



Barristers & Solicitors

Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.ca

Direct Line: 416.597.4299
dbronskill@goodmans.ca

May 7, 2025

Our File No.: 000031

Delivered Via Email

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

Attention: Nancy Martins (phc@toronto.ca)

Dear Sirs/Mesdames:

**Re: Item No. 2025.PH21.1 – Official Plan Amendments to align with Provincial
Legislative and Policy changes related to Employment Areas – Decision Report**

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

We are writing on behalf of our client to express significant concerns with the above-noted item and draft Official Plan Amendment No. 804 (“**Draft OPA 804**”). Given these concerns, we respectfully request that Planning and Housing Committee refer Draft OPA 804 back to City staff for further review and consultation with affected property owners.

Background to Draft OPA 804

Bill 97 (the *Helping Homebuyers, Protecting Tenants Act, 2023*) received Royal Assent on June 13, 2023. Bill 97 specifically narrowed the definition of “area of employment” to traditional manufacturing, warehousing and related uses. At the same time, Bill 97 confirmed that office, retail and institutional uses are not business and economic uses, unless directly associated with manufacturing, warehousing or related uses. This new definition is directly linked to the definition of “employment area” in the Provincial Planning Statement, 2024 (the “**PPS 2024**”), which similarly limits the scope of areas of employment.

The intent of Bill 97 and the PPS 2024 is clear. Areas subject to employment conversion policies and statutory provisions are limited to areas with traditional manufacturing, warehousing or related uses. At the same time, mixed use development is to be encouraged outside of these areas to

support complete communities. Where institutional and/or commercial uses are permitted, those areas are not longer considered an “area of employment”.

The City previously attempted to implement Bill 97 and the PPS 2024 through Official Plan Amendment 668 and Official Plan Amendment 680. Our client – as well as a significant number of landowners – expressed similar concerns prior to City Council adopting those official plan amendments. The Province also had significant concerns with the City’s approach, which led to Ontario Regulation 396/04 and the removal of City as approval authority for these official plan amendments.

Concerns with Draft OPA 804

The proposed policy direction for OPA 804 remains directly contrary to the legislative intent of Bill 97. The policy direction that the City should be implementing would consider which lands within the City truly meet the new definition of area of employment. While City staff suggested they have now completed some sort of analysis, this review was expressly limited to “office parks” that do not act as a buffer to more sensitive uses. City staff did not consider other lands that clearly do not meet the new Provincial direction, including our client’s various properties.

Otherwise, the proposed policy direction in Draft OPA 804 remains to remove existing land use permissions from all of the City’s employment areas, with the exception of four areas. This would effectively prevent consideration of expanded development opportunities in accordance with Bill 97 to meet provincial and municipal forecasts while negatively impacting the existing planning function of many of those areas. Further, it essentially removes any distinction between lands designated as *Core Employment Areas* and *General Employment Areas*. Draft OPA 804 neither implements the new *Planning Act* definition nor is consistent with the PPS 2024.

Our client’s various properties would be negatively impacted by the removal of existing use permissions. Many of these uses have existed and operated for a significant period of time without impact on surrounding lands. While these properties may not be part of an “office park”, however, that is defined by City staff, they clearly do not meet the definition of “area of employment”. As such, not only would the City initiative lead to detrimental impacts on existing operations and services but also it would discourage reinvestment given the resulting legal non-conforming status at a policy level. The City initiative is also at odds with initiatives in certain City *Employment Areas* with specific direction for a broad list of permitted uses, including retail and office uses.

We understand that the City staff view is that Draft OPA 804 would allow institutional and commercial permissions to continue generally in all existing employment areas despite removal of those permissions. However, in our view, City staff’s interpretation of what constitutes “lawfully established” is incorrect. While our client has significant concerns with the policy direction in Draft OPA 804, at the very least, the City should take steps to modify proposed Policies 4.6.9 and 4.6.10 to provide greater certainty regarding the definition of “lawfully established”. As one potential approach, this could easily be achieved by introducing additional language clarifying that

existing uses are “authorized to continue so long as the use has been lawfully established in the applicable zoning by-law on the parcel of land before October 20, 2024.” Further, City staff’s proposed interpretation of these policies undermines the intent of Bill 97 by attempting to use Draft OPA 804 to maintain the status quo with respect to its designated employment areas.

We would appreciate being included on the City notice list on behalf of our client for any City Council decision regarding Draft OPA 804.

Yours truly,

Goodmans LLP



David Bronskill
DJB/

cc. Client

SCHEDULE A

REGISTERED OWNERS AND MUNICIPAL ADDRESSES

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