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June 18, 2018

Without Prejudice

Our File No.: 152165

Via E-mail

Legal Services, City of Toronto
Metro Hall, 55 John Street, 26th Floor
Toronto, ON
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Attention: Wendy Walberg, City Solicitor
Sharon Haniford, Solicitor for the City of Toronto

Dear Sirs/Mesdames:

Re: LPAT Case No. PL170328
89, 97 & 99 Church Street

As you know, we are solicitors for the owner of the properties known municipally as 89-99 Church Street in the City of Toronto (the "**Property**") in respect of its zoning by-law amendment application for the Property.

We are writing on a without prejudice basis to propose a settlement of our client's appeal. This without prejudice settlement offer is open until the close of the City Council meeting scheduled to commence on June 26, 2018.

If accepted by City Council, the without prejudice settlement offer would secure the following revisions to the plans currently before the Local Planning Appeal Tribunal (the "**Tribunal**");

1. The building shall be a maximum of 45 storeys and shall be a maximum of 140.5 metres, exclusive of the mechanical penthouse (149.5 metres inclusive of the height of the mechanical penthouse);
2. The base building shall have a maximum height of 6 storeys and shall be a maximum height of approximately 19.1 metres, with a 2-storey reveal above the base building;
3. At the 8th storey, at a height of approximately 25.45 metres:

- a. the building shall be set back a minimum of 6.0 metres from the east property line up to a height of 80.2 metres, above which height the building shall be set back a minimum of 9.0 metres from the east property line; and,
 - b. the building shall be set back a minimum of 2.0 metres at the northeast corner of the Property;
4. The mechanical penthouse would be shifted completely towards the west to achieve a 12.5 metre setback of the mechanical penthouse on the east side of the proposed building, with this setback from the east property line commencing at a height of 140.45 metres.
5. Balconies on the tower would be in accordance with the following, as illustrated in the attached diagram:
 - a. there shall be no balconies on the north façade of the proposed building;
 - b. on the east façade, there shall be no balcony projections within the above-noted 6.0 metre and 9.0 metre setbacks from the east property line;
 - c. on the east façade, in the northern portion identified on the attached diagram, balconies are permitted but must remain within the building envelope shown, with the exception for the north facing return of that northern portion of the east façade where Juliet or projecting balconies would be permitted, and would not need to remain within the building envelope,;
 - d. on the east façade, in the southern portion identified on the attached diagram, Juliet or projecting balconies would be permitted for the height of the east façade, but any such balconies would remain within the building envelope shown, and this balcony permission is conditional on the extension of the glass curtain wall of the southern façade beyond the southern wall so as to cover the extent of the projecting balcony so that these balconies are not visible from the south looking north;
 - e. on the west façade, balconies may be permitted starting four (4) storeys above the base building height identified above, which is the twelfth storey of the proposed building, meaning there shall be no balconies on the eighth storey up to and inclusive of the eleventh storey, but no balconies shall be permitted within 1.0 metres of the western property line;
 - f. on the south façade, Juliet or projecting balconies would be permitted below a height of 80.2 metres, but no balconies shall be permitted within 1.5 metres of the south property line;

- g. on the south façade, in addition to paragraph 5 f above, any balconies at or above a height of 80.2 metres shall be recessed or flush Juliet balconies, with sliders, provided that any such balconies do not project from the building face and that such balconies are designed to be unobtrusive, as shown as an example in the attached diagram, and subject to the Owner's agreement to work with the City's heritage preservation services and urban design staff on the design and materials of the south façade of the tower, including any such balconies, to address the heritage concern of heritage preservation services related to the conservation of the St. James Cathedral Clocktower and Spire, to the satisfaction of the Senior Manager, Heritage Preservation Services and the Chief Planner;
6. A minimum of 4.0 square metres of combined indoor and outdoor amenity space shall be provided per dwelling unit;
7. The sidewalk width along Church Street adjacent to the Property shall be a minimum of 4.8 metres at-grade;
8. The sidewalk width along Lombard Street adjacent to the Property shall be a minimum of 4.8 metres increasing to a 6.2 metres;
9. The Owner agrees to the following matters to be included in the zoning by-law amendment and/or Section 37 agreement to be registered on title to the Property, as appropriate, with such matters all to be to the satisfaction of the Chief Planner and the Senior Manager, Heritage Preservation Services, and to be determined as part of site plan control approval:
 - a. the materiality of the east and south facades, and in particular, that the tower shall comprise clean reflective glazing, with the overall design of the proposed building to achieve a quiet unbroken palette on the east and south facades with the objective of helping the proposed tower both blend into the sky when viewed from Front Street East, and give space and sky between the St. James Clocktower and Spire, so that the Clocktower and Spire retain separation and prominence; and,
 - b. the extension of the glass curtain wall on the southern façade beyond the southern wall so as to cover the extent of any projecting balcony permitted on the east façade, as set out above, so that these balconies are not visible from the south when looking north.
10. The Owner would work with heritage and urban design staff on the design and materials for the south and east façades of the tower.

If this settlement is accepted by City Council, our client would prepare revised plans to incorporate these matters for presentation to the Tribunal for approval, in co-operation with and satisfactory to the Chief Planner and the Senior Manager, Heritage Preservation Services.

Our client would also agree that implementation of the settlement will be conditional upon the following matters, which must be completed prior to issuance of any final order from the Tribunal regarding the proposed zoning by-law amendment(s):

- a. preparation of zoning by-law amendment(s), in a form acceptable to the parties, for which the City and our client will work cooperatively and in good faith to finalize as soon as possible;
- b. inclusion of an appropriate Section 37 monetary contribution by the Owner, to be paid to the City prior to the first above-grade building permit, recognizing that the final quantum is still a matter to be determined, with both parties reserving the right to seek adjudication of the quantum of the Section 37 contribution before the Tribunal at a future hearing date and all prior to the issuance of the final order by the Tribunal should the parties not be able to reach agreement, with usual provisions for upwards indexing from the date of execution of the Agreement, and on the basis that the Owner agrees to pay a fair contribution in line with other contributions of a comparable nature;
- c. the above-noted Section 37 monetary contribution shall be used for capital projects in the vicinity of the Property, in accordance with the City's Official Plan requirements, to the satisfaction of the Chief Planner, in consultation with the Chief Planner;
- d. execution and registration on title of a Section 37 agreement, in a form satisfactory to the Chief Planner and the City Solicitor; and,
- e. provide an updated Transportation Impact Study, Functional Servicing Report, Stormwater Management Report, Groundwater Report and Hydrogeological Study, as may be required, acceptable to the City's Chief Engineer and City's General Manager, Transportation Services, and provide any required design and financial securities; should they be required to construct an upgrades or required improvements to existing municipal infrastructure identified in the approved reports and such design, financial security and construction required shall be secured in the zoning by-law amendment and, as a matter of convenience, in the Section 37 agreement, with timing satisfactory to the Chief Engineer.

We appreciate the hard work of City staff over the last few weeks working with our client's consultant team and believe that this without prejudice settlement offer represents an appropriate resolution to our client's appeal. Accordingly, it is hopeful that this with prejudice proposal will be accepted by City Council.

Please let us know if any additional information is required.

Yours truly,

Goodmans LLP

A handwritten signature in blue ink, appearing to read 'DJB', is written over the printed name 'David Bronskill'.

David Bronskill

DJB/

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