential for said use to expand or otherwise evolve. This result further underscores the importance of exercising the jurisdiction conferred through the Exemption Provisions with caution. As discussed above, the Property contains a number of existing commercial and institutional uses. While Proposed OPA 804 would permit these uses to continue

as part of an *Employment Area*, the potential evolution and expansion of these uses will be restricted. We submit that the Property is not one that should be planned to transition towards the more traditional employment uses captured by the amended definition of *area of employment.*

At the very least, the use of the Exemption Provisions demands a qualitative assessment of the subject lands and surrounding area, and the existing non-*area of employment* primary commercial or institutional use, including the impact that the Exemption Provisions will have on limiting said use to continue to expand or otherwise evolve.

Proposed OPA 804 seeks to utilize the Exemption Provisions on a general, City-wide basis, without consideration of the factors noted above. We submit that Proposed OPA 804 should be referred back to City Staff with direction to implement modifications that clearly articulate the preconditions that must be met for a use to be lawfully established, and to require that any existing non-*area of employment* use(s) that are proposed to be "permitted" within an *Employment Area* have been qualitatively assessed based on the factors noted above.

Request

We request that City Council not adopt Proposed OPA 804 in its current form, and that it refer the matter back to City Staff for further consultation to address concerns raised, including modifications to properly implement the Exemption Provisions, and to allow for a comprehensive and qualitative review of the City's *Employment Areas.*

We request notice of all further meetings and decisions related to this Item. Please provide notice to the undersigned and Justine Reyes (jreyes@overlandllp.ca).

Yours truly,
Overland LLP

Per: Daniel B. Artenosi
Partner

Encl.

APPENDIX "A"

Letter to Minister of Municipal Affairs and Housing, dated December 9, 2024

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December 9, 2024

VIA EMAIL

Community Planning and Development (West) Unit
Ministry of Municipal Affairs and Housing
13th Floor, 777 Bay Street
Toronto, ON M7A 2J3

Attention: Heather Watt, Manager

RE: City of Toronto Official Plan Amendments Nos. 668 and 680
**** REQUEST FOR NOTICE OF DECISION ****

We are the lawyers for the property owners listed in **Appendix A** to this letter. Our clients' respective properties are located in the City of Toronto ("**City**").

On October 25, 2024, we received correspondence from the City indicating that on October 18, 2024, the Minister of Municipal Affairs and Housing (the "**Minister**") filed O. Reg 396/24, which removed the City's exemption from ministerial approval with respect to Amendments Nos. 668 and 680 to the City's Official Plan ("**OPAs 668 and 680**"). Accordingly, we understand that the City will be forwarding OPAs 668 and 680 and related materials to the Minister for approval.

We write to request notice of the Minister's decision with respect to OPAs 668 and 680.

In July 2023 and July 2024, we submitted correspondence to the City on behalf of our clients which addressed OPAs 668 and 680. Our correspondence is included as **Appendix B** to this letter.

As modified by the Province through the *Helping Homebuyers, Protecting Tenants Act* (Bill 97), the amended definition of "area of employment" in the *Planning Act* would have the effect of facilitating new opportunities for mixed-use development on commercial lands. A principal concern articulated in the correspondence is that if brought into force, OPAs 668 and 680 would undermine these amendments.

We would urge the Minister not to approve OPAs 668 and 680 in their current form.

Yours truly,
Overland LLP

Justine Reyes

Per: Justine Reyes
Associate

APPENDIX A – LIST OF CLIENTS

- Easton's Group of Hotels Inc.
- West Four Hundred Inc.
- 2465855 Ontario Inc.
- Sorbara Group and Affiliates
- Nova Construction Company Ltd.
- 262 Carlingview Hospitality Inc.
- Dixon Toronto Airport Holdings Inc.
- New Queensway Inc.
- Tancor Investment Limited
- Carmen Tanzola Limited
- Tanjes Investment Limited
- Concert Properties Limited
- 2 and 30 International Boulevard Toronto Holdings Inc.
- 75 Rexdale Boulevard Toronto Holdings Inc.
- N.H.D. Developments Limited
- Joseph and Maria Rose Cattana
- All-Borough Millenium Inc.
- Director Industrial Holdings Limited
- Discount Plaza Limited
- Edward Sorbara
- 774061 Ontario Limited
- 495 Finchdene Square Holdings Inc.
- Sam-Sor Enterprises Inc.
- Finchmor Developments Limited

APPENDIX B – CORRESPONDENCE

On the following page begins a compilation of the correspondence submitted to the City on behalf of our clients concerning OPAs 668 and 680.

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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

Per: Daniel B. Artenosi
Partner

Encl.

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APPENDIX "A"

LIST OF CLIENTS

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

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July 4, 2023

VIA EMAIL

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

Attention: Nancy Martins (phc@toronto.ca)

Dear Members of the Planning and Housing Committee:

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

We are the lawyers for the Sorbara Group and affiliated entities with respect to properties generally located on the east side of Keele Street south of Finch Avenue. In addition to our own correspondence, our client has also been represented with respect to these properties through its planning consultant WND Associates. The properties in question are: 3765-3777 Keele Street and 10 Lepage Court. Previous submissions have also been made in respect of 3885 Keele Street, owned by Joseph and Maria Rosa Cattana.

We are writing to express our client's concern with the proposed Official Plan Amendment that, in our view, undermines the legislative intent and policy direction behind the Province's recent Bill 97 amendment for "areas of employment".

The Sorbara Group properties on Keele Street and Lepage Court noted above are the subject of a conversion request to the City being considered in Planning and Housing Committee Item PH5.3. WND Associates has submitted correspondence dated July 4, 2023 for that item. We adopt the conclusions of those submissions that these properties ought to be supported for conversion to *Mixed Use Areas* or *Regeneration Areas*.

However, in addition to the site-specific attributes of these properties, regard should be had to the purpose of Bill 97 to refine the definition of "areas of employment" that, under the *Planning Act*, have heightened protections for conversions to other uses. Bill 97 confirms that, from a provincial policy standpoint, office, retail, and institutional uses should not be considered as business and economic uses akin to manufacturing and warehousing uses that attract the protections of the *Planning Act*.

The Bill 97 change to the definition of "areas of employment" supports the development of mixed use, complete communities, that may include residential uses, while protecting traditional

employment areas and uses. This direction is also contained in the draft *Provincial Planning Statement, 2023*.

Although Bill 97 does permit a municipality to enact certain protections in respect of lawfully established uses that exist within employment areas, the proposed Official Plan Amendment applies that protection overly broadly and without any satisfactory planning rationale to determine whether such protections should be applied on any given lands. This approach in the proposed Official Plan Amendment provides no contextual analysis and thwarts the legislature's intention and provincial policy direction to encourage mixed use development in appropriate situations. The proposed Official Plan Amendment simply wraps up all properties that would have been caught by the older definition of "areas of employment" in a transition "loophole", as if Bill 97 had never been enacted.

Otherwise put, whereas Bill 97 clearly reflects an intention to limit the scope of uses that fall within the protections of an area of employment, the proposed Official Plan Amendment attempts to preserve the status quo.

Furthermore, we understand that additional Official Plan Amendments will be brought forward in the Fall, which seek to review the permitted uses within the City's "areas of employment". Firstly, we are concerned that the currently proposed Official Plan Amendment is premature if a broader review of permitted uses in employment areas is intended. Additionally, we are concerned that if a similar approach is taken to these forthcoming Official Plan Amendments as has been taken to this transitional Official Plan Amendment under Bill 97, what could result is the removal of, or undue restrictions placed on, certain uses that are currently permitted (such as institutional and non-manufacturing commercial uses) in order to artificially shelter such lands from consideration for an appropriate mix of uses in accordance with provincial policy.

We urge the Planning and Housing Committee and City Council not to adopt the proposed Official Plan Amendment in its current form.

We request notice of all further meetings and decisions related to this item. Our contact information is provided herein.

Yours truly,
Overland LLP

Per: Christopher J. Tanzola
Partner

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July 17, 2023

VIA EMAIL

City of Toronto, City Clerk's Office
Toronto City Hall
10th Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

Attention: John D. Elvidge, City Clerk

Dear Sirs/Madams:

RE: Item PH5.2 – 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 Nova Construction Company Ltd. ("**Nova**"), owner of the lands municipally known as 1530-1536 Midland Avenue in the City of Toronto (the "**Site**").

On behalf of Nova, we are writing to express our concerns with the current draft of Official Plan Amendment No. 668 (the "**Draft OPA**") which, in our view, undermines the legislative intent and policy direction behind the Province's amendments to the *Planning Act* described below.

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 with or related to manufacturing or warehousing uses. As part of a parallel process, the Province proposed a new Provincial Planning Statement ("**Draft PPS**") containing a similar definition that limits 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 also include two transition provisions under Sections 1(1.1) and (1.2) that authorize municipalities to permit the continuation of institutional and commercial 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 above-noted amendments to the *Planning Act* are awaiting proclamation by the Lieutenant Governor and the Draft PPS is posted for public comment on the Environmental Registry of Ontario until August 4, 2023, and these changes are therefore 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 "Core Employment" 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 employment areas to industrial, warehouse, and certain associated or ancillary uses.

The Site is the subject of a conversion request that will also be considered by City Council on July 19, 2023 (Item No. PH5.3). Our client's planning consultant (The Biglieri Group Ltd.) submitted correspondence to the City's Planning and Housing Committee dated April 27 and June 1, 2023 in support of the requested conversion. An oral deputation was also undertaken by The Biglieri Group Ltd. in support of the requested conversion at the Planning and Housing Committee Meeting on June 1, 2023. We adopt the conclusions of those submissions that the Site ought to be supported for conversion to "General Employment Areas" and "Mixed Use Areas". We note that the requested conversion would help to facilitate a significant increase to the number of jobs created by the Site (from 108 to 316 jobs), as well as 224 purpose-built rental units.

However, in addition to the site-specific attributes of the Site, regard should be had to the purpose of Bill 97 to refine the definition of "areas of employment" that, under the *Planning Act*, have heightened protections for conversions to other uses. Bill 97 confirms that, from a provincial policy standpoint, office, retail, and institutional uses should not be considered as business and economic uses akin to manufacturing and warehousing uses that attract the protections of the *Planning Act*.

Although Bill 97 allows a municipality to enact protections in respect of legally established uses that exist within employment areas, the Draft OPA applies that protection overly broadly and without any satisfactory planning rationale to determine whether such protections should be applied on any given lands. As a result, the Draft OPA attempts to preserve the current status quo despite clear legislative and policy changes that have been advanced by the Province, which limit the scope of uses that fall within the protections of an area of employment.

We urge City Council not to adopt the Draft OPA in its current form and request notice of all further meetings and decisions related to this item. Our contact information is provided herein.

Yours truly,
Overland LLP

Per: Michael Cara
Associate

c. L. Shiff, Nova Construction Company Ltd.
M. Testaguzza and S. Saraf-Uiterlinden, The Biglieri Group Ltd.

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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 RE: Item PH5.2 – Official Plan Amendment Bill 97 Transition – Authorizing the 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 on 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 determined 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

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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

Per: Daniel B. Artenosi
Partner

Encl.

overland

APPENDIX "A"

LIST OF CLIENTS

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

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

We are the lawyers for Dixon Toronto Airport Holdings Inc. ("**Dixon**") and Easton's Group of Hotels Inc., an agent for Dixon. Dixon is the registered owner of the following properties in the City of Toronto (the "**City**):

1. Dixon Toronto Airport Holdings Inc. -- 970 Dixon Road
2. Dixon Toronto Airport Holdings Inc. -- 950 Dixon Road

The properties noted above are subject to Employment designations in the Toronto Official Plan and contain hotel uses, which are currently permitted by the Official Plan (the "**Properties**").

On behalf of Dixon 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 on 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 determined 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

Justine Reyes

Per: Justine Reyes
Associate

Encl.

c. Clients

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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

Per: Daniel B. Artenosi
Partner

Encl.

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APPENDIX "A"

LIST OF CLIENTS

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

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

We are the lawyers for New Queensway Inc., the registered owner of the lands municipally known as 1025 The Queensway (the "**Property**") in the City of Toronto (the "**City**"). A portion of the Property fronting onto Dorchester Avenue currently contains surface parking and is subject to a *General Employment Areas* designation in the Toronto Official Plan.

On behalf of New Queensway 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.

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.]

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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 client, 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 determined 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

c. Client

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

We are the lawyers for Tancor Investment Limited ("**Tancor**") and Carmen Tanzola Limited, an agent for Tancor. Tancor is the registered owner of the following properties in the City of Toronto (the "**City**"):

1. Tancor Investment Limited -- 98-100 Ashwarren Road
2. Tancor Investment Limited -- 45 LePage Court

The above-noted properties are subject to Employment designations in the Toronto Official Plan and contain a mix of industrial, office, retail, service, and automotive uses, all of which are currently permitted by the Official Plan (the "**Properties**").

On behalf of Tancor, we are writing to provide submissions on proposed Official Plan Amendment No. 680 ("**OPA 680**"), as well as Official Plan Amendment No. 668 ("**OPA 668**"), which has not yet been enacted by the City. 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 reproduce 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 ("**Excluded Uses**"). These kinds of Excluded Uses are currently permitted and take place on the Properties.

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 requirement that conversion requests only be considered through a municipal comprehensive review) 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 client, 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 determined 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

Justine Reyes

Per: Justine Reyes
Associate

c. Client

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

We are the lawyers for Tanjes Investment Limited ("**Tanjes**") and Carmen Tanzola Limited, an agent for Tanjes. Tanjes is the registered owner of the following properties in the City of Toronto (the "**City**"):

1. Tanjes Investment Limited -- 878 Progress Avenue
2. Tanjes Investment Limited -- 873-875 Progress Avenue
3. Tanjes Investment Limited -- 860 Progress Avenue
4. Tanjes Investment Limited -- 250 Finchdene Square

The above-noted properties are subject to Employment designations in the Toronto Official Plan and contain a mix of industrial, office, retail, service, and automotive uses, all of which are currently permitted by the Official Plan (the "**Properties**").

On behalf of Tanjes, we are writing to provide submissions on proposed Official Plan Amendment No. 680 ("**OPA 680**"), as well as Official Plan Amendment No. 668 ("**OPA 668**"), which has not yet been enacted by the City. 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 reproduce 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 ("**Excluded Uses**"). These kinds of Excluded Uses are currently permitted and take place on the Properties.

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 requirement that conversion requests only be considered through a municipal comprehensive review) 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 client, 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 determined 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

c. Client

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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 RE: Item PH5.2 – Official Plan Amendment Bill 97 Transition – Authorizing the 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

Justine Reyes

Per: Justine Reyes
Associate

Encl.

c. Client

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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

Per: Daniel B. Artenosi
Partner

Encl.

overland

APPENDIX "A"

LIST OF CLIENTS

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

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July 23, 2024

VIA EMAIL (clerk@toronto.ca)

City Clerk's Office
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Mr. John D. Elvidge, City Clerk

Dear Mayor and Members of Council:

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

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

We are the lawyers for Concert Properties Limited ("**Concert**"), agent for "2 and 30 International Boulevard Toronto Holdings Inc." which is the registered owner of 2 International Boulevard and 30 International Boulevard (collectively, the "**Property**").

The Property is subject to Employment designations in the Toronto Official Plan and contains a mix of office and retail uses, both of which are currently permitted by the Official Plan.

On behalf of Concert, we are writing to provide submissions on proposed Official Plan Amendment No. 680 ("**OPA 680**"), as well as Official Plan Amendment No. 668 ("**OPA 688**"), which has not yet been enacted by the City (the "**City**"). 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)

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> **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.]

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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 requirement that conversion requests only be considered through a municipal comprehensive review) 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.

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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 client, 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 determined 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: Michael Cara

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July 23, 2024

VIA EMAIL (clerk@toronto.ca)

City Clerk's Office
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Mr. John D. Elvidge, City Clerk

Dear Mayor and Members of Council:

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

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

We are the lawyers for Concert Properties Limited ("**Concert**"), agent for "75 Rexdale Boulevard Toronto Holdings Inc." which is the registered owner of 75 Rexdale Boulevard (the "**Property**") in the City of Toronto (the "**City**").

The Property is subject to Employment designations in the Toronto Official Plan and contains a mix of industrial, warehouse, service, retail, goods movement, distribution, and office uses, all of which are currently permitted by the Official Plan (the "**Properties**").

On behalf of Concert, we are writing to provide submissions on proposed Official Plan Amendment No. 680 ("**OPA 680**"), as well as Official Plan Amendment No. 668 ("**OPA 688**"), which has not yet been enacted by the City. 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.

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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 requirement that conversion requests only be considered through a municipal comprehensive review) 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.

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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 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 688).

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

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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 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 determined 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,
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Per: Michael Cara

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July 23, 2024

VIA EMAIL (clerk@toronto.ca)

City Clerk's Office
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Mr. John D. Elvidge, City Clerk

Dear Mayor and Members of Council:

RE: City Council Meeting on July 24, 2024 – Item # PH14.1 – Employment Area Land Use Permissions – Decision Report - Approval

Overland LLP acts on behalf of Nova Construction Company Ltd. ("**Nova**") which is the registered owner of the lands municipally known as 1530-1536 Midland Avenue in the City of Toronto (the "**Site**"). On behalf of Nova, we made submissions to the City regarding Official Plan Amendment No. 668 (**"OPA 668"**) on July 17, 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 Nova, 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**"):

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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 97 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

Per: Michael Cara

Schedule “A”

Letter to City Council (dated July 17, 2023)

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July 17, 2023

VIA EMAIL

City of Toronto, City Clerk's Office
Toronto City Hall
10th Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

Attention: John D. Elvidge, City Clerk

Dear Sirs/Madams:

RE: Item PH5.2 – 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 Nova Construction Company Ltd. ("**Nova**"), owner of the lands municipally known as 1530-1536 Midland Avenue in the City of Toronto (the "**Site**").

On behalf of Nova, we are writing to express our concerns with the current draft of Official Plan Amendment No. 668 (the "**Draft OPA**") which, in our view, undermines the legislative intent and policy direction behind the Province's amendments to the *Planning Act* described below.

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 with or related to manufacturing or warehousing uses. As part of a parallel process, the Province proposed a new Provincial Planning Statement ("**Draft PPS**") containing a similar definition that limits 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 also include two transition provisions under Sections 1(1.1) and (1.2) that authorize municipalities to permit the continuation of institutional and commercial 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 above-noted amendments to the *Planning Act* are awaiting proclamation by the Lieutenant Governor and the Draft PPS is posted for public comment on the Environmental Registry of Ontario until August 4, 2023, and these changes are therefore 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 "Core Employment" 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 employment areas to industrial, warehouse, and certain associated or ancillary uses.

The Site is the subject of a conversion request that will also be considered by City Council on July 19, 2023 (Item No. PH5.3). Our client's planning consultant (The Biglieri Group Ltd.) submitted correspondence to the City's Planning and Housing Committee dated April 27 and June 1, 2023 in support of the requested conversion. An oral deputation was also undertaken by The Biglieri Group Ltd. in support of the requested conversion at the Planning and Housing Committee Meeting on June 1, 2023. We adopt the conclusions of those submissions that the Site ought to be supported for conversion to "General Employment Areas" and "Mixed Use Areas". We note that the requested conversion would help to facilitate a significant increase to the number of jobs created by the Site (from 108 to 316 jobs), as well as 224 purpose-built rental units.

However, in addition to the site-specific attributes of the Site, regard should be had to the purpose of Bill 97 to refine the definition of "areas of employment" that, under the *Planning Act*, have heightened protections for conversions to other uses. Bill 97 confirms that, from a provincial policy standpoint, office, retail, and institutional uses should not be considered as business and economic uses akin to manufacturing and warehousing uses that attract the protections of the *Planning Act*.

Although Bill 97 allows a municipality to enact protections in respect of legally established uses that exist within employment areas, the Draft OPA applies that protection overly broadly and without any satisfactory planning rationale to determine whether such protections should be applied on any given lands. As a result, the Draft OPA attempts to preserve the current status quo despite clear legislative and policy changes that have been advanced by the Province, which limit the scope of uses that fall within the protections of an area of employment.

We urge City Council not to adopt the Draft OPA in its current form and request notice of all further meetings and decisions related to this item. Our contact information is provided herein.

Yours truly,
Overland LLP

Per: Michael Cara
Associate

c. L. Shiff, Nova Construction Company Ltd.
M. Testaguzza and S. Saraf-Uiterlinden, The Biglieri Group Ltd.

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July 23, 2024

VIA EMAIL (clerk@toronto.ca)

City Clerk's Office
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Mr. John D. Elvidge, City Clerk

Dear Mayor and Members of Council:

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

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

Overland LLP acts on behalf of the Sorbara Group of Companies and affiliated entities. In particular, we represent N.H.D. Developments Limited, which is the registered owner of 3765-3777 Keele Street and 10 LePage Court, as well as the registered owner of the properties in the attached Schedule "A". We are also writing on behalf of Joseph and Maria Rose Cattana, the owners of 3885 Keele Street.

On behalf of the Sorbara Group and affiliated entities, we previously made submissions to the City regarding Official Plan Amendment No. 668 (**"OPA 668"**) on July 4, 2023. OPA 668 was considered by City Council in July 2023, but the Official Plan Amendment has not yet been enacted. We take this opportunity to resubmit that correspondence on behalf of the registered owners of property noted above to note concerns regarding OPA 668.

On behalf of N.H.D. Developments Limited and the other registered owners of property listed in Schedule "A" and/or noted above, we are writing to express our concerns with the current draft of Official Plan Amendment No. 680 (**"OPA 680"**).

The properties in question are subject to Employment designations in the Toronto Official Plan and contain a mix industrial, office, retail, service, and automotive uses, all of which are currently permitted by the Official Plan.

In addition to our previous correspondence, we have reviewed the numerous submissions that have been made by other owners of Employment designated properties and largely agree with the submissions that note 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 either amendment in their current form.

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 restriction of appeals on conversion requests) 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 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 668).

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 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 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 97 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

Per: Michael Cara

Schedule "A"

Address	Registered Owner
40 Metropolitan Road	All-Borough Millenium Inc.
470-478 Finchdene Square	Director Industrial Holdings Limited
480 Finchdene Square	Director Industrial Holdings Limited
10 Newgale Gate	Director Industrial Holdings Limited
21-41 Kenhar Drive	Discount Plaza Limited
21-57 Estate Drive	Edward Sorbara (tenant in common, ¼)
5750-5760 Finch Avenue E	774061 Ontario Limited
495 Finchdene Square	495 Finchdene Square Holdings Inc.
10 Estate Drive	Sam-Sor Enterprises Inc., anticipated to change to N.H.D Developments Limited
5736-5746 Finch Avenue E	N.H.D. Developments Limited
160 Finchdene Square, 170 Finchdene Square, 180 Finchdene Square	Finchmor Developments Limited
221 Finchdene Square, 227 Finchdene Square, 247 Finchdene Square, 257 Finchdene Square, 360 Finchdene Square, 380 Finchdene Square, 400 Finchdene Square, 420 Finchdene Square, 455 Finchdene Square, 475 Finchdene Square, 485 Finchdene Square	N.H.D. Developments Limited
49 Howden Road, 59-63 Howden Road	N.H.D. Developments Limited
44 Metropolitan Road	N.H.D. Developments Limited
370 Norfinch Drive	N.H.D. Developments Limited
400,410,490,500 Norfinch Drive	N.H.D. Developments Limited
430,450,470 Norfinch Drive	N.H.D. Developments Limited
485-501 Norfinch Drive	N.H.D. Developments Limited
861 Progress Avenue	N.H.D. Developments Limited
4900 Sheppard Avenue E	N.H.D. Developments Limited
4910 Sheppard Avenue E	N.H.D. Developments Limited
4345-77 Steeles Avenue & 525-9 Norfinch Drive	N.H.D. Developments Limited
4249-4339 Steeles Avenue	N.H.D. Developments Limited
16 Estate Drive	N.H.D. Developments Limited
20 Estate Drive	N.H.D. Developments Limited
10 LePage Court	N.H.D. Developments Limited
3765-3777 Keele Street	N.H.D. Developments Limited

Schedule “B”

Letter to City Council (dated July 4, 2023)

Christopher J. Tanzola
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July 4, 2023

VIA EMAIL

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

Attention: Nancy Martins (phc@toronto.ca)

Dear Members of the Planning and Housing Committee:

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

We are the lawyers for the Sorbara Group and affiliated entities with respect to properties generally located on the east side of Keele Street south of Finch Avenue. In addition to our own correspondence, our client has also been represented with respect to these properties through its planning consultant WND Associates. The properties in question are: 3765-3777 Keele Street and 10 Lepage Court. Previous submissions have also been made in respect of 3885 Keele Street, owned by Joseph and Maria Rosa Cattana.

We are writing to express our client's concern with the proposed Official Plan Amendment that, in our view, undermines the legislative intent and policy direction behind the Province's recent Bill 97 amendment for "areas of employment".

The Sorbara Group properties on Keele Street and Lepage Court noted above are the subject of a conversion request to the City being considered in Planning and Housing Committee Item PH5.3. WND Associates has submitted correspondence dated July 4, 2023 for that item. We adopt the conclusions of those submissions that these properties ought to be supported for conversion to *Mixed Use Areas* or *Regeneration Areas*.

However, in addition to the site-specific attributes of these properties, regard should be had to the purpose of Bill 97 to refine the definition of "areas of employment" that, under the *Planning Act*, have heightened protections for conversions to other uses. Bill 97 confirms that, from a provincial policy standpoint, office, retail, and institutional uses should not be considered as business and economic uses akin to manufacturing and warehousing uses that attract the protections of the *Planning Act*.

The Bill 97 change to the definition of "areas of employment" supports the development of mixed use, complete communities, that may include residential uses, while protecting traditional

employment areas and uses. This direction is also contained in the draft *Provincial Planning Statement, 2023*.

Although Bill 97 does permit a municipality to enact certain protections in respect of lawfully established uses that exist within employment areas, the proposed Official Plan Amendment applies that protection overly broadly and without any satisfactory planning rationale to determine whether such protections should be applied on any given lands. This approach in the proposed Official Plan Amendment provides no contextual analysis and thwarts the legislature's intention and provincial policy direction to encourage mixed use development in appropriate situations. The proposed Official Plan Amendment simply wraps up all properties that would have been caught by the older definition of "areas of employment" in a transition "loophole", as if Bill 97 had never been enacted.

Otherwise put, whereas Bill 97 clearly reflects an intention to limit the scope of uses that fall within the protections of an area of employment, the proposed Official Plan Amendment attempts to preserve the status quo.

Furthermore, we understand that additional Official Plan Amendments will be brought forward in the Fall, which seek to review the permitted uses within the City's "areas of employment". Firstly, we are concerned that the currently proposed Official Plan Amendment is premature if a broader review of permitted uses in employment areas is intended. Additionally, we are concerned that if a similar approach is taken to these forthcoming Official Plan Amendments as has been taken to this transitional Official Plan Amendment under Bill 97, what could result is the removal of, or undue restrictions placed on, certain uses that are currently permitted (such as institutional and non-manufacturing commercial uses) in order to artificially shelter such lands from consideration for an appropriate mix of uses in accordance with provincial policy.

We urge the Planning and Housing Committee and City Council not to adopt the proposed Official Plan Amendment in its current form.

We request notice of all further meetings and decisions related to this item. Our contact information is provided herein.

Yours truly,
Overland LLP

Per: Christopher J. Tanzola
Partner