AMBER STEWART LAW

1 First Canadian Place
100 King Street West
Suite 5600
Toronto, Ontario
M5X 1C9

T: 416.479.5452
F: 416.644.8801

amberstewartlaw.com

Refer to: *amber@amberstewartlaw.com*

August 25, 2014

Delivered by email to *clerk@toronto.ca*

Ms. Marilyn Toft
City Council
City of Toronto
12th Floor, West Tower, City Hall
Toronto, Ontario
M5H 2N2

Attn: His Worship the Mayor Rob Ford and Members of Council

Dear Ms. Toft:

Re: 200 Ridley Boulevard ("the Subject Property")
NY34.98– August 25, 2014 (File No. 12 176179 NNY 16 OZ)

We are counsel to Starlight Investments and Kanco 200 Ridley Ltd. (collectively, "Starlight"), the owner of the Subject Property and the Applicant in the above-referenced rezoning application ("the Application").

The Application proposes the redevelopment of the front portion of the Subject Property with a new 4-storey apartment building with 30 dwelling units. The rear portion of the site contains an existing 4-storey residential rental apartment building with 91 dwelling units, which will remain. The Application also provides for a list of improvements to the existing apartment building, which will be secured in a section 37 agreement.

At its meeting of August 12, 2014, North York Community Council ("Community Council") voted to approve the Application. However, Community Council also voted to require Starlight to provide a five-page list of additional section 37 benefits, which were requested by the existing tenants of the rental building.

The purpose of this letter is to explain why it is not reasonable, appropriate, or practical to require the additional items as section 37 contributions, and to ask City Council to overturn the Community Council recommendations, and to adopt the staff recommendations contained in the Supplemental Report of the City Planning Division dated July 22, 2014, in relation to the section 37 benefits.

We ask that this letter be distributed to all Members of Council before the item is considered.

Background – Starlight Investments

Starlight is a dynamic real estate asset management, ownership and investment company. Starlight oversees a property portfolio encompassing more than 350 properties, with 27,000 multi-family residential units, and almost 2 million square feet of commercial space across Canada and the southeastern United States.

Starlight develops property-specific business plans for each of its buildings, which are comprehensive renovation programs to increase the property's value. The programs typically cost several millions of dollars, and result in premiere rental buildings with high quality finishes. Typical improvements include:

- Suite renovations, including new stainless steel appliances
- Lobby and corridor renovations
- New glass balconies and building repainting
- Replacement of windows and doors
- New boilers



Figure 1: Photos of typical building exteriors, before and after improvements





Figure 2: Photos showing typical improvements to lobby and suites

The Subject Property and the Application

The Subject Property is located on the north side of Ridley Boulevard, east of Avenue Road. It currently contains a 4-storey apartment building with 91 rental units located at the rear of the site. The existing building is set back approximately 58 m from the front property line, and it is 13 m high. Starlight also has a comprehensive renovation and improvement program in place for the 200 Ridley building, which is already being implemented. This program is independent of the redevelopment proposal. In the last 6 years, Starlight has carried out approximately $1 million of renovations to the existing rental building, including the replacement of all balconies, and the re-coating of the building.

The proposal includes a four-storey apartment building with 30 residential units. The building is 11 m high to the top of the third floor, and 14 m to the top of the fourth floor. The fourth floor is a partial storey only, and it is set back on all sides from the façade of the building. The proposed design is sensitive and appropriate, and conforms with the Neighbourhoods policies of the Official Plan.



Figure 3: Before and after photographs of exterior renovations to the existing building at 200 Ridley



Figure 4: Rendering of the proposal. Note that the fourth floor is barely visible.

Community Council – June 17, 2014

Staff prepared a Final Report dated May 29, 2014, which recommended **approval** of the Application. The Final Report included the list of agreed-upon section 37 benefits for the existing rental building.

The Final Report was initially considered by Community Council on June 17, 2014. At the meeting, one tenant of the existing rental building made a deputation, and she expressed concerns about the proposed section 37 benefits. In response to that deputation, Community Council expressed concern about the nature of the section 37 benefits, and the perceived lack of consultation with the tenants. Community Council deferred the Application and directed staff to meet with the tenants in an effort to agree upon the section 37 benefits.

Starlight wrote to the local Councillor on June 23, 2014, to clarify both the process of consultation and negotiation of the section 37 benefits, and the nature of the benefits that were being proposed. As detailed in that letter, a copy of which is enclosed:

- In order to address the housing policies in the Official Plan, Goldberg Group prepared a Housing Issues Report and two letter reports, and completed two site visits with the housing policy planners at the City.

- Starlight also prepared a Tenant Feedback Survey to seek tenants' input with respect to their desired improvements, and presented at three public meetings with staff and the Councillor's office in attendance, one of which was exclusive to the tenants of the existing rental building.

- The proposed section 37 benefits, determined after extensive consultation and negotiation, included the conversion of an existing rental unit into an amenity room, improvements to the entrance of the building including a new canopy, provision of a covered bicycle storage area, upgraded landscaping, and passive and active recreation areas.

- **The total value of the section 37 benefits package was estimated to be $376,000.00.** For a complete breakdown of the benefits package and their cost, see pages 4 – 5 of the attached letter.

In the June 23 letter, we indicated that, further to Community Council's request, Starlight was nonetheless prepared to hold a further tenants' information meeting.

Additional Tenants' Meeting and Supplemental Report

The additional tenants' meeting was held on July 9, 2014. At that meeting, staff explained the policy framework that authorizes the securing of needed improvements to the existing rental building through section 37 contributions.

Michael Goldberg of Goldberg Group also presented the proposed section 37 benefits to the tenants in detail.

The tenants provided two lists of additional desired items. The tenants were advised that some of the requested items would be taken under consideration by Starlight, as discussed below. However, other requests were either not economically feasible or were inappropriate for inclusion as section 37 benefits.



BICYCLE ENCLOSURE FRONT ENTRANCE CANOPY

Figure 5: Renderings showing proposed enclosed bicycle storage area, and improvements to the entrance of the rental building, including a new canopy.

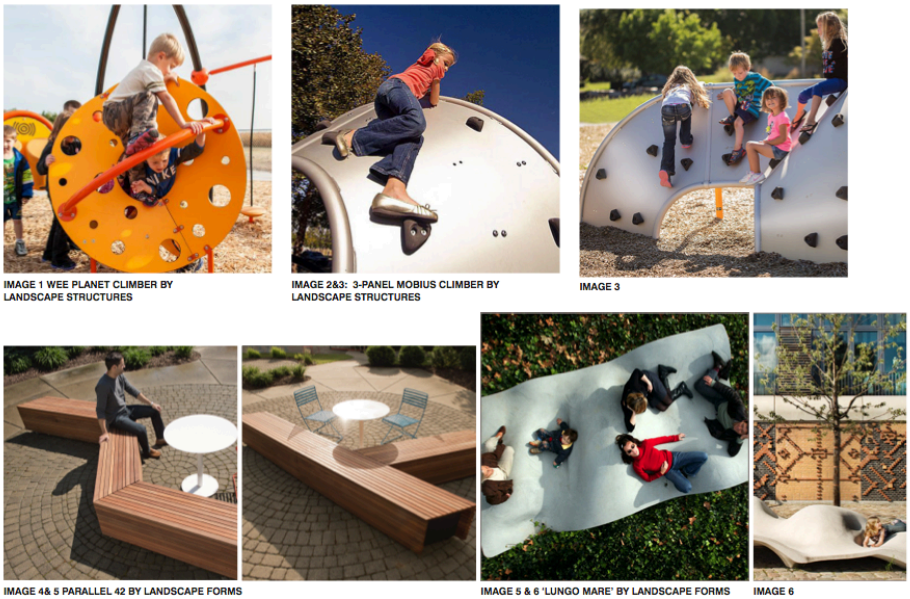

IMAGE 1 WEE PLANET CLIMBER BY LANDSCAPE STRUCTURES
IMAGE 2&3: 3-PANEL MOBIUS CLIMBER BY LANDSCAPE STRUCTURES
IMAGE 3
IMAGE 4& 5 PARALLEL 42 BY LANDSCAPE FORMS
IMAGE 5 & 6 'LUNGO MARE' BY LANDSCAPE FORMS
IMAGE 6

Figure 6: Sample play structures and seating proposed for outdoor amenity space

Following the July 9 meeting, Starlight agreed to provide several additional items that had been identified by the tenants as being "priority items", including additional security cameras to be monitored by a third party company, and new commemorative artwork and seating area furniture for the lobby.

Planning staff prepared a Supplemental Report dated July 22, 2014, which reported on the outcome of the July 9 tenants' meeting. It also recommended approval of a revised draft by-law that included the additional section 37 benefits.

Community Council – August 12, 2014

The Application was brought back before Community Council at its meeting of August 12. Councillor Stintz tabled a new motion, which recommended that Community Council adopt the staff recommendation, with a list of additional recommendations received from residents at 200 Ridley Boulevard. We note that Mr. Goldberg could not address the list of additional recommendations because deputations were complete.

Community Council approved the list of additional section 37 benefits, subject only to the deletion of five of the seven $25,000.00 cash contributions to various third parties.

Request for an Alternative City Council Resolution

We ask that City Council overturn the decision of Community Council, and adopt the staff recommendations contained in the Supplemental Report, together with an alternative resolution addressing the core maintenance concerns expressed by the residents. The reasons for the request are as follows.

First, it appears that Community Council was not aware of the extensive consultation with the tenants and the negotiations with staff, or the nature of the section 37 benefits that were initially proposed. We trust that the enclosed June 23rd letter will clarify the extensive efforts of both Starlight and staff to secure appropriate and desirable benefits for the existing rental building.

Second, the section 37 benefits that Starlight has already agreed to provide, including the permanent conversion of a rental suite to amenity space, total approximately **$400,000.00**. This is not a trivial amount – it represents a significant component of the proposed development. The cost to provide the additional requirements approved by Community Council would be outrageous. For example:

- The cost to provide a "rooftop amenity space and garden" (item 1(b)(iii)) would be in excess of $200,000.00, as it would require significant structural alterations to the existing building.

- The cost to "improve ventilation in bathrooms and kitchens" (item 1(e)(i)) would exceed $300,000.00, as it would require the comprehensive retrofitting of the HVAC systems in an existing building, including installation of ductwork. This type of work is prohibitively expensive in an older apartment building, and may not be physically or structurally feasible.

- The cost to supply and install a new fridge and stove in each unit (item 1(e)(vii)) would be at least $150,000.00.

- The cost to supply "free wi-fi and cable in all suites" (item 1(e)(v)) would be roughly $9,000.00 per month. Over a 20-year period (the period that the rental tenure is being secured for the existing building), the cost would exceed $2 million.

This example includes only four items in the five page list, but it clearly illustrates the significant cost of the additional requirements imposed by Community Council. The provision of these additional section 37 benefits is just not feasible.

Third, the additional section 37 benefits are not reasonable, not appropriate, and not permitted by the Official Plan. Policy 3.2.1.5 of the Official Plan provides that "needed improvements and renovations to the existing rental housing" may be secured as section 37 contributions. Many of the items set out in the additional list are not capital improvements, but are services such as snow removal, maintenance contracts, and Wi-Fi and cable television. These services are not appropriate for inclusion as section 37 contributions. Moreover, the two $25,000.00 donations are completely unrelated to the rental building, because they require cash contributions to external agencies.

Fourth, many of the additional items are already included as part of the site plan application, such as grading and landscaping of the amenity area, replacement of the driveway, fencing, signage, and exterior lighting. These items are not appropriate for inclusion as section 37 contributions, because they will be addressed through the review of the site plan drawings.

Finally, as was explained to the tenants at the July 9 meeting, a number of the requested items are regular maintenance items or improvements that are already being completed by Starlight as part of its comprehensive renovation program:

- Repairs to the garage ceiling;
- Snow plowing and/or removal;
- Window washing;
- Carpet cleaning;
- Monitoring of the use of parking;
- Maintenance and cleaning of amenity areas; and
- Power washing of the garage floor.

Starlight is prepared to consider the following additional items for inclusion in its regular renovation program, but only at the owner's sole discretion and not as section 37 requirements:

- Replacement of the hallway carpets and under padding;
- Installation of high resistance material in high traffic areas;

- Repainting of the stairwell walls;
- Installation of new door sweeps on balcony doors and entrance doors to individual suites;
- Installation of new screen doors;
- Installation of new fridges and stoves in individual suites; and
- Replacement of the doors to the garage and hallways.

Conclusion

The additional section 37 benefits are simply not appropriate and should not be approved by Council. The cost of these benefits is out of proportion to the development, and unfeasible. Many of the benefits are unrelated to the development, and not authorized by the Official Plan.

On a final note, we reiterate that the provision of these benefits is not mandatory. Policy 3.2.1.5 provides that where "significant" new development occurs on sites containing six or more rental units, needed improvements to the existing rental housing may be secured. However, these improvements are secured "in accordance with and subject to Section 5.1.1 of this Plan". Under section 5.1.1.4, section 37 may be used for development with more than 10,000 m^2. This development proposes only 3,321.29 m^2, well short of the requisite minimum. Starlight has voluntarily agreed to provide significant section 37 benefits, notwithstanding that the proposed development does not meet the threshold for requiring them.

Planning staff have made commendable efforts to secure a number of improvements to the existing rental building for the benefit of current and future tenants. We respectfully request that Council reject the recommendation of Community Council, and adopt instead the recommendations set out in the Supplemental Report dated July 22, 2014, together with a City Council resolution acknowledging Starlight's advice that it will consider undertaking the additional maintenance concerns as part of its ongoing program of capital and operational budgeting.

Thank you for your consideration of this submission.

Regards,



Amber Stewart

c. Ms. Vanessa Covello, Ms. Lauralyn Johnston, and Mr. Baul Byrne
Mr. Michael Goldberg

AMBER STEWART LAW

1 First Canadian Place
100 King Street West
Suite 5600
Toronto, Ontario
M5X 1C9

T: 416.479.5452
F: 416.644.8801

amberstewartlaw.com

Refer to: *amber@amberstewartlaw.com*

June 23, 2014

Delivered by email to *councillor_stintz@toronto.ca*

Councillor Karen Stintz
Ward 16 Eglinton-Lawrence
City of Toronto
100 Queen Street West, Suite B32
Toronto, Ontario
M5H 2N2

Dear Councillor Stintz:

Re: 200 Ridley Boulevard ("the Subject Property")
NY33.49 – June 17, 2014 (File No. 12 176179 NNY 16 OZ)

We are counsel to Starlight Investments and Kanco 200 Ridley Ltd. (collectively, "Starlight"), the owner of the Subject Property and the Applicant in the above-referenced rezoning application ("the Application"). As you know, the purpose of the Application is to facilitate the redevelopment of the front portion of the Subject Property with a new 4-storey apartment building with 30 dwelling units. The rear portion of the site contains an existing 4-storey residential rental apartment building with 91 dwelling units, which will remain.

Starlight filed the Application in May 2012, and has since engaged in many consultation meetings with the City, existing residential tenants, and members of the community. Through the consultation process, Starlight has agreed with City Staff on a list of capital improvements and other items to benefit the existing residential apartment building. This list was in part based on the consultation we and City staff had with the existing residents.

The City's Community Planning Department prepared a Final Report dated May 29, 2014, which recommended approval of the Application. Notwithstanding the staff recommendation and in response to one deputation of an existing tenant, at its meeting of June 17, 2014, Community Council deferred the item and directed staff to engage in further consultation with the tenants of the existing rental building regarding the proposed section 37 benefits.

Although Starlight is prepared to host an additional tenant information meeting in accordance with Community Council's direction, we wish to clarify apparent misconceptions that arose during the debate of this item at the June 17 meeting.

Specifically, Community Council appeared to believe that the section 37 benefits were determined without the benefit of input from the existing tenants. Moreover, Community Council appeared to misunderstand the extent of the benefits that Starlight has agreed to provide; distilling these benefits to "a couple of washing machines" diminishes and trivializes the nature of Starlight's commitment to the existing residents, and is simply inaccurate.

As such, the purpose of this letter is to summarize the efforts of both Starlight and City staff to secure appropriate and desirable benefits for the existing rental building, and to identify those benefits and their corresponding costs to Starlight.

History of Public Consultation

Policy 3.2.1.5 of the City's Official Plan provides that where significant new development is proposed on sites containing six or more rental units, any needed improvements and renovations to the existing rental housing may be secured through a section 37 agreement. We note that the provision of improvements and renovations is not mandatory under this policy.

Following the filing of the application, planning staff asked Starlight to address policy 3.2.1.5 of the Official Plan. In response, Goldberg Group, the Applicant's planner, provided a letter dated July 4, 2012, which summarized proposed improvements to the existing rental building.

Planning staff indicated that a further planning report was required to address the rental housing policies. In order to inform the report, Ms. Noreen Dunphy, a Planner of the Strategic Initiatives, Policy & Analysis Section ("IPA") completed a site visit on August 9, 2012 with Mr. Goldberg in attendance. The purpose of the site visit was to tour the existing rental building, and to suggest potential improvements.

Goldberg Group prepared a Housing Issues Report ("HIR") dated August 2012, which provided a fulsome analysis of the rental housing policies, and identified a list of additional suggested improvements that arose out of the site visit with staff.

The HIR provided that a tenant meeting would be held with your office and planning staff in attendance, with the objectives of (1) refining and finalizing the preliminary list of suggested improvements and (2) informing the tenants about the construction and related management plans.

The proposed meeting was held on October 4, 2012, exclusive to the tenants of the existing rental building, with you and planning staff in attendance.

A Tenant Feedback Survey was distributed at the meeting, which asked tenants to rank the proposed capital improvements, and to identify any additional suggestions for improvements to the rental building.

On October 11, 2012, a community consultation meeting was held for all members of the community. The Tenant Feedback Survey was re-distributed to the tenants of the existing rental building in advance of that meeting.

Goldberg Group subsequently compiled the survey results and submitted them to planning staff through an Addendum to the HIR dated December 10, 2012. The Addendum identified additional capital improvements to the existing rental building that were proposed by tenants. It also suggested that an additional follow up meeting be held with the tenants, the broader community, and the local Councillor to convey the revisions to the proposal and the on-site improvements.

In fact, two additional public community consultation meetings were held with you and planning staff in attendance; the first on April 17, 2013 where the Applicant was not in attendance, and the second on December 2, 2013.

During the course of the project, Ms. Lauralyn Johnston (IPA) and Ms. Vanessa Covello (Planning) assumed carriage of this matter at the City. As a result, a second site visit was held on March 25, 2014. Following that site visit, Starlight agreed to provide additional section 37 benefits that were requested by staff, including the conversion of a ground floor unit to an amenity room for the existing tenants.

It is important to note that only one resident of the existing rental building attended at the June 17th Community Council meeting to make a deputation. Although that resident expressed dissatisfaction with the process, she fairly acknowledged that she did not represent the views of other residents.

Although Starlight is prepared to host a further information meeting, we do not believe that an additional meeting is warranted. Staff made a commendable effort to understand the site, and to secure capital improvements for the benefit of the existing rental building. The community consultation process was thorough. It was also specifically designed to inform the tenants of the existing rental building about the Application, and to provide ample opportunities for the tenants to give feedback about the proposed section 37 benefits.

We believe that the section 37 benefits identified in the Staff Report are wholly representative of the feedback that was provided.

Estimated Costs of the Section 37 Benefits

The following table summarizes the proposed section 37 benefits, and details both the origin of each suggested capital improvement and its estimated cost.

The estimated cost of the capital improvements to benefit the existing rental building exceeds $100,000.00, and the total cost of the improvements to Starlight is almost $400,000.00. This cost is a significant component of the Application.

Although Starlight would consider replacing one or more of these items with different proposed improvements, we question the appropriateness of requiring additional section 37 benefits.

Summary of Section 37 Benefits Package			
Item	**Description**	**Origin**	**Estimated Cost**
1.	Securing of the rental tenure of the existing building for a minimum of 20 years	Suggested by IPA staff.	N/A
2.	Capital cost of conversion of a ground-floor residential unit to an indoor amenity space, including renovations and furniture	Suggested by IPA staff.	$25,000.00
	Loss of rental income of the suite to be converted, based on a monthly rental income of $1,100.00 over a 20 year period	Suggested by IPA staff.	$264,000.00*
	* This estimate is limited to a 20-year period, and does not include rent increases for the converted suite, nor the loss of value for the building attributable to the converted suite.		
3.	Provision of two additional washing and drying machines in the existing laundry rooms	Suggested by IPA staff during the site visit and listed in the HIR.	$4,000.00
4.	Improvements to the entrance and lobby of the existing apartment building, including a new canopy, upgraded lighting, security cameras, and improved accessibility	Some improvements to the entrance were initially proposed by Starlight in July of 2012. Additional improvements (such as a new canopy to improve accessibility, enhanced lighting, and security cameras) were requested by tenants in the Tenant Feedback Survey. The new lobby improvements were conceived by Starlight, based on feedback from tenants.	$30,000.00
5.	Provision of a new covered bicycle storage area	Suggested by IPA staff during the site visit and listed in the HIR.	$10,000.00
6.	Provision of upgraded landscaping around the existing apartment building, including walkways, lighting, and passive amenity space (seating areas)	Initially proposed by Starlight in July of 2012. Additional details suggested by IPA staff during the site visit and listed in the HIR. Additional improvements (screening of the Cricket Club, pathways) were proposed by tenants in the Tenant Feedback Survey.	$30,000.00

Summary of Section 37 Benefits Package			
Item	**Description**	**Origin**	**Estimated Cost**
7.	Provision of an active recreation area primarily for the use of young children	Suggested by IPA staff since there are families with children in the building. Additional recreation areas also proposed by tenants in the Tenant Feedback Survey.	$8,000.00
8.	A commitment that the costs of the above-noted improvements will not be passed on in any form, including through rent increases, to the tenants of the existing rental building	Suggested by IPA staff.	N/A
9.	Provision of a construction mitigation plan and tenant communication strategy	Suggested by IPA staff.	N/A
10.	Provision of reciprocal access for residents of both buildings over all outdoor landscaped open space at grade	Suggested by IPA staff.	N/A
11.	Registration of the section 37 agreement on title	Suggested by IPA staff.	N/A
12.	Construction of the proposed development in accordance with Tier 1 of the Toronto Green Building Standard	Suggested by IPA staff.	N/A
13.	Relocation of the garbage facilities, currently stored outside and in close proximity to certain rental units, to the indoor and enclosed garage*	Suggested by IPA staff during the site visit and listed in the HIR. Submitted by residents to planning staff in correspondence.	$5,000.00
	*This is not identified as a section 37 benefit in the staff report, but it is proposed to be secured through the Site Plan drawings and through the Section 37 Agreement, as part of the Application to benefit the residents of the existing rental building.		
Total cost of section 37 improvements to benefit the existing rental building:			**$376,000.00**

We trust that this clarifies the process completed to date and the section 37 benefits that are itemized in the Staff Report.

Notwithstanding all of the foregoing, as noted above, Starlight is agreeable to hosting another meeting with the tenants in order to fulfill Community Council's direction, and we will initiate the scheduling of that meeting with staff immediately. We would also welcome the opportunity to meet with you before the tenants' meeting, in order to discuss this matter further. We are hopeful that these efforts

will result in a mutually agreeable resolution to the Application in advance of the August Community Council meeting.

If you have any questions about the foregoing or require further information, please call or email me or Mr. Goldberg directly.

Regards,



Amber Stewart

c. Ms. Vanessa Covello
Mr. Paul Byrne
Ms. Lauralyn Johnston
Mr. Michael Goldberg
Client