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June 8, 2022

Via Email and Courier

Amanda Hill
City of Toronto, Legal Department
26th Floor - Metro Hall
55 John Street
Toronto ON M5V 3C6

Dear Ms. Hill:

**Re: LPAT Case No. PL171369
844 Don Mills Road, 1150 and 1155 Eglinton Avenue East (the "Property")
Request for Amendments on Consent to Decisions/Orders, issued January 21,
2019, July 10, 2019 and November 25, 2020 (the "Decision/Orders")**

As you know, we are the solicitors acting for Don Mills (ARH) Homes Ltd. the registered owner of the Property.

We are writing to request City Council's support for minor revisions that our client intends to seek before the Ontario Land Tribunal (formerly the Local Planning Appeal Tribunal) (the "**Tribunal**"), pursuant to Section 23 of the *Ontario Land Tribunal Act, 2021*, S.O. 2021, c. 4, Sched. 6 (the "**OLT Act**"), to the conditions of draft subdivision plan approval ("**Draft Plan Conditions**") and Schedule "A" of Zoning By-law Amendment No. 1214-2019 (LPAT) (the "**ZBA**"), applicable to the Property, each as previously approved by the Tribunal in the abovementioned Decisions/Orders. We note that we have the consent of Diamond Corp., the applicant and appellant in connection with the proceedings before the Tribunal.

The changes to these instruments, described in greater detail below, are to permit the earlier redevelopment of the affordable housing block identified as Block 5A ("**Block 5A**") on the draft plan of subdivision ("**Draft Subdivision Plan**") approved by the Tribunal, and attached as Schedule "A" to the Tribunal's Amending Order, issued November 25, 2020 (the "**November 2020 Amending Order**") through two adjustments:

- a) The inclusion of Block 5A (currently Block 6 within the Draft M-Plan for Phase 2 of the subdivision) as part of the earlier subdivision Phase 1B, such that Phase 1B will include Blocks 5A, 6A, 8, 9, 12, 14A, 14B, 15 and 16 on the Draft Subdivision Plan; and
- b) The removal of the southernmost portion of Street A on the Draft Subdivision Plan (being the portion of Street A that connects to Eglinton Avenue West) from Phase 1B;

The advancement of Block 5A within Phase 1B and deferral of the southernmost portion of Street A will create the need for certain technical amendments to phasing requirements within Schedule A” of the ZBA as well as the Draft Plan Conditions. By extension the Schedule “A” amendments will also entail the need for complementary revisions to the Property’s Section 37 Agreement, registered as Instrument AT5050933 on January 10, 2019, as amended by the Amending Section 37 Agreement, registered as Instrument AT5787415 on July 5, 2021 (collectively the “**Section 37 Agreement**”).

Proposed Amendments

In general terms, the changes to the instruments required to allow Block 5A (currently proposed as part of Phase 2) to proceed as part of Phase 1B, and to allow for the removal of the southerly portion of Street A from Phase 1B, which will meet an important public objective of providing affordable housing earlier, can be summarized as follows:

- The redefinition of Phase 1B to include Block 5A (and the corresponding redefinition of Phase 2 to exclude Block 5A);
- Allowing for Block 5A to proceed in advance of Phase 2, without triggering certain obligations which either cannot be met in advance of Phase 2 proceeding or which are unrelated to the development of Block 5A; and
- Making certain other minor adjustments required as a result of the foregoing.

To assist in identifying the proposed changes, enclosed herewith are:

- A) A redline illustrating the proposed adjustments to Schedule A of the ZBA (the final approved version of which is included as Schedule “C” to the November 2020 Amending Order; and
- B) A redline illustrated the proposed adjustments to the Draft Plan Conditions (Schedule “B” to the November 2020 Amending Order)

We note that the Owner’s obligations in connection with the Development, as set out in Schedule A of the ZBA as well as the Draft Plan Conditions, are proposed be maintained without substantive change. The changes sought, instead, are required adjustments to the timing of delivery of certain commitments, relative to plan registration for Block 5A and/or Phase 2. In this regard, no amendments are proposed to the ZBA (nor the Section 37 Agreement) that would “remove any requirement to provide facilities, services or matters that was included under subsection 37 (1), as it read on the day before the effective date”, within the meaning of transitional section 37.1(4) of the *Planning Act*.

Given the proposed inclusion of Block 5A within Phase 1B, the Owner would also be agreeable to the earlier registration of the section 118 *Land Titles Act* restriction against Block 5A, required pursuant both to paragraph 20(i) of Schedule “A” of the ZBA and Condition #162 of Draft Plan Conditions, to restrict the block’s transfer or charge without the consent of City Planning, at an earlier juncture, as a condition of the plan registration for Phase 1B.

Please note that we will also be preparing a short, amending agreement to the Section 37 Agreement that also will redefine Phase 1B and Phase 2, to implement the proposed changes to Schedule A of the ZBA and reflect the advancement of the registration of the s. 118 restriction on Block 5A. Any required technical changes or corrections to the ZBA, which are satisfactory to City Staff and our client, in conjunction with the above noted changes should also be permitted.

In our view, the provisions of the Subdivision Agreement for Phases 1B, 2 and 3, executed on May 5, 2021 (the "**Subdivision Agreement**") are sufficiently flexible to allow for the abovementioned changes without need for revisions to that agreement. Notably, paragraph 4 of Schedule B of the Subdivision Agreement explicitly permits the modification of the block configurations of each of the subject the Draft M-Plans of Phases 1B, 2, and 3 upon consent of City Planning prior to plan registration, without requirement to amend the agreement itself.

Should any relief be required from the provisions of the Subdivision Agreement, we request that the City seek Council instruction to amend the Subdivision Agreement as necessary to implement the proposed changes.

Process and Implementation

Subject to obtaining City Council support for the above noted changes, we propose that the revisions to Schedule A of the ZBA be implemented at the Ontario Land Tribunal (the "**Tribunal**") by way of a request (on consent) to amend the Decision/Order pursuant to Section 23 of the *OLT Act* and Rule 25 of the Tribunal's Rules of Practice and Procedure.

We will advise the Tribunal of our proposed approach, in order to facilitate its timely consideration of this request.

We note that the City has the authority to clear the conditions of draft plan approval pursuant to section 51(56.1) of the *Planning Act* and to administer final approval of the plan of subdivision for the purposes of subsection 51(58) of the *Planning Act*. Accordingly, in addition to seeking Council's support for the requested revisions to Schedule A of the ZBA and an amendment to the Subdivision Agreement should any relief be deemed required, we are also seeking the City's approval of the proposed revisions to the Phase 1B Draft M-Plan and Phase 2 Draft M-Plan to reflect the changes described above.

Thank you for your assistance in this regard. If you have any questions or require anything further in this regard, please do not hesitate to contact the undersigned.

Yours truly,



Cynthia A. MacDougall

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Enclosures