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March 24, 2022

BY EMAIL

**CONFIDENTIAL AND WITHOUT PREJUDICE**

Our File No.: 158739

Ms. Laura Bisset and Mr. Daniel Elmadany  
City of Toronto  
Planning & Administrative Tribunal Law  
Metro Hall, 26<sup>th</sup> Floor  
55 John Street  
Toronto, ON M5V 3C6

Dear Ms. Bisset and Mr. Elmadany:

**Re: Confidential and Without Prejudice Settlement Proposal  
241 Redpath Avenue  
OLT Case No. PL200292  
Municipality File No. : 19 264479 STE 10 OZ**

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Please be advised that Aird & Berlis LLP acts on behalf of MOD Developments (Redpath) Limited Partnership with respect to the property municipally known as 241 Redpath Avenue in the City of Toronto (the “**Property**”).

### **Background**

On June 3, 2020, our client submitted a zoning by-law amendment application (the “**Application**”) proposing the comprehensive redevelopment of the Property with an 35-storey (122.50 metres including mechanical penthouse) mixed-use building with approximately 387 dwelling units, inclusive of 46 rental replacement dwelling units, and 24,238 square metres of residential floor space equating to a Floor Space Index (FSI) of 15.77.

On November 6, 2020, our client appealed City Council’s failure to make a decision respecting the Application within the statutory time frame pursuant to Section 34(11) of the *Planning Act*, R.S.O, c P. 13, as amended to the Ontario Land Tribunal (the “Tribunal”). At that time, and as noted in the appeal letter, our client remained interested in engaging with the City in order to resolve outstanding issues.

In October of last year our client, together with the City, the Toronto District School Board (“TDSB”) and immediately adjacent land owners to the north, Sherman and Capell Investments Limited, and the south and southwest, RW 100 Development Corporation and 110 Broadway Inc. engaged in a mediation process facilitated by the Tribunal.

As part of the mediation process our client proposed substantial revisions to its proposal, including a substantial reduction in the majority of the podium (from 7 storeys along Redpath and 11 storeys on the eastern property line) to 4 storeys, undertakings with respect to podium roof programming and fenestration, confirmation of setbacks to the approved tower to the southwest and placement of balconies.

**Arising from the mediation process, our client has reached a full settlement with both adjacent landowners as well as the TDSB. The City remains the only opposed party for the hearing which is scheduled to commence on May 30, 2022.**

Subsequent to the mediation, our client formally filed with the City and the parties to the proceeding a revised zoning submission on December 16<sup>th</sup>, 2021 reflecting the changes made during the mediation process and subsequent modifications to respond to request of the adjacent landowners. It is these plans which our client proposes to have considered by the Tribunal, in accordance with paragraph 22 of the Procedural Order.

Since the submission of the above-mentioned plans, additional meetings and discussions have taken place with the City, on a without prejudice basis, which has resulted in the following settlement proposal.

### **Settlement Proposal**

We are writing to provide a without prejudice settlement offer to resolve the Appeal (the “**Settlement Proposal**”) which offer includes both additional built form modifications, as well as a substantial Section 37 contribution.

The revised development proposal is demonstrated in the attached drawings for the Property, prepared by Architects Alliance and dated March 9, 2022 which are enclosed herewith.

The Settlement Proposal includes the following modifications from the Application:

- An increased setback of the proposed building from the north property line of 3m, for a depth from the frontage of 10m, to create additional open space at grade and to provide greater separation to the property to the north. The additional space has yet to be fully designed, including consideration of appropriate fencing, which will be explored through the site plan approval process (see drawing A2.4).
- Our client acknowledges the request of the City to extend this open space an additional 2 metres, for a total depth of 12 metres measured from the front lot line. Our client is prepared to make best efforts to achieve this increased depth pending review of the structural and transportation implications in the interior of the building. Our client will also continue to explore options to increase the depth of this space through detailed design and the site plan approval process.
- Additionally, our client also acknowledges the request of the City to relocate the gas meters from the Redpath Avenue frontage of the proposed development to a location within the above-described at grade open space. Our client agrees to this change in principal and subject to confirmation of the details and design requirements from, and ultimate approval by, Enbridge Gas. As with the above item, our client is prepared to work with staff to achieve this relocation and secure it as part of the site plan approval process.

- Consolidation of the vehicle access and loading areas on the building to a single access point from Redpath Avenue which will have the effect of reducing openings from more than 11.9m to 6.2m along the street, thereby substantially enhancing the streetscape of this proposal. The effect of this consolidation has been to require our client to redesign the interior of the building related to loading and parking and resulted in an additional partial parking level (see drawing A2.0).
- A reduction in building height by removing 2 (two) entire residential floors from the tower component of the building, for a total of 38 above grade storeys (exclusive of the mezzanine level and the amenity space on the mechanical penthouse levels). The total height of the building will be 133.25 metres measured from a geodetic height of 158.40.

We note that the revised development proposal has yet to undergo detailed design or site plan review by the City and as such the unit layouts or areas shown in the attached below grade and podium plans should be considered draft.

In addition to the substantial built form revisions to the proposal, as itemized above, our client is prepared to make a community contribution in the form of a cash payment of \$3.75 million, to be secured in a Section 37 agreement with the City, and allocated toward community benefits that have been identified as priorities through the Yonge-Eglinton Secondary Plan.

The Settlement Offer is made on the following terms:

- The City will consent to the extension of filing deadlines for the upcoming Tribunal hearing and, in particular, with respect to the filing of witness statements agree to request that an affidavit from our client's land use planner be filed 10 (ten) days in advance of the settlement hearing date;
- The City will consent to and support efforts by our client to seek the earliest possible settlement hearing date in order to facilitate the timely issuance of a Final Order for reasons outlined below;
- The City will attend in support of a settlement hearing on our client's appeal which settlement hearing shall be scheduled for the earliest possible date following the Council decision on the Settlement Proposal, and no later than the window of the established hearing dates of May 30, 2022 – June 4, 2022;
- Our client agrees that the Tribunal Order will be withheld until:
  - the implementing Zoning By-law Amendment(s) have been prepared to the satisfaction of the City, with such review to be worked on collaboratively and expeditiously with our client;
  - the Owner and the City have entered into a Section 37 agreement and it has been registered on title to the Property securing the cash contribution community benefit described above; and (2) the requirement to address those items listed in 5(a) to (j) contained in the City Staff Request for Direction Report dated February 3, 2021 which will be secured as a legal convenience in the Section 37 agreement and achieved through the site plan approval process;

- the implementing Zoning By-law Amendment(s) will contain an Holding (H) Symbol to address the following matters:
  - The Owner shall submit a revised Functional Servicing Report and Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report (“**Engineering Reports**”) to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water;
  - The Owner shall secure the design and provide financial securities for any upgrades or required improvements to the existing municipal infrastructure identified in the accepted Engineering Reports, to support the development, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water, should it be determined that improvements or upgrades are required to support the development, according to the accepted Engineering Reports, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water; and
  - The Owner shall submit a revised Transportation Impact Study, including an updated Parking and Loading Study and transportation demand management strategy satisfactory to the General Manager, Transportation Services and thereafter implement any requirements of those studies as part of a Site Plan Control application.
- The Owner and the City addressing the Rental Housing Demolition Application (File 20 151708 NNY 15 RH) in accordance with Chapter 667 of the Toronto Municipal Code and pursuant to Section 111 of the City of Toronto Act, 2006 as generally described below.

Our client acknowledges that it is required to obtain approval from City Council for the Rental Housing Demolition Application (File 20 151708 NNY 15 RH) in accordance with Chapter 667 of the Toronto Municipal Code and pursuant to Section 111 of the City of Toronto Act, 2006, which would allow for the demolition of the forty-six (46) rental dwelling units at 241 Redpath Avenue, and which would authorize the entering into of one or more agreements pursuant to Section 111 of the City of Toronto Act to secure any obligations arising from any approval of the Rental Housing Demolition Application.

Our client undertakes to provide the City, within a week of this correspondence, with any additional information required by Housing Staff to update the materials previously submitted as part of the original application and, in particular, to respond to any changes in unit layout arising from built form changes requested by the City in the podium. Our client understands that City staff will make best efforts to bring forward a report for the June 28<sup>th</sup> North York Community Council meeting and July 19-20<sup>th</sup> City Council meeting on the Rental Housing Demolition Application which we understand to be the final City Council meeting for this session due to the election hiatus.

Our client agrees that, and only in the event that a staff report is not prepared in sufficient time to allow Council to grant its approval for the Rental Housing Demolition Application (File 20 151708

NNY 15 RH) in accordance with Chapter 667 of the Toronto Municipal Code and pursuant to Section 111 of the City of Toronto Act, 2006, prior to the last meeting of Council for this session, the Implementing By-laws will be modified to include a Holding (H) provision which specifically allows for the removal of the Holding (H) By-law where approval of the Rental Housing Demolition Application by City Council is given and conditions to any such approval are satisfied. The Implementing By-laws will be written to give effect to this.

Finally, please note that this Settlement Offer is predicated on the following two conditions which differ from those in the City Staff Request for Directions Report dated February 3, 2021:

1. Our client will fulfill its parkland dedication requirements pursuant to Section 42 of the Planning Act by providing a cash payment in lieu of an on-site or off-site parkland dedication contrary to para 6 and 7 of the City Staff Request for Directions Report dated February 3, 2021); and
2. Our client will not provide a **publicly** accessible car-share space within the building (contrary to para 4(d)(iii) of the City Staff Request for Directions Report dated February 3, 2021) as the parking within the proposed building is designed to be entirely for residents and their visitors and public access is not contemplated. A car-share space within the building for residents and visitors will only be provided if determined to be necessary through the updated Transportation Impact Study, including an updated Parking and Loading Study and transportation demand management strategy.

As noted at the outset, this offer is provided on a without prejudice and confidential basis. In the event that City Council does not accept this Settlement Proposal at its meeting commencing on April 6<sup>th</sup> it shall remain confidential and without prejudice and shall be considered to have been withdrawn.

We appreciate the opportunity to continue this dialogue with the City. Should you have any questions about the foregoing, please contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



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Partner  
EPKC

Encl.

c. Client  
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