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Our File No.: 073504.15

November 29, 2018

WITHOUT PREJUDICE – SETTLEMENT OFFER

Via E-Mail: Mark.Piel@toronto.ca

Mark Piel
Solicitor
City of Toronto Legal Services
55 John Street
26th Floor Metro Hall
Toronto, ON M5V 3C6

Dear Mr. Piel:

Re: 3526 Lakeshore Boulevard West, LPAT Case No. MM170031

We are writing to with respect to the outstanding appeals relating to the property at 3526 Lakeshore Boulevard West, specifically the appeals of the failure of the City of Toronto to approve our client's applications for a zoning by-law amendment, site plan approval and subdivision approval.

Specifically, we are writing to provide the City with a without prejudice offer to settle the outstanding appeals with respect to both the zoning by-law amendment and the subdivision application. Specifically, we propose the following:

- a) The inclusion of the attached provisions to the Zoning By-law. Our client has a preliminary agreement with FCA to resolve all of their outstanding concerns with respect to land use compatibility. In essence, this settlement is built around an agreement to request that the attached provisions form part of the zoning by-law (and, ultimately, be secured through a s.37 Agreement between the applicant and the City). Please note that the attached is a draft, as all block numbers need to be confirmed and, as such, minor amendments may still be incoming.
- b) The City designate the entire property as Class 4 under NPC 300. This is consistent with the expectations of City Staff in the most recent staff report, and is supported by FCA.
- d) The comments we have received from the City's Peer Reviewer with respect to noise will be addressed at the Site Plan stage. We have discussed these with Valcoustics and believe that the peer reviewer's requests are best dealt with at the site plan level and that they do not raise issues with

respect to land use compatibility. Our belief is that the attached recommended additions to the ZBL resolve the land use compatibility level issues.

e) We will provide the City with the additional material requested from Toronto Water at their meeting with our client on November 22, 2018 this week. That said, we believe all outstanding water concerns are, at best, site plan issues and believe that they should be addressed at that stage and not hold up the zoning.

f) My client agrees to amend the ZBL unit count to 415 units.

g) Other than the above, the ZBL will be substantially in the form as per your last submission to the City with a reservation for stylistic or minor amendments (copy attached).

h) Subdivision: We request the City produce draft plan of subdivision conditions in short order and agree that the parties will work in good faith to resolve the same in time for the settlement hearing. Assuming we are able to come to agreement on reasonable subdivision conditions, my client is willing to consent to the Tribunal issuing an order pursuant to 51(56.1) of the Planning Act as it relates to clearance of the draft plan conditions and final plan approval. My client reserves any and all rights it has to return to the Tribunal or any other forum if there are issues between them and the City with respect to the clearance of the draft plan conditions and final plan approval.

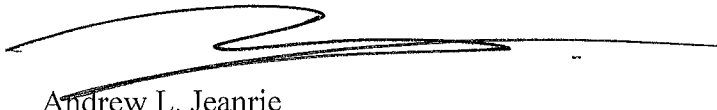
i) With respect to site plan approval, my client agrees to allow Site Plan to be deferred to another date later in 2019.

Assuming that we agree on the above, we would suggest that the parties notify the Tribunal of the same and (a) request relief from the requirements of the procedural order; (b) release the hearing dates after January 8, 2018.

We appreciate the work that the City has taken to work with our client to resolve all outstanding matters.

Yours truly,

BENNETT JONES LLP



Andrew L. Jeanrie

ALJ:mc

cc: Kate Fairbrother, Borden Ladner Gervais LLP

Mark Piel

From: Andrew Jeanrie <JeanrieA@bennettjones.com>
Sent: November 30, 2018 6:34 PM
To: Mark Piel
Subject: RE: 3526 Lakeshore Boulevard - Without Prejudice Settlement Offer [BJ-L.FID4594357]

Mark,

Further to my e-mail below and the attached correspondence, as well as our follow up discussions, I'm writing to provide you with a revision to our settlement offer.

Specifically, my client confirms that it consents to the amendment of the draft ZBL pursuant to the recommendations set out in the Memorandum of Engineering and Construction Services dated November 8, 2018, Part 1, Heading B as follows:

1. The ZBL will be amended to the satisfaction of my client and the City to implement the matters set out in Heading B, paragraphs 1, 2, 3, 6, and 8.
2. As per Heading B, Paragraph 4, the ZBL will be amended, if necessary, to clarify that the "permitted commercial uses" will be the same as those permitted in the C1-AV Zone of the Zoning By-law No. 1055-2004. For clarity, this does not impact any permitted non-commercial uses which shall remain as set out in the draft ZBL.
3. With the understanding that the last "and" within Heading B, Paragraph 5 was intended to be an "or", our client agrees to amend the ZBL to implement the intent of this paragraph.
4. With respect to the request pursuant to Heading B, Paragraph 7, our client accepts that the dimensions of each accessible parking space will be as set out therein. In addition, our client agrees to provide 4 accessible parking spaces in surface parking areas, and another 4 accessible parking spaces in below grade parking garages (split as 2 in each below grade parking garage).
5. With respect to Heading B, Paragraph 9, my client agrees with the intent of this provision, but notes that it will need to be clarified in its implementation as some property lines do not abut City rights-of-way and will, therefore, clearly measure their setbacks from general property lines instead.

In addition to the above, we provide our acknowledgement that while the intent of the parties is to use reasonable efforts in order to obtain final approval of a ZBL at the hearing on January 8, 2019, in the event that this does not prove possible, we will seek preliminary approval and reserve a right to have the ZBL spoken to at the Tribunal at a future date should there be issues in finalizing as between ourselves and the City.

Finally, we acknowledge that should Council accepts the offer as amended above, we will consent to its public disclosure.

Regards,



Andrew Jeanrie
Partner, Bennett Jones LLP

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From: Andrew Jeanrie
Sent: 29 November 2018 2:19 PM

To: 'Mark Piel' <Mark.Piel@toronto.ca>

Cc: 'Fairbrother, Kate' <KFairbrother@blg.com>

Subject: 3526 Lakeshore Boulevard - Without Prejudice Settlement Offer [BJ-L.FID4594357]

Mark,

Please see the attached letter and supporting documents.

I have copied Ms. Fairbrother on this e-mail as a party to the hearing and so that she can confirm her client's agreement with respect to those portions of the proposed settlement that impact her client.

Regards,



Andrew Jeanrie
Partner, Bennett Jones LLP

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