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Our File No.: 181260

Via E-mail

City of Toronto Legal Services
Metro Hall, 26th Floor
55 John Street
Toronto, ON M5V 3C6

Attention: Lorna Lennox and Sara Amini

Dear Sirs/Mesdames:

**Re: Don Summerville Revitalization – 1555-1575 Queen Street East
Technical Amendments to Existing Agreements under Section 37 of the *Planning Act* and Section 111 of the *City of Toronto Act, 2006* to Facilitate CMHC Financing**

We are counsel to RC Ashbridge (Residential) Inc. and RC Ashbridge Inc. in connection with the Don Summerville Revitalization Project (the “**Project**”). We write further to discussions between the City, Canada Mortgage and Housing Corporation (“**CMHC**”) and our client relating to existing agreements relating to the Project, and the impediments that certain provisions of those agreements represent for the financing of the residential rental component of the Project.

As outlined below, CMHC has raised technical concerns with certain provisions of existing agreements pertaining to the Project, which might make a lender legally responsible for obligations that relate to portions of the Project over which it has no control. In light of CMHC’s concerns, we write to request certain minor amendments to the existing agreements to clarify the scope of CMHC’s obligations under those agreements. The requested amendments are technical in nature, consistent with the intent of the agreements and will facilitate the delivery of over 200 residential rental units without affecting the benefits secured in favour of the City under the agreements. In these circumstances, we kindly ask that you seek instructions from City Council to authorize the required amendments at your earliest opportunity.

Background

As you know, the Project was born out of a request for proposal initiated by TCHC and a subsequent Memorandum of Understanding (the “**MOU**”) entered into between an affiliated entity of our client, the City and the Toronto Community Housing Corporation (“**TCHC**”) to facilitate the revitalization of the lands known municipally as 1555-1575 Queen Street East (the “**Property**”). In July of 2020, City Council approved official plan and zoning by-law amendments to permit the redevelopment of the existing TCHC building on the Property (the



“**TCHC Building**”), as well as the development of a 16-storey mixed-use building (the “**Eastern Market Building**”) and a 17-storey mixed-use building (the “**Western Market Building**”). The Project includes 100 net new affordable residential units and 120 replacement social housing units. In addition, the Project includes 233 new rental residential units to be contained within the Eastern Market Building (the “**New Rental Units**”).

Following City Council’s approval of the planning instruments permitting the Project, TCHC, as the owner of the Property at the time, entered into a section 37 agreement with the City dated October 26, 2020 (the “**Section 37 Agreement**”). In addition, TCHC, our client and the City entered into an agreement pursuant to section 111 of the *City of Toronto Act, 2006* dated July 21, 2021, securing certain obligations to replace pre-existing social housing units on the Property (the “**Section 111 Agreement**”).

Since execution of the Section 37 Agreement and the Section 111 Agreement, the ownership of certain portions of the Property, including the lands that will accommodate the Western Market Building and the Eastern Market Building, has been transferred from TCHC to our client, as contemplated in the MOU and the definitive agreements resulting therefrom.

CMHC Financing for the Eastern Market Building

Our client has been working closely with CMHC to make arrangements to finance the construction and operation of the Eastern Market Building, including the New Rental Units, certain ground floor commercial space and related facilities in the building (but not certain residential strata units that will be conveyed to the City). CMHC’s participation as a lender is important because of the preferential financial terms offered through its Rental Construction Financing Initiative (“**RCFI**”), which is focused specifically on supporting the construction of rental apartments.

In the course of evaluating the Project in connection with the potential financing of the Eastern Market Building, CMHC raised certain technical concerns with the Section 37 Agreement and Section 111 Agreement. Specifically, CMHC raised concerns that certain obligations in those agreements that do not pertain to the Eastern Market Building and that relate to other portions of the Project, might nevertheless bind CMHC or its approved lenders in the event that they end up managing the Eastern Market Building following an event of default. As one example, the Section 37 Agreement requires TCHC to maintain 103 replacement social housing units in the TCHC Building for a period of 99 years. Under the terms of the Section 37 Agreement, CMHC might be responsible for this obligation even though it would have no control over the maintenance of those units (given that they are to be located in the TCHC Building, which is to be situated on a portion of the Property that is beyond the scope of CMHC’s security interest). While there is no expectation that any event of default would occur that places CMHC in a position to manage the Eastern Market Building, as a government entity, CMHC nevertheless must guard against such risks.



Requested Amendments

In light of the above, CMHC has engaged in direct discussions with the City about minor amendments to the Section 37 Agreement and Section 111 Agreement that would resolve its concerns. These modifications would clarify that CMHC, its approved lenders or a successor in title to the portion of the Property upon which the Eastern Market Building is to be situated, would only be responsible for obligations set out in the Section 37 Agreement and Section 111 Agreement that specifically pertain to the Eastern Market Building. Limited amendments along these lines would facilitate the financing and construction of the Eastern Market Building and the delivery of the New Rental Units as approved by City Council, without affecting the obligations secured under the Section 37 Agreement and the Section 111 Agreement, since the obligations set out in such agreements that do not relate to the Eastern Market Building, would continue to bind the owners of such other portions of the Property. Further, we believe these modifications are consistent with the intent of these agreements.

Accordingly, we kindly ask that you seek instructions from City Council at your earliest opportunity to authorize the required amendments to the Section 37 Agreement and Section 111 Agreement as outlined above. We appreciate your assistance in discussing this matter to date. If there is anything further we can do to assist in bringing this matter to Council, please don't hesitate to contact us.

Yours truly,

A handwritten signature in blue ink, appearing to read "Max Laskin", with a stylized flourish at the end.

Max Laskin
MXL/

cc. Howard Cohen, Sam Skurecki, Rick Sole and Peter Venetas, RC Ashbridge Inc.
Bram Green and Fred Rubinoff, Goodmans LLP
Kelly Skeith, TCHC
Gloria Beltrano, CMHC