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June 1, 2022

Our File No.: 137093

**WITH PREJUDICE**

**BY EMAIL**

Wendy Walberg  
City Solicitor  
City of Toronto Legal Services  
Planning & Administrative Tribunal Law Section  
Metro Hall  
55 John Street, 26th Floor  
Toronto ON M5V 3C6

Dear Ms. Walberg:

**Re: 572 Church Street – LPAT Appeal of OPA & ZBLA Applications  
LPAT File No. PL171367, Decision dated August 19, 2019  
Resolution of Outstanding Conditions from LPAT Decision and Finalizing  
ZBLA for LPAT Order**

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As you are aware, Aird & Berlis LLP represents Church Welldun Developments Limited, the owner of lands municipally known as 572 Church Street.

Our client filed its applications for an Official Plan and Zoning By-law Amendment in June 2017 and ultimately appealed those applications later that same year. Following settlement discussions with City planning staff, our client filed a without prejudice offer to the City via correspondence from our office dated July 17, 2018. That settlement offer was presented to Council with an in camera solicitor's report at the July 23, 24, and 25, 2018 meeting of City Council. City Council approved the settlement at that meeting and, with respect to the architectural plans then filed, authorized the Chief Planner and Executive Director, City Planning (the "Chief Planner") to permit such further modifications to the architectural drawings to the satisfaction of the Chief Planner.

A settlement hearing before the LPAT occurred on June 10, 2019 at which time the Tribunal heard planning opinion evidence on consent of the parties from Mr. Michael Bissett, MCIP, RPP. The LPAT issued an interim decision on August 19, 2019 (the "Decision").

The Tribunal's Final Order was withheld until the following items were addressed:

1. the final form and content of the Official Plan Amendment and the Zoning By-law Amendments are satisfactory to the City Solicitor and the Chief Planner and Executive Director, City Planning;
2. the Owner:

- i. provides a Traffic Impact Study to the satisfaction of the General Manager, Transportation Services relating to the functionality of site circulation and turning movements;
- ii. provides a Functional Servicing Report, Stormwater Management Report, Hydrogeological Report, and Groundwater Report (the "Accepted Reports") satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and General Manager, Toronto Water;
- iii. designs, and provides financial securities for, any upgrades or required improvements to the existing municipal infrastructure identified in the Accepted Reports, in the event the reports determine that improvements or upgrades are required to support the development.
- iv. should it be deemed necessary at the sole discretion of the City Solicitor in consultation with the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, the Owner has entered into an agreement with the City requiring the Owner, prior to the issuance of any above-grade building permit for all or any part of the site, including for clarity, any conditional above-grade building permit, and at no cost to the City, to design, financially secure, construct and make operational, any upgrades or required improvements to the existing municipal infrastructure identified in the Accepted Reports; and
- v. confirmation in writing from the City Solicitor, in consultation with the Chief Engineer and Executive Director, that the implementation of the Accepted Reports either does not require changes to the proposed amending by-laws or any such required changes have been made to the proposed amending by-laws to the satisfaction of the Chief Planner and Executive Director, City Planning, the City Solicitor and the Chief Engineer and Executive Director, Engineering and Construction Services.

We have been advised by our client that as of February 3, 2021 a complete resubmission was filed to address the remaining comments from the ECS Memorandum of September 2020. Accordingly, it is our understanding that each of the conditions in the itemized list of i. to v. have been fulfilled.

Accordingly, we understand that all that remains is the resolution of the final form of the instruments. The purpose of this correspondence is to set forth our client's position in respect of that matter. The draft Official Plan Amendment ("OPA") and the draft amendment to City of Toronto Zoning By-law 569-2013 ("ZBLA") are enclosed with this correspondence as well as the enclosed revised architectural plans, dated October 23, 2020.

### **Improvements to Built Form**

As noted above, the July 2018 settlement proposal was premised on the approval by the Tribunal of a development substantially in accordance with the July 6, 2018 plans.

The built form of this development has evolved since the July 6, 2018 plans in dialogue with City staff and in an ongoing effort by our client to achieve efficiencies and thereby ensure a feasible

project. Specifically, a review of the October 23, 2020 plans illustrate the elimination of any intrusions into the angular plane, with the exception of a very small intrusion for an elevator overrun. This is an improvement from the prior proposal which contemplated intrusions into the angular plane from an elevator overrun at both the 10<sup>th</sup> and 11<sup>th</sup> storeys; a stairwell at the 11<sup>th</sup> storey; and minor protrusions for balcony railings

The OPA (Attachment 1) has been revised with the input of City staff to secure these built form improvements as they relate to the angular plane. We can confirm that no further changes are sought by our client to the OPA beyond those contained in Attachment 1.

### **Unit Mix and Sizes**

We acknowledge the interest of the City to secure both a total unit count and an appropriate number of larger (2 and 3 bedroom units) for this project. We also note that, at 12 storeys and with a very small floor plate the ability to provide larger units is both limited and, based on our client's research, not in demand in this particular location.

Accordingly, our client has advised that it is prepared to agree to include the following additional requirements in the instruments:

1. a maximum unit count of 126 dwelling units;
2. a requirement that a minimum of 10% of the dwelling units must be 2 bedroom units; and
3. a requirement that a minimum of 10% of the dwelling units must be 3 bedroom units of which a minimum of 5 dwelling units are constructed as 3 bedroom units and all other dwelling units can be converted into 3 bedroom units through adaptive design measures.

The updated ZBLA (Attachment 2) has been prepared with the input of City staff. It has been revised to implement the changes to built form, the total unit count and mix as set out above, as well as further modifications to the other performance standards such as amenity space and parking. In respect of changes regarding unit mix and unit size, we understand that Community Planning staff's position is it does not have the authority pursuant to the City Council decision which contemplates modifications to the architectural drawings to accept these changes without further instructions from City Council.

### **Conclusion and Request**

In our respectful submission, the updated plans dated October 23, 2020 and the revised instruments found in Attachment 3 to this correspondence appropriately implement both the original settlement with the City and the direction of the Tribunal in the following manner:

1. the instruments would result in a development substantially in accordance with the July 6, 2018 plans approved by Council while further limiting any intrusions into the angular plane;
2. improvements to the July 6, 2018 plans achieved with the revised plans dated October 23, 2020 include the removal of all intrusions into the angular planes previously approved, with the exception of an elevator overrun; and

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3. the resulting building will have a range of unit types and sizes in the form of one, two and three bedroom units along with a flexible design to allow for further unit consolidation in a manner consistent with Growing Up Guidelines.

Additionally, we can confirm that the October 23, 2020 architectural plans represent the final plans for the purposes of the OPA/ZBLA approval and that our client will not seek any further changes to the plans, save for those which may arise through the site plan approval process still to be finalized with the City.

Further, our client will not seek any further changes to the entitlements obtained through the proposed OPA/ZBLA without filing new application(s), as may be required, pursuant to the *Planning Act*.

**Accordingly, please accept this correspondence and the enclosures hereto as a formal request that the City Solicitor seek further instructions in order to finalize the form of the instruments (OPA, ZBLA 569-2013) to be filed with the Tribunal in order to allow for the Final Order to issue.**

We would appreciate confirmation of receipt of this correspondence and of the timing for a report to Council with respect to same.

On behalf of our client please accept our thanks for your collegiality in working towards fully resolving this matter and please extend those thanks to City staff.

Yours truly,

AIRD & BERLIS LLP



Eileen P. K. Costello  
EPKC/gg

Encl.

cc Client  
Mike Bisset, Bousfields Inc.

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