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WITHOUT PREJUDICE

File No. 037175/000002

April 29, 2022

Delivered by Email (Sara.Amini@toronto.ca)

Sara Amini
Solicitor, Planning and Administrative Tribunal Law
City of Toronto Legal Services
Metro Hall, 26th floor
55 John Street
Toronto, ON M5V 3C6

Dear Ms. Amini:

**Re: OLT Case No. PL210208 – 2872, 2880 & 2882 Kingston Road, City of Toronto
City of Toronto Planning Application Number: 18 255250 ESC 36 OZ
Full Settlement Offer to Resolve All Issues**

We are legal counsel to 9887725 Canada Inc. and 10156507 Canada Corp., operating as Artlife Developments (together, “**Artlife**”), the owners of the property municipally known as 2872, 2880 and 2882 Kingston Road, in the City of Toronto (the “**Subject Property**”). Artlife made an application to the City of Toronto in 2019 to redevelop the Subject Property with a 10-storey mixed use building consisting of 145 residential units atop ground floor commercial space with three levels of underground parking.

Background

Artlife submitted a settlement offer to the City on March 1, 2022 (the “**Settlement Offer**”) to resolve all but three of the City’s issues related to sanitary sewer capacity as set out in the Issues List, being Issues 7, 12 and 14, as set out in Attachment 3 of the October 6, 2021 Procedural Order.

On March 9, 2022, City Council accepted the Settlement Offer and authorized the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal in support of the revised proposal as set out in the Settlement Offer (the “**Revised Development**”), subject to the conditions set out in that Council Decision. Council also directed staff to consult with the local Councillor on any upgrades or solutions proposed by the Applicant to address City staff’s concerns relating to sanitary sewer capacity.

Full Settlement Offer

After continued discussions between City staff and Artlife's consultants, we are pleased to provide a settlement offer which would fully resolve all issues as between the City and Artlife (the "**Full Settlement Offer**"). With the full resolution of all issues, this letter also seeks to clarify the conditions for which the City and Artlife will ask the Tribunal to withhold its Final Order, should the revised Zoning By-law Amendment(s) be approved by the Tribunal.

The conditions of the Full Settlement Offer are set out below:

1. Artlife agrees to seek approval of Zoning By-law Amendment(s) to permit the Revised Development as set out in the Settlement Offer, as revised to include the following holding provision in accordance with section 37 of the *Planning Act*:

"The lands zoned with the "(H)" symbol may not be used for any purpose other than those uses and buildings existing on the site as of *[date by-law is brought into force]* until the "(H)" symbol has been removed. An amending by-law to remove the "(H)" symbol shall be enacted by City Council when the following conditions have been fulfilled to the satisfaction of Council:

(i) The owner shall submit a revised Functional Servicing Report demonstrating sufficient capacity to accommodate the servicing demand for this development, to the satisfaction of the Executive Director, Engineering and Construction Services; and

(ii) The owner shall enter agreement(s) for the construction of any improvements to existing municipal infrastructure, as required, to the satisfaction of the Executive Director, Engineering and Construction Services."

2. Artlife and the City agree to request that the revised Zoning By-law Amendment(s) be approved by the Tribunal, but the final Order withheld, until such time as the City Solicitor confirms to the Tribunal that:
 - a. the final form and content of the draft Zoning By-law Amendment(s) are satisfactory to the City Solicitor and the Chief Planner and Executive Director, City Planning, in consultation with the Chief Engineer and Executive Director, Engineering and Construction Services;
 - b. the owner has at its sole expense provided a Stormwater Management Stage 1 Report, a Hydrogeological Report and Summary Forms for each report, acceptable to the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water.
3. The City will advise the Tribunal and parties that it has reached a complete settlement with Artlife and that it no longer has any issues in relation to the Ontario Land Tribunal hearing scheduled to commence on June 28, 2022.

4. City staff will continue to work with Artlife and the owners at 2800 Kingston Road to find a solution to ensure sufficient capacity within the sanitary sewer system to accommodate the servicing demand for the Revised Development.

The Full Settlement Offer is based on the understanding that the City will agree that all of its issues on the Issues List are resolved through the revised proposal endorsed by City Council on March 9, 2022, as further revised by the terms and conditions above, regardless of whether other parties and/or participants involved in the hearing resolve their issues with Artlife in whole or in part for this appeal.

We look forward to the City's response so that we can inform the Tribunal of the parties' progress to resolving the issues in advance of the hearing. As witness statements are to be exchanged on May 18, 2022, it would be prudent to have City Council's directions on the Full Settlement Offer in advance of this date.

Yours very truly,

BORDEN LADNER GERVAIS LLP



Isaac Tang

IT/LE

Cc: Michael Mahoney, Solicitor, City of Toronto Legal Services
Client