

## Attachment 2



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Our File No.: 172742

### **Without Prejudice**

Planning & Administrative Tribunal Law  
City of Toronto Legal Services  
55 John Street, 26<sup>th</sup> Floor, Metro Hall  
Toronto, ON M5V 3C6

### **Attention: Amanda S. Hill, City Solicitor**

Dear Sirs/Mesdames:

**Re: LPAT Case No. PL180340  
6 - 16 Wellesley Street West, 5 - 7 Nicholas Street and 586 Yonge Street  
Without Prejudice Settlement Offer**

We are the solicitors for Wellesley St Nicholas Residences LP, which is proposing to redevelop the lands known municipally as 6 - 16 Wellesley Street West, 5 - 7 Nicholas Street and 586 Yonge Street in the City of Toronto (the "**Property**"). On November 27, 2017, our client submitted a rezoning application to permit the redevelopment of the Property (the "**Application**"), and subsequently on July 9, 2019, made a resubmission to the City. Both the initial submission and the resubmission did not include the properties known municipally as 6 and 8 Wellesley Street West.

Based on extensive discussions between our client and City staff, we are writing on behalf of our client to provide this without prejudice settlement offer in respect of our client's appeal of the Application that is before the Local Planning Appeal Tribunal ("**LPAT**"). The settlement offer is based on the plans prepared by IBI dated September 24, 2019 (the "**Revised Plans**"), which are attached hereto and form part of the without prejudice settlement offer, and include 6 and 8 Wellesley Street West.

These Revised Plans reflect comments received from City staff since the Application was initially filed. The Revised Plans have been reviewed by City staff and we understand that City staff are in support of the Revised Plans based on the revisions made. Detailed aspects of the revised Application are further addressed below.

### **The Revised Plans**

The fundamental components of this without prejudice settlement offer are based on the Revised

Plans. In particular, we note the following revisions to the Application, which are incorporated into the Revised Plans, as well as matters which our client agrees to undertake as part of this settlement offer and the redevelopment of the Property:

**Expanded Property:** Our client agrees that the properties subject to the Application have been expanded to include 6 and 8 Wellesley Street West.

**Heritage:** Our client agrees:

- That it will not object to the designation of the properties at 10-16 Wellesley Street, 586 Yonge Street and 5 and 7 St. Nicholas Street under Part IV, Section 29 of the Ontario Heritage Act.
- Any alterations will be substantially in accordance with plans and drawings dated September 18, 2019 prepared by IBI Group Architects Inc., and on file with the Senior Manager, Heritage Preservation Services; and the Heritage Impact Assessment (HIA), prepared by Goldsmith and Borgal Company Ltd. Architects, dated November 24, 2017 and revised September 18, 2019, and on file with the Senior Manager, Heritage Preservation Services, all subject to and in accordance with a Conservation Plan satisfactory to the Senior Manager, Heritage Preservation Services and subject to the following additional conditions:
  - That prior to any Local Planning Appeals Tribunal Order issuing in connection with the Zoning By-law Amendment appeal, our client shall:
    - Enter into a Heritage Easement Agreement with the City for the property at 6-16 Wellesley Street West, 5-7 St. Nicholas Street and 586 Yonge Street in accordance with the plans and drawings dated September 18, 2019 prepared by IBI Group Architects Inc., and on file with the Senior Manager, Heritage Preservation Services, the Heritage Impact Assessment, prepared by Goldsmith and Borgal Company Ltd. Architects, dated November 24, 2017 and revised September 18, 2019, and in accordance with the Conservation Plan, to the satisfaction of the Senior Manager, Heritage Preservation Services including registration of such agreement to the satisfaction of the City Solicitor;
    - Provide a detailed Conservation Plan, prepared by a qualified heritage consultant, that is consistent with the conservation strategy set out in the Heritage Impact Assessment for the property at 6-16 Wellesley Street West, 5-7 St. Nicholas Street and 586 Yonge Street prepared Goldsmith and Borgal Company Ltd. Architects, dated November 24, 2017 and revised September 18, 2019, to the satisfaction of the Senior Manager,



Heritage Preservation Services;

- Enter into and register on the property at 6-16 Wellesley Street West, 5-7 St. Nicholas Street and 586 Yonge Street one or more agreements with the City pursuant to Section 37 of the Planning Act to the satisfaction of the City Solicitor, the Chief Planner and Executive Director, City Planning, and the Senior Manager, Heritage Preservation Services with such facilities, services and matters to be set forth in the related site specific Zoning By-law Amendment giving rise to the proposed alterations; and
- That prior to final Site Plan approval for the proposed Zoning By-law Amendment by City Council, for the property located at 6-16 Wellesley Street West, 5-7 St. Nicholas Street and 586 Yonge Street, our client shall:
  - Provide final site plan drawings substantially in accordance with the approved Conservation Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - Have obtained final approval for the necessary Zoning By-law Amendment required for the subject property, such Amendment to have come into full force and effect;
  - Provide a Heritage Lighting Plan that describes how the exterior of the heritage properties will be sensitively illuminated to enhance their heritage character to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager Heritage Preservation Services;
  - Provide a detailed landscape plan for the subject property, satisfactory to the Senior Manager, Heritage Preservation Services;
  - Provide an Interpretation Plan for the subject property, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - Provide a retail strategy for the Wellesley Street frontage that preserves a small-scale retail character to the satisfaction of the Senior Manager, Heritage Preservation Services; and
- That prior to the issuance of any permit for all or any part of the property at 6-16 Wellesley Street West, 5-7 St. Nicholas Street and 586 Yonge Street, including a heritage permit or a building permit, but excluding permits for repairs and

maintenance and usual and minor works for the existing heritage buildings as are acceptable to the Senior Manager, Heritage Preservation Services, our client shall:

- Have obtained final approval for the necessary Zoning By-law Amendment required for the Property, such Amendment to have come into full force and effect;
  - Provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan required, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - Provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan, Heritage Lighting Plan, and Interpretation Plan; and
- That prior to the release of the Letter of Credit, our client shall:
- Provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work, heritage lighting work, and the required interpretive work has been completed in accordance with the Conservation Plan, Heritage Lighting Plan, and Interpretation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
  - Provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services.

**Built Form:** Our client has put forward the Revised Plans, and agrees to the following built form conditions in respect of the redevelopment of the Property:

- The maximum residential gross floor area will be 37,030 square meters, with a maximum overall gross floor area of 37,500 square metres;
- No projecting balconies are within the 20 metre and 3 metre tower setbacks on the west side of the building;



- Balconies within the 10 metre tower setback on the east side of the building are restricted to 30% of the building face, with any such balconies to be used to provide articulation to the building;
- No projecting balconies are within the 6 metre reveal on the south side of the building;
- No balconies project more than 1.5 metres;
- The new 7-storey component along Wellesley Street West is set back as far as the main wall of the retained buildings at 10 - 16 Wellesley Street West at the first two storeys, then stepped back to align with the reveal above the retained buildings at 10 - 16 Wellesley Street West at the 3<sup>rd</sup> to 7<sup>th</sup> storey;
- The building complies with the 75 degree angular plane measured from Yonge Street; and
- The north wall shall be a blank wall at least up to the 9<sup>th</sup> storey as shown on the Revised Plans.

**Height:** The building height has been reduced from 199.7 metres (excluding mechanical), as proposed in the initial submission, to 165.2 (excluding mechanical) and the proposed number of storeys for the building has been reduced from 64 to 55 storeys.

**Amenity Space:** Indoor amenity space is being provided at a rate of 2.0 square metres per unit and outdoor amenity space at a rate of 1.3 square metres.

**Unit Mix:** Our client agrees to provide a minimum 10% 3-bedroom units and 25% 2-bedroom units.

**Parking:** Vehicular parking will be provided at a rate of .15 spaces per unit for residential parking and .045 spaces per unit for visitor parking. Bicycle parking will be provided in accordance with the Toronto Green Standard.

**Conveyance:** Our client agrees to convey to the City a 0.9 metre wide strip, being the dimension between the property line and the protruding windows of 10 - 16 Wellesley Street West, along the entire Wellesley Street frontage, and convey to the City a 0.72 metre strip along the public lane that abuts the site on the east side of 8 Wellesley Street West.

Further, as part of this settlement offer, our client agrees to work with City staff on an appropriate agreement or restriction, satisfactory to the Chief Planner and the City Solicitor, to limit future redevelopment on the Yonge Street portion of our client's lands at 586/586A Yonge Street. In addition, our client agrees to work with City staff on the urban design of the building,

and to determine the building materiality, site design and streetscape treatment (including St. Nicholas Street), through a future site plan control application.

While no limiting distance agreement is to be entered into with the owner of the property known municipally as 9 Nicholas Street, we can confirm that the owner has signed a binding agreement providing for support of the proposed redevelopment of the Property.

### **Section 37 and Parkland**

As part of this without prejudice offer, our client is prepared to use all reasonable efforts to secure and convey to the City a mutually acceptable property (in an “as is” condition), at the our client’s expense, for the purpose of providing a residential property to the City to be operated by a non-profit housing provider (the “**Affordable Housing Property**”). The purchase price of the Affordable Housing Property shall be no more than \$8,000,000 (including closing costs, transfer tax and registration fees). If the purchase price is less than \$8,000,000, our client agrees to pay the difference by way of a cash contribution to the City. In the event that the City and our client are unable to finalize the conveyance of the Affordable Housing Property prior to our client being in a position to request the registration of the future condominium on the Property, or the City in consultation with the local Ward Councillor advises that it would rather receive only a cash contribution, our client will pay the City \$8,000,000 fulfilling its Section 37 contribution requirement.

For the sake of clarity, our client is only prepared to make such a contribution if the matter is settled as between the City and our client.

Parkland will be satisfied through cash-in-lieu of parkland contribution pursuant to Section 42 of the Planning Act and Chapter 415, Article III of the Toronto Municipal Code.

### **Implementation**

As you know, this settlement offer is premised on our client obtaining an ownership interest in the lands municipally known as 6 Wellesley Street West. We anticipate that our client’s ownership interest in this property will be finalized shortly, but in the meantime any acceptance of this settlement offer by City Council should be conditional on our client confirming this ownership interest to the satisfaction of the City solicitor.

If City Council accepts this offer in full before the conclusion of the City Council meeting scheduled to commence on October 2, 2019, and our client confirms the above-noted ownership interest in 6 Wellesley Street West, this offer and the Revised Plans can be made public. Our client also agrees that the Heritage Impact Assessment prepared Goldsmith and Borgal Company Ltd. Architects, dated November 24, 2017 and revised September 18, 2019 may be made public at such time.



**Tribunal Order**

As part of this without prejudice settlement offer, our client agrees to request LPAT to withhold any final Order pending confirmation of the following in writing from the City Solicitor:

- The final form of the Zoning By-law Amendments is to the satisfaction of the Director Community Planning Toronto and East York District and the City Solicitor;
- Our client has provided a revised Functional Servicing and Stormwater Management Report and supporting documents to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water;
- Necessary information has been provided to the satisfaction of the General Manager, Transportation Services with respect to the loading and parking arrangements on the Property;
- A Heritage Easement Agreement has been entered into and registered on title to 6 - 16 Wellesley, 5 and 7 St. Nicholas and 586 Yonge Street;
- A Conservation Plan has been submitted satisfactory to the Senior Manager, Heritage Preservation Services;
- An agreement has been entered into with the City pursuant to Section 37 of the *Planning Act*; and
- Confirmation that our client has entered into agreements satisfactory to the Chief Planner and the City Solicitor to limit future redevelopment on the Yonge Street portion of our client's lands at 586/586A Yonge Street.

Our client's agreement to request that the Tribunal withhold its Order is being made on the understanding that City staff have agreed to work with our client in an effort to have all of the documents/deliverables listed above prepared, finalized and accepted by the City in advance of the LPAT hearing scheduled to commence on January 20, 2020.

In addition to the items above, our client also agrees to withdraw its appeals of the Historic Yonge Heritage Conservation District Plan, OPA 352 (Downtown Tower Separation) and the associated Zoning By-laws (By-laws 1106-2016 and 1107-2016), and OPA 183 (North Downtown Yonge Site and Area Specific Policy 382), upon LPAT issuing Order allowing its appeal in part, bringing into force the Zoning By-law Amendments for the Property, with all appeal periods having expired.

**Conclusion**

Our client and its consultant team appreciate the extensive efforts of City staff to review these matters and provide feedback as part of preparing this without prejudice settlement offer. Our client believes the Revised Plans represent good planning and an appropriate resolution for the Property.

Please note that this without prejudice settlement offer will remain open for consideration by the City until the conclusion of the City Council meeting scheduled to commence on October 2, 2019. At such time, this offer should be considered withdrawn.

Please let us know if further clarification is required in respect of this without prejudice settlement offer.

Yours truly,

**Goodmans LLP**

  
For David Bronskill

DJB/JBH  
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