

## November 29, 2018 Ministry...

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Comment on	<a href="#"><u>City of Toronto - Approval to amend a municipality's official plan (/notice/013-3485)</u></a>
ERO (Environmental Registry of Ontario) number	013-3485
Comment ID	26771
Commenting on behalf of	Individual
Comment status	Comment approved <a href="#"><u>More about comment statuses (/page/glossary#section-13)</u></a>

## Comment

November 29, 2018 Ministry of Municipal Affairs and Housing Municipal Services Division Municipal Services Office - Central Ontario 777 Bay Street, Floor 13 Toronto ON M5G 2E5 ATTN: The Honourable Steve Clark, MPP Minister of Municipal Affairs Re:Adoption of City of Toronto Official Plan Amendment No. 406 (By-law 1111-2018) EBR Registry Number: 013-3485 Ministry Reference Number: 20-OP-178646 Minto Communities Inc. and related companies 295 Jarvis Street and 110 Maitland Street We are counsel for Minto Communities Canada Inc., Minto Communities Inc., Minto Properties Inc., Minto Urban Communities Inc. and related companies (collectively Minto ) in respect of the abovementioned matter. Our client owns or has interests in lands located throughout the downtown Toronto area subject to the above-noted City-initiated official plan amendment, ( OPA 406 ), which include the properties known municipally as 295 Jarvis Street and 110 Maitland Street. Minto develops and constructs purpose-built rental housing units as well as new ownership units in all parts of the downtown area and consequently has a general interest in the future of land use planning within the City. At a general level, Minto shares the substantive concerns set out in the letter to the Minister dated

November 28, 2018 filed by Ms. Cynthia MacDougall of McCarthy Tétrault LLP on behalf of various landowners and adopts the issues relating to OPA 406 described therein. In the absence of appropriate modifications to address these concerns, the approval of OPA 406 in the form adopted by City Council in Minto's submission does not represent good land use planning, is inconsistent with the Provincial Policy Statement, 2014 ( PPS, 2014 ) and does not conform to the Growth Plan for the Greater Golden Horseshoe, 2017 ( Growth Plan ). As currently drafted, OPA 406 , in our client's view will, amongst other things, inhibit desirable intensification, both residential and non-residential, and undermine the goal of encouraging housing affordability. For this reason, Minto is of the view that further consultation with members of the development and building industry is essential prior to the approval of OPA 406 to address the concerns raised to date. Aside from the broad policy objections raised in the aforementioned letter, our client has a number of additional concerns with OPA 406 and in particular with specific policies proposed to be introduced as part of the secondary plan for the Downtown area (the Downtown Plan ), as they apply to its properties at 295 Jarvis Street and 110 Maitland Street, outlined in greater detail below.

a) Restrictive Rental replacement policies and 295 Jarvis Street Policy 4.11 of the proposed Downtown Plan seeks to impose restrictions on redevelopment where the demolition or removal of dwelling rooms is proposed. The policy, as currently drafted, prohibits the approval of any development application (aside from site plan approval) which would result in the loss of 10 or more dwelling rooms, except where an equal amount of replacement residential gross floor area is secured for rental housing purposes at a similar rent level for a minimum period of 20 years. The policy further stipulates that a plan for tenant relocation and assistance must be provided, addressing amongst other things, the right of existing tenants of the dwelling rooms to return to the replacement rental housing at similar rents or to occupy other alternative accommodation at similar rents. In Minto's respectful submission, the inclusion of Policy 4.11 in its current form in the Downtown Plan is problematic for several reasons. Firstly, as a matter of law, it is unclear whether the City of Toronto possesses the legislative authority to prohibit or regulate the removal of dwelling rooms in the manner proposed. The policy directions in 4.11 seek to regulate dwelling room demolition within the downtown area in much the same fashion as the demolition and/or conversion of rental residential property containing 6 or more dwelling units is currently regulated in all parts of the City, pursuant to s. 111 of the City of Toronto Act. The City's powers pursuant to section 111 of the City of Toronto Act, however,

are expressly confined to situations where 6 or more dwelling units – by definition, self-contained living premises that have their own private sanitary and kitchen facilities- are demolished. More so, Policy 4.11 as currently drafted continues to be unnecessarily prescriptive and inflexible in its approach towards rental replacement. Minto acknowledges that the policy does not require an applicant to replace dwelling rooms removed through redevelopment exclusively with new dwelling rooms, but permits replacement with other forms of rental housing as well. However, it should be recognized that the requirement to maintain all replacement rental gross floor area on-site at similar rents to pre-existing dwelling rooms for a period of 20 years or more is an onerous one and imposes greater requirements than currently exist for maintenance of dwelling units. In the case of many older rooming house sites, the requirement will essentially render redevelopment of the properties economically unfeasible, despite the clear need on many such sites for rejuvenation of the aging rental stock. While the alternative of permitting proponents to satisfy requirements to provide replacement rental gross floor area off-site or by means of equivalent cash payments was raised early on in the consultation process for OPA 406 in submissions to Council made by Minto and BILD, it does not appear to have been considered to date in any meaningful way by the City. The application of Policy 4.11 in the context of the proposed redevelopment of 295 Jarvis Street, the site of the existing 3 storey Inglewood Arms rooming house and extended stay hotel, would, for example, undermine the economic viability of the project for our client. Located on the east side Jarvis Street, midway between Gerrard Street and Dundas, the property is the subject of an application for zoning by-law amendment filed on May 18, 2018 (City File No. 18 161787 STE 27 OZ) requesting permissions for the construction of a 36-storey residential redevelopment that would contain approximately 351 new dwelling units. The proposed redevelopment, if approved, would add a significant number of new residential units, contributing to the renewal of the Downtown area's existing housing stock and would provide for the desirable residential intensification of an underutilized site. In its current form, Policy 4.11 however, would present significant obstacles and disincentives towards such redevelopment, and meaningfully impact the ability of developers to add new redevelopment. Despite being designated a tower site in the Official Plan (OPA 82), a tower development on this site may not be viable solely because of these policies. Dwelling rooms are utilized in a myriad ways and by a range of individuals. However, it appears that policy 11.4. has been drafted with regard for only one subset of occupants:

vulnerable low income, transient tenants. There are a number of other groups that rent and occupy dwelling rooms that the policy ignores, including students, business people, and individuals simply looking for medium-term accommodation in excess of what a hotel, but less than a residential lease typically provides for (in the range of 1-6 months). The one-size approach of these proposed policies is inappropriate for these instances and has the potential to lead to negative, nonsensical results. The Minister is urged to consider amendments to the policy in this regard. Minto acknowledges and supports the City's goal of ensuring that stable and affordable rental housing options remain within reach of all City's residents including those relying upon lower-end of market rentals, students, transient workers and others populations that use dwelling rooms. For the foregoing reasons, however, Minto would oppose the approval of Policy 4.11 in its present form. In our client's submission, the policy should either be eliminated from the Downtown Plan in its entirety or else modified to address the issues discussed above.

b) 110 Maitland Street With respect to the lands at 110 Maitland Street ( 110 Maitland ), our client respectfully submits that the Downtown Plan's policies, in their present form, do not provide appropriate recognition of the site's intensification potential, as supported by its site-specific characteristics, planned context and the general scale of surrounding built form. 110 Maitland, designated as Apartment Neighbourhoods within the City's Official Plan, is situated approximately 350 metres southwest of the Wellesley subway station on the Yonge-University subway transit line and accordingly forms part of the associated major transit station area. In our client's view, a variety of the policies in the Downtown Plan will operate to limit 110 Maitland's ability to achieve an appropriate and desirable form of intensification. These include, for example a range of highly prescriptive built form policies and rigid requirements respecting constraints on use of building space which will discourage design flexibility and responsiveness to site-specific conditions and market supply/demand. Built form policies are proposed for example to require lands within Official Plan designations identified for growth (including Apartment Neighbourhoods) to maintain publicly accessible setbacks with a depth of 6 metres measured from building face to curb, to limit the size of all tower floorplates for mixed-use or residential development to 750 square metres, and policies directed towards control of the design and interior placement of amenity space within buildings. Other restrictive policy directions of concern include, amongst other things, mandatory requirements to provide not-for profit child care facilities within all new developments and specific and

inflexible requirements relating to residential unit mix and minimum unit size. In our client's view, the highly prescriptive nature of these and other policy requirements in the Downtown Plan, together with the highly regimented built form restrictions proposed in OPA 352 with respect to tall building separation distances, will serve to hinder the appropriate intensification of 110 Maitland, an Apartments Neighbourhoods site well-served by transit. Such result would be contrary to policy objectives within Growth Plan as well as PPS, 2014 that encourage efficient land use patterns, optimization of infrastructure and promotion of patterns of development to support transit viability and active transportation. Based on the foregoing comments, Minto submits that OPA 406 in its current form does not represent good land planning, is inconsistent with the directions in the PPS, 2014 and does not conform to the Growth Plan. In view of the various issues and deficiencies which have been highlighted, our client respectfully suggests that the approval of OPA 406 at this juncture should be deferred to permit the Ministry to undertake a fulsome program of consultation or in the alternative that the Minister render no decision on the instrument. This would permit interested parties to appeal the non-decision to the Local Planning Appeal Tribunal where the merits of the instrument would have the opportunity to be mediated or, if required, litigated. Yours truly,  
McCarthy Tétrault LLP Per: Michael Foderick MF

Submitted April 16, 2019 10:59 AM

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