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CONFIDENTIAL AND WITHOUT PREJUDICE

June 15, 2018

DELIVERED BY EMAIL (alexander.suriano@toronto.ca; laura.bisset@toronto.ca)

Legal Services, City of Toronto
Metro Hall
55 John Street, 26th Floor
Toronto, ON M6V 3C6

**Attention: Mr. Alexander Suriano, Solicitor
Ms. Laura Bisset, Solicitor**

Dear Mr. Suriano and Ms. Bisset,

**RE: Without Prejudice Settlement Offer
- 859, 861 and 875 Eglinton Avenue West, City of Toronto
- LPAT Case No. PL170395**

We are the solicitors for Bateg Investments Limited and Upper Village Investments Limited (collectively, the "**Applicant**"), the owners of the lands municipally known as 859, 861 and 875 Eglinton Avenue West in the City of Toronto (the "**Site**"). The Site is located at the southwest corner of Eglinton Avenue West and Bathurst Street.

The Applicant submitted a Zoning By-law Amendment Application to the City of Toronto (the "**City**") in March 2011. The application proposed to develop a mixed-use residential and retail building on the western portion of the Site, at 875 Eglinton Avenue West. On June 23, 2016, a revised application was submitted to the City following expansion of the Site eastward to include the lands municipally known as 859 and 861 Eglinton Avenue West (the "**Current Application**"). The Current Application is comprised of a mixed-use building with an overall height maximum of 16-storeys. It consists of two components: the western portion of the building being a terraced 11-storey element, and the eastern portion of the building rising to a 16-storey element that would address the corner of Bathurst Street and Eglinton Avenue West.

On August 8, 2014, due to its planned development of the Site, the Applicant filed an appeal respecting Official Plan Amendment No. 253 ("**OPA 253**") as it applies to the Site, and on September 18, 2014, the Applicant appealed By-law No. 1040-2014, which is the implementing by-law of OPA 253. The Current Application was appealed to the Ontario Municipal Board (now the Local Planning Appeal Tribunal) (the "**Tribunal**") on April 10, 2017 after the City failed to make a decision within the statutorily required timeframe. The appeals of OPA 253 and its

implementing by-law were subsequently consolidated with the appeal of the Zoning By-law Amendment Application.

Representatives of the Applicant and representatives of the City participated in a series of without prejudice meetings with the objective of resolving the outstanding issues between them. Building on the progress made in that series of meetings, on May 17, 2018, the Applicant and the City took part in Tribunal-led mediation. Revisions to the Current Application and a set of settlement principles were agreed to as part of the mediation process, and a final revised development proposal was prepared, which we believe addresses all of the City's built form issues (the "**Settlement Proposal**").

The following sets out the key revisions to the Current Application and highlights the details of the Settlement Proposal:

1. A 1.5 metre setback has been added on the 4th floor along Eglinton Avenue West, Bathurst Street, and Peveril Hill North.
2. Material treatment and architectural articulation has been added to define the first two stories above grade.
3. Additional architectural breaks have been incorporated into the 4-storey podium element along Eglinton Avenue West and architectural articulation is continued above the 4th-storey. As part of site plan approval, additional articulation through the use of reveals of a minimum of 1.5 metres x 1.5 metres, banding and materiality changes will be included in the architecture above the 4th storey to the satisfaction of City staff.
4. The planned bus layby area along Bathurst Street has been incorporated and the building will be set back at grade to prevent narrowing of the sidewalk. The layby area will include a bus shelter with the final location to be determined during Site Plan Approval.
5. The podium height has been increased at the south portion of the property to 24 metres.
6. Vehicular entrance to the building has been consolidated with the existing laneway to the south of the Site.
7. The existing laneway to the south of the Site will be widened to 6.0 metres including the dedication of a 1.06 metre strip of land from the Site, in keeping with OPA 253.
8. The western portion of the building has been reduced to 8-storeys with a maximum height of 27 metres.
9. The building height for the eastern portion of the building has been reduced to 14-storeys plus the mechanical penthouse for a total height of 53.35 metres.

A copy of the architectural plans, dated June 5, 2018, (the "**Settlement Plans**") prepared by Quadrangle Architects, delivered to and on file with the City Planning Division, which provide for the built form contemplated by the Settlement Proposal, are attached hereto as Appendix "A".

As part of this without prejudice settlement offer, the Applicant would also provide for the following:

1. A voluntary Section 37 contribution of \$2,339,200.00 to be allocated at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor.
2. That in approving the Zoning By-law Amendment Application based upon the Settlement Proposal, the Tribunal will be asked to withhold the issuance of its final order until the following conditions have been satisfied:
 - a. the final form of the Zoning By-law Amendment has been agreed to by the Applicant and the City; and
 - b. a Section 37 Agreement, to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, has been executed and registered on title.

If the settlement is approved by the Tribunal, agreement on the final form of the Zoning By-law Amendment and Section 37 Agreement will occur no later than September 30, 2018.

We confirm that our client is committed to proceeding to a settlement hearing before the Tribunal in support of the Settlement Plans, conditional upon City Council's endorsement of same at its Council Meeting scheduled to commence on June 26, 2018.

Should you require any further information, please do not hesitate to contact the undersigned at your earliest convenience.

Yours very truly,

Devine Park LLP

Patrick J. Devine/MAC

Patrick J. Devine
PJD/MAC

Encl.

cc: Emily Rossini, Planning, City of Toronto
Julie Bogdanaowicz, Urban Design, City of Toronto
Bateg Investments Limited and Upper Village Investments Limited
Les Klein, Quadrangle Architects
Dev Mehta, Quadrangle Architects
Andrew Ferancik, WND Associates