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File No. 703735

WITHOUT PREJUDICE

March 26, 2021

By E-Mail

Daniel Elmadany
City of Toronto, Legal Services Division
26th Floor, Metro Hall
55 John Street
Toronto, Ontario M5V 3C6

Dear Mr. Elmadany:

**Re: Without Prejudice Settlement Offer
Appeals of Zoning By-law Amendment and Site Plan Control Applications
City File Nos. 18 161483 STE 22 OZ and 18 161486 STE 22 SA
206 Russell Hill Road, Toronto
LPAT Case No. PL190438**

As you know, we are co-counsel to 2515496 Ontario Inc. (the “Owner”), the owner of lands municipally known as 206 Russell Hill Road in the City of Toronto (the “Lands”).

In May 2018, the Owner submitted Zoning By-law Amendment and Site Plan Control applications to the City to permit a 4-unit townhouse development on the Lands (the “Applications”). The Applications were subsequently appealed by the Owner to the Local Planning Appeal Tribunal (the “Tribunal”).

As you are aware, the Tribunal has scheduled a 9-day hearing for the appeals of the Applications to begin on October 12, 2021, and has also scheduled a further Case Management Conference for April 20, 2021.

As a result of recent discussions between the Owner’s consultants and City staff, our client’s architect, Rafael + Bigauskas Architects, prepared revised plans to address certain staff comments, as reflected in the attached architectural plans dated February 11, 2021 (the “Revised Plans”).

We are writing to present the City with a “without prejudice” offer to settle our client’s Zoning By-law Amendment appeal to the Tribunal, and to establish a process to resolve the appeal of our client’s Site Plan Control application, based on the following terms:

1. The Owner and the City will work cooperatively to prepare revised draft zoning by-law amendments to permit a development on the Lands that is substantially in accordance with the Revised Plans (the “Revised Draft ZBA”), for approximately 1,664 square metres of residential gross floor area as calculated under City of Toronto By-law No. 569-2013. Among other things, the Revised Draft ZBA will zone the southwest portion of the Lands that are delineated on the Site Plan (Drawing No. A1-1 of the Revised Plans) as being located within 10 m of the staked top of bank (the “Ravine Buffer Lands”), as Open Space – Natural Zone (ON) under City of Toronto By-law No. 569-2013.
2. The Owner and the City will jointly request that the Tribunal convert the Case Management Conference scheduled for April 20, 2021 to a settlement hearing for the Owner’s appeal of its Zoning By-law Amendment application (the “Settlement Hearing”) and to cancel the hearing scheduled to begin on October 12, 2021.
3. The Owner and the City will jointly present the Revised Plans to the Tribunal at the Settlement Hearing and request the Tribunal to approve, in principle, zoning by-law amendments to permit a development on the Lands that is substantially in accordance with the Revised Plans and will coordinate the presentation of evidence and submissions in support of such approval.
4. The Owner and the City will jointly request that the appeal of the Site Plan Control application be adjourned by the Tribunal and the Owner and the City will then work diligently to attempt to resolve any issues pertaining to a revised Site Plan submission to be made by the Owner that is substantially in accordance with the Revised Plans. If the Owner and the City are able to resolve all matters such that the City is prepared to approve the revised Site Plan submission, the Owner will withdraw its appeal of its Site Plan Control application; alternatively, if the Owner and the City are unable to resolve all matters in a timely manner, the Owner may request that the Tribunal convene a hearing for the appeal of its Site Plan Control application, with notice to the City.
5. At the Settlement Hearing, the Owner and the City will jointly request that the Tribunal withhold its final Order with respect to the approval of the Zoning By-law Amendment application until such time as the Tribunal has been advised by the City Solicitor that the final form and content of the Revised Draft ZBA (as may be further revised) is satisfactory to the City, and subject to the following conditions:
 - a. the Owner has, at its sole expense:
 - i. submitted a revised Functional Servicing Report, including confirmation of water and fire flow, sanitary and stormwater capacity, Stormwater Management Report and Hydrogeological Report (the Engineering Reports”) to the satisfaction of the Chief Engineer and

Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water and confirmed that the amending by-laws do not require any modifications to address the accepted Engineering Reports, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the City Solicitor; and

- ii. submitted a revised Landscape Plan and Arborist Report acceptable to, and to the satisfaction of, the Chief Planner and Executive Director, City Planning.

The Owner and the City agree that the Tribunal may be spoken to in the event an issue arises.

6. Provided that the Tribunal approves the Revised Draft ZBA, in principle, at the Settlement Hearing, the Owner agrees to the following matters being secured through the Site Plan Approval process:
 - a. The Owner shall convey the Ravine Buffer Lands to the City, at no cost to the City, as a pre-approval condition of Site Plan Approval, and secured on the plans and drawings that are subject of Site Plan Approval;
 - b. The Owner shall preserve the Category 4 Red Oak tree (identified as Tree 2) that is located in the northeast portion of the Lands, in accordance with the attached Tree Inventory and Preservation Plan Report prepared by Kuntz Forestry Consulting Inc. dated March 24, 2021, to the satisfaction of the General Manager, Parks, Forestry and Recreation;
 - c. The Owner shall submit a revised Landscape and Naturalization Planting Plan to Ravine and Natural Feature Protection staff for review and approval, where such plan shall contain details for lands located immediately north of the Lands within Winston Churchill Park and for the western portion of the Lands, and such approved Landscape and Naturalization Planting Plan will be secured as a plan as part of Site Plan Approval to the satisfaction of Chief Planner and Executive Director, City Planning and the General Manager, Parks, Forestry and Recreation; and
 - d. The Owner shall provide additional landscape improvements along the northern boundary of the Lands, adjacent to the City park lands, and such landscape improvements may include improvements on the adjacent City park lands (or a financial contribution for such improvements), with the details of such landscape improvements to be reflected in revised Landscape Plans to be approved as part of the Site Plan Approval process,

to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Parks, Forestry and Recreation.

7. The Owner and the City shall bear their own costs in respect of the appeal to the Tribunal of the Owner's Zoning By-law Amendment application for the Lands (LPAT File Nos. PL190438) and neither the Owner nor the City shall seek an Order from the Tribunal for costs as against the other party in respect of this appeal.
8. This settlement offer is conditional upon City Council accepting all of the terms of this offer at its meeting that is scheduled to begin on April 7, 2021, and this settlement offer will remain open for consideration until the conclusion of that City Council meeting. The City Solicitor shall advise the Owner, on a confidential basis, as to whether or not the City accepts the settlement offer within 24 hours of the conclusion of the City Council meeting, or as soon as practicable.

We look forward to receiving confirmation of the City's endorsement of this settlement offer following the City Council meeting scheduled to begin on April 7, 2021. In the meantime, please do not hesitate to contact us if you have any questions regarding this settlement proposal, or if you require anything further in advance of presenting this settlement offer to City Council.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

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copy: Client
Nicholas Macos, Black Sutherland LLP
Michael Goldberg and Michelle Charkow, Goldberg Group