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File No. 703018

October 23, 2017

By E-Mail Only to abbie.moscovich@toronto.ca

WITH PREJUDICE

City of Toronto
Legal Services Division
55 John Street, Station 1260
Metro Hall, 26th Floor
Toronto, ON M5V 3C6

Attention: Abbie Moscovich

Dear Madame:

Re: Settlement Offer
Appeal by Phantom Developments Inc. ("Phantom") pursuant to s. 17(4)
and 34(11) of the *Planning Act*, as amended
City of Toronto File Nos: 11 328717 NNY 23 OZ
O.M.B. File Nos. PL170176 & PL170177
Subject Lands: 2, 4, & 6 Teagarden Court, Toronto (the "Subject Lands")

After considerable effort and fruitful discussions with members of the City's staff, I am pleased to transmit this letter to you outlining the terms of Phantom's offer to settle its above-noted appeals of its applications for Official Plan and Zoning By-law amendments (collectively, the "**Appeals**").

As you are aware, at the first pre-hearing conference for the Appeals (held August 3) counsel for Phantom and the City jointly requested that the Board schedule a further one-day appearance (now set for January 10, 2018) as there was considerable optimism that the few remaining issues would be resolved in advance of that date and the Board might hear evidence on a settlement of the Appeals. I note that formal written notice of the pre-hearing conference was provided to all parties entitled to same and who would have been entitled to notice of any public meeting regarding this application. Further, other than Phantom and the City, no person or entity requested party status to the hearing.

Phantom is optimistic that the remaining issues have been substantially resolved with the City's staff such that it can now seek the approval of City Council for a settlement of the Appeals in advance of the January 10, 2018 pre-hearing conference.

Due to deadlines for reporting a matter to Council prior to the January 10 appearance before the Board, we respectfully request that you seek instructions from your client to resolve the Appeals based on the matters identified in this letter.

This offer to settle will terminate upon the completion of the meeting of Council for the City of Toronto scheduled to commence on Tuesday, November 7, 2017.

The Application & Proposal

As you are aware, the applications forming the basis of the Appeals were filed several years ago and the City confirmed that the applications were complete on January 31, 2013. Over the last 4.5 years, our client has worked with multiple different members of the City's staff to finalize the application and resolve any outstanding issues – most of which have been related to technical infrastructure matters which we understand have now been resolved or, at least, resolved to a point where only minor technical matters remain outstanding.

Based on those ongoing discussions with staff, on September 22, 2017, our client's land use planning consultant electronically submitted a resubmission package containing updated plans and materials to reflect comments received through City staff (the "**Resubmission Package**"). Amongst those materials were the following drawings which illustrate the form of the proposed development (the "Proposal") and are the basis for this offer to settle:

1. Site Plan
2. Underground Parking Floor Plans for levels P1, P2 and P3;
3. Ground Floor Plan;
4. Floor Plans for Levels 2-11
5. Floor Plan for mechanical floor;
6. East, North, South and West Elevations;
7. Landscape Plans:
 - a. L.1 (Site) Landscape Plan;
 - b. L.2 Green Roof Landscape Plan and Landscape Details;
 - c. L.3 Landscape Plan of Roof Terraces 12 Floor;
 - d. L.4 Landscape Details; and
 - e. L.5 Landscape Details.

For the sake of convenience, these drawings have been enlarged and enclosed with this correspondence.

The Proposal

The Proposal is for a high density residential development comprising 112 units in approximately 8,500 square metres of residential Gross Floor Area (excluding indoor amenity space). The floor space index will be 3.99 times the area of the Subject Lands.

The building will be comprised of 11 storeys of residential dwellings with a limited amount of outdoor amenity space and washrooms above the 11th storey. The actual measurement of the proposed building's height is 38.55 metres tall plus a mechanical penthouse that cannot exceed 5 metres. We understand the height of the proposed building falls below the maximum height permitted by the in-force policies of the Official Plan and Secondary Plan.

The proposal will be served with 407 square metres of amenity space on the first floor and 237 square metres of outdoor amenity space including an area on top of the eleventh floor.

The proposed three storeys of underground parking will provide for over 130 parking spaces. As the Subject Lands are only 1 block north of the Bayview T.T.C. subway station, the Proposal is located in *extremely close proximity* to higher order transit service. As a result, the proposal warrants a reduction in parking inventory standards from that contained in the North York Zoning By-law. Further, the parking supply ratios are consistent with recently approved developments in the vicinity – including the new condominium immediately to the north of the Subject Lands. The Proposal will also provide for additional bicycle storage spaces.

Our client recognizes that the final form of the proposed official plan and zoning by-law amendment may be subject to minor modifications as a result of the latest submission to staff but will reflect the enclosed plans.

Section 37 Provisions

The zoning by-law amendment is also drafted to provide that, as a contribution to community facilities, prior to the issuance of the first above grade building permit for the Proposal, Phantom shall pay to the City a cash contribution of \$188,860.49 to be allocated to capital improvements for area parks in the general vicinity of the Subject Lands. The contribution will be secured by an agreement made pursuant to s.37 of the *Planning Act* that shall be registered on title to the Subject Lands which agreement shall also provide that the contribution will be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Index for Toronto, calculated from the date of the Section 37 Agreement to the date of payment.

The quantum of the s.37 contribution and its allocation were determined based on discussions with Community Planning staff and our client is satisfied with the quantum and its allocation.

With respect to the above-mentioned section 37 agreement, in the event the City approves of the settlement contemplated by this letter, and should the Ontario Municipal Board (the "**Board**") choose to approve the OPA and ZBLA, our client accepts that it will be a joint request of both Phantom and the City that the Board's final order approving

the ZBLA shall be withheld pending confirmation from the City Solicitor's office that the above-described Section 37 agreement has been executed by Phantom and delivered to the City.

Parkland

Based on discussions with staff, we understand that our client's obligations vis-à-vis parkland conveyance is to be satisfied through a payment of cash-in-lieu pursuant to section 42 of the *Planning Act*. Our client accepts this approach.

Functional Servicing Report

As mentioned above, some final technical servicing issues have not yet been completely resolved. As a result, our client also agrees that any final order of the Board approving zoning by-law amendment will be withheld pending confirmation from the City's Solicitor's office that the Functional Servicing Report has been revised to the satisfaction of the Executive Director, Engineering and Construction Services. However, we understand that additional material was filed with the City's staff in late September and that this outstanding matter may, in fact, be resolved in advance of the pre-hearing conference.

The Instruments

Amongst the materials filed with City staff on September 22, our client's land use planner also included drafts of the proposed form of Official Plan amendment and zoning by-law amendment. We understand staff may have additional comments for these instruments and the City's Chief Planner may require further revisions to same.

As referenced above, if Council for the City accepts this offer at its meeting commencing November 7, 2017 we will proceed to the Board on the basis of the Proposal as identified in the above-referenced drawings and this letter. It would also be understood that Phantom and City would take reasonable efforts to work together and finalize the draft Official Plan and zoning by-law amendments to reflect the foregoing prior to the appearance before the Board on January 10th, 2018.

Should you have *any* questions related to the settlement proposal contemplated by this letter, please do not hesitate to contact me directly.

I look forward to hearing from you with positive news on this subject.

Yours truly,
DAVIES HOWE LLP



for: Aaron I. Platt

AIP:AIP
encls.:

copy: Guy Matthews, *City of Toronto, Community Planning*
Ryan Guetter, Robert Walter-Joseph & Kelly Graham, *Weston Consulting Group*
Client

