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**WITH PREJUDICE**

April 26, 2023

**VIA EMAIL**

Laura Bisset and Derin Abimbola  
Lawyers, Planning & Administrative Tribunal Law Section  
City of Toronto, Legal Services Division  
Metro Hall, 26<sup>th</sup> Floor  
55 John Street  
Toronto, ON M5V 3C6

Dear Ms. Bisset and Ms. Abimbola:

**RE: 221, 225 and 227 Sterling Road, City of Toronto  
Application for Zoning By-law Amendment, Draft Plan of Subdivision  
City File Nos. 21 151438 STE 09 SB & 21 151444 STE 09 OZ  
OLT Case Nos. OLT-22-003932 & OLT-22-003933  
\*\*Offer to Settle \*\***

We are the lawyers for 221 Sterling Road Holdings Inc. ("**221 Sterling**"), being the owner of the property municipally known as 221, 225 and 227 Sterling Road in the City of Toronto (the "**Property**").

This Offer to Settle is being made in respect of the above-noted applications filed by 221 Sterling for a Zoning By-law Amendment and a Draft Plan of Subdivision Approval (together, the "**Applications**"), which were appealed to the Ontario Land Tribunal (the "**Tribunal**") on May 30, 2022 on the basis of City of Toronto (the "**City**") Council's refusal or neglect to make a decision on the Applications within the timeframe set out in Sections 34 and 51 of the Planning Act (the "**Appeals**").

A Case Management Conference for the Appeals was held before the Tribunal on August 31, 2022, with a two-week hearing scheduled to begin on October 16, 2023.

**Site Description and Planning Context**

The Property is located on the east side of Sterling Road, south of Bloor Street West, and is approximately 1.0935 hectares in size. The western portion of the Property fronts onto Sterling Road, while the northern portion of the Property has frontage along Ruttan Street. The Property is currently occupied by five 1- to 2-storey buildings, originally constructed for industrial uses.

The Property is well served by existing rapid transit and surface transit services. In particular, the Property is within walking distance to the Bloor GO Transit/UP Express station, the Dundas West TTC subway station, the Lansdowne TTC subway station, and it is within walking distance of the planned Bloor-Lansdowne GO Transit Station.

### *City of Toronto Official Plan*

The Property is currently designated *Apartment Neighbourhoods* on Map 17 of the City of Toronto Official Plan (the “**Official Plan**”). The proposed development conforms with and will implement the planned vision for the Property as set out in the Official Plan.

### *Zoning By-Law*

The Property is zoned *Residential* “R(d1.5)(x58)” under City-Wide Zoning By-law 569-2013, as amended (“**By-law 569-2013**”). By-law 569-2013 permits a maximum building height of 14 metres and a maximum floor space index equal to 1.5 times the area of the Site. Exception R 58 provides that Sections 12(2) 187 and 12(2) 335 of the former City of Toronto By-law 438-86 apply, as does By-law 297-2003. Exception R58 also provides that Exception R7 applies, which permits a nursing home, a retirement home and a religious residence subject to specific conditions.

The Property is zoned R4 Z1.5 under the former City of Toronto Zoning By-law 438-86, as amended (“**By-law 438-86**”). By-law 438-86 permits a maximum height of 14 metres and a maximum floor space index equal to 1.5 times the area of the Site.

Amendments to By-law 569-2013 and By-law 438-86 are required to permit site-specific development standards, including, without limitation, the proposed maximum building heights and total residential gross floor area.

### **Heritage Matters**

On August 15, 2022, City Council confirmed its intention to designate the Property under Part IV of the *Ontario Heritage Act*, R.S.O 1990, c. O.18, as amended, and enacted By-law 1130-2022. 221 Sterling subsequently appealed the designation of the Property on August 30, 2022.

As a product of mediation efforts and at the request of City Staff, 221 Sterling submitted an application for a permit to alter and remove heritage attributes of the Property substantially in accordance with the architectural plans and drawings prepared by Turner Fleischer Architects dated February 1, 2023 and the supporting Heritage Impact Assessment prepared by GBCA Architects dated February 10, 2023, submitted in support

of a Heritage Permit pursuant to Section 33 and Section 34(1)1, Part IV of the *Ontario Heritage Act* (the “**Heritage Permit Application**”).

### **Mediation and Settlement Offer**

The Applications were filed in May 2021 to permit three buildings of 29, 25, and 20-storeys in height (from north to south), with approximately 56,483 square metres of residential gross floor area, resulting in an FSI of 5.17, and a total of 892 dwelling units with 33 units proposed to be rental replacement units (the “**Original Proposal**”). In support of the Applications, an application for Rental Housing Demolition or Conversion was submitted to permit the demolition and replacement of existing rental units (the “**Section 111 Application**”). The Original Proposal also included a proposed new public park and an extension of Ruttan Street from its existing terminus to Sterling Road. The proposed alignment for the Ruttan Street extension was predicated on lands being dedicated by the owner of the property municipally known as 1405, 1407, 1409 and 1409A Bloor Street West and 229, 231 and 231A Sterling Road (collectively, the “**Lamb Site**”)

The Original Proposal has been the subject of extensive mediation efforts between 221 Sterling, the City and other parties to the Appeals. As a result of these discussions, our client is proposing to settle the Appeals on the basis of the following terms:

1. The development will be mixed use, comprised of residential and community uses, with an overall gross floor area of 55,177.5 square metres, including a maximum residential gross floor area of 54,704 square metres, and a minimum non-residential gross floor area of 473.5 square metres. The calculation of the gross floor area of the development will not include areas that are dedicated to residential amenity, mechanical, bicycles, storage and areas for parking above or below grade, amongst others.
2. The development will include three tower components as follows:
  - a. Tower A, with a maximum height of 27 storeys;
  - b. Tower B, with a maximum height of 24 storeys;
  - c. Tower C, with a maximum height of 21 storeys;
  - d. A maximum floor plate of 810.4 square metres for Towers A and B, and a maximum of 750 square metres for Tower C; and
  - e. A minimum tower separation of 25 metres between Towers A, B and C.
3. The development will contain fifty-eight (58) replacement rental units, of which no fewer than eighteen (18) will be designated live-work rental units, including at least fourteen (14) live-work replacement rental units located on the ground floor where they will benefit from taller ceiling heights. The fifty-eight (58) replacement rental

units will collectively contain no less than 100% of the existing residential and live/work rental gross floor area, including the gross floor area of all agreed-upon loft spaces in the existing rental units to the satisfaction of City Planning staff. The total gross floor area, bedroom types, and unit layouts of the replacement rental units will be finalized in consultation with City Planning staff after the submission of revised as-built floor plans of all fifty-eight (58) existing rental units, illustrating the area of all existing loft spaces, to the satisfaction of the Chief Planner and Executive Director, City Planning. The rents of the fifty-eight (58) replacement rental units will be based on the rents of the existing rental units by their respective bedroom types at the time of application, and determined based on revised rent rolls for all fifty-eight (58) existing rental units, which will be submitted to the satisfaction of the Chief Planner and Executive Director, City Planning. The rents of the replacement rental units will be secured for a period of at least ten (10) years beginning from the date of first occupancy of each unit.

4. The owner agrees to secure an acceptable tenant relocation and assistance plan for all existing tenants of the fifty-eight (58) existing rental units proposed to be demolished. The plan will include the right of existing tenants to return to occupy one of the replacement rental units at similar rents, the provision of alternative accommodation at similar rents in the form of rent gap payments, and other assistance to mitigate hardship. The tenant relocation and assistance plan will be developed in consultation with City Planning staff, and will be to the satisfaction of the Chief Planner and Executive Director, City Planning.
5. Each phase of development will provide a minimum combined amenity ratio (indoor and outdoor) of 4.0 square metres per dwelling unit.
6. Parking for residential uses shall be provided in one level of underground parking, including 117 residential parking spaces and 84 visitor parking spaces.
7. The development will include a minimum of 15% two-bedroom units and 10% three-bedroom units.
8. The development will include a new onsite public park equal to 945.9 square metres, representing 10% of the Sterling net site area based on the Ultimate Condition (as defined below) and generally shown on the Ground Floor Plan (included in Appendix A) prepared by Turner Fleischer Architects, dated February 1, 2023 (the “**New Public Park**”). The exact size, location and configuration of the New Public Park will be to the satisfaction of the General Manager, Parks, Forestry and Recreation, and shall be secured through the plan of subdivision process. 221 Sterling will convey the New Public Park to the City prior to the issuance of the first above-grade building permit for the final phase of development of the Property, free and clear, above and below grade, of all easements, encumbrances, and encroachments, in an acceptable environmental condition. The City, in its sole

discretion, may agree to extend the timing of conveyance of the New Public Park, in which case 221 Sterling will be required to register a Section 118 Restriction on the New Public Park lands and post an indexed financial security in the amount of the value of the New Public Park, as appraised by the City, and the financial security will not be released until the New Public Park is conveyed. There will be no residential occupancy or registration of any condominium for the final phase of development of the Property until such time as the New Public Park has been conveyed to the City.

9. The development will contribute to facilitating the extension of Ruttan Street, which the City has requested based on the recommendations of the Bloor Street Study. The full extension will be situated between the south terminus of Ruttan Street extending south to connect to Sterling Road, subject to the following:
  - a. The ultimate condition of the Ruttan Street extension will be developed substantially in accordance with the Ultimate Road Condition Plan, prepared by WSP, dated April 25, 2023 and enclosed herein as Appendix “B” (the “**Ultimate Condition**”).
  - b. The Ultimate Condition requires lands from the Lamb Site as generally shown in the Ultimate Road Condition Plan. It is understood that the City will secure conveyance of these lands from the owner of the Lamb Site, being Lamb Sterling Corp., as part of the approval(s) for the redevelopment proposed for those lands (the “**Lamb Contribution for the Ruttan Street Extension**”).
  - c. 221 Sterling agrees to construct the Ruttan Street extension to the Ultimate Condition as part of its development, provided that the City acquires the Lamb Contribution for the Ruttan Street Extension and authorizes 221 Sterling to construct the Ultimate Condition over such lands prior to first occupancy of the final phase of its development. If the Lamb Contribution for the Ruttan Street Extension is not conveyed to the City and 221 Sterling is not authorized by the City to construct the Ultimate Condition over said lands prior to first occupancy of the final phase of its development, 221 Sterling shall no longer be responsible to construct the Ultimate Condition.
  - d. If the City issues the first Above Grade Building Permit for the first phase of development prior to the City acquiring the Lamb Contribution for the Ruttan Street Extension and/or the City authorizing 221 Sterling to construct the Ultimate Condition, then 221 Sterling will build the Ruttan Street extension

to an interim condition over a portion of the New Public Park, substantially in accordance with the Interim Road Condition Plan, prepared by WSP dated April 25, 2023 and enclosed herewith as Appendix “C” (the “**Interim Condition**”).

- e. 221 Sterling agrees to provide a Letter of Credit (“**LOC**”) equal to 120% of the value to construct the Ultimate Condition, which will be further detailed and secured in the subdivision agreement in accordance with Section 51 of the Planning Act. Without limiting the generality of the foregoing, in the event the City has not acquired the Lamb Contribution for the Ruttan Street Extension and authorized 221 Sterling to construct the Ultimate Condition over such lands prior to the first occupancy of the final phase of development, it will then be entitled to draw upon the LOC and for greater certainty, 221 Sterling’s obligations in respect of the Ultimate Condition shall thereafter be satisfied in accordance with No. 9(c).
  - f. 221 Sterling may be entitled to development charge credits for the actual cost of designing and constructing (soft and hard costs) the Ultimate Condition up to the lesser of the actual cost to complete the works and the Roads and Related component of the development charges payable for the development, to the satisfaction of the General Manager of Transportation Services. The development charge credit, if authorized by City Council prior to the construction of the Ultimate Condition, shall be implemented through the plan of subdivision agreement in accordance with Section 51 of the Planning Act and the Development Charges Act.
10. The development will provide an additional 275.4 square metres of land contiguous to the New Public Park as shown on the Ground Floor Plan enclosed as Appendix “A” (the “**Additional Park Area**”). The Additional Park Area will be conveyed to the City and is intended to satisfy the parkland obligations of the Lamb Site once the Lamb Contribution for the Ruttan Street Extension has been conveyed to the City and the City authorizes 221 Sterling to construct the Ultimate Condition over said lands in accordance with the timing set out in No. 9 (c) above. 221 Sterling will complete the park improvements to the Additional Park Area and convey same to the City at the same time as it conveys the New Public Park in accordance with No. 8 above, and in accordance with the same requirements as are set out in No. 9 above.
11. In addition to the Lamb Contribution for the Ruttan Street Extension, it is understood that the City will secure a parkland conveyance from the owner of the Lamb Site as part of the approval(s) for the redevelopment proposed for those

lands (the “**Lamb Parkland**”). It is further acknowledged that the Lamb Parkland is adjacent to the New Public Park and it is the City’s intention that these separate parkland conveyances develop and function as a consolidated public park. In the event the City acquires the Lamb Parkland prior to 221 Sterling proceeding with construction of the New Public Park, Sterling agrees to construct the park improvements to the Lamb Parkland at the same time that it constructs the New Public Park.

12.221 Sterling agrees to design and construct Above Base Park Improvements to the New Public Park, the Additional Park Area, and, if applicable, the Lamb Parkland, in exchange for a development charge credit against the Parks and Recreation component of the development charges payable for the development, to the satisfaction of the General Manager, PFR. The development charge credit shall be in an amount that is the lesser of the following: (a) the cost to 221 Sterling of installing the Above Base Park Improvements over the New Public Park, the Additional Park Area, and, if applicable, the Lamb Parkland, as approved by the General Manager, PFR; and, (b) the Parks and Recreation component of development charges payable for the development in accordance with the City’s Development Charges By-law, as may be amended from time to time.

13.221 Sterling expresses the intent to provide an in-kind contribution pursuant to Subsection 37(6) of the Planning Act in the form of a new community space within the podium of Tower A (the “**New Community Space**”), generally in the location shown on the Ground Floor Plan attached hereto as Appendix “A” and subject to the following:

- a. If accepted, the New Community Space will be provided as an in-kind community benefit under Section 37 of the Planning Act and the Community Benefits Charges By-law 1139-2022 (the “**CBC By-law**”);
- b. Prior to site plan approval for the development, Staff in consultation with the local Ward Councillor will confirm whether the City accepts the New Community Space as an in-kind community benefit, for which the total value of the community benefits for the development shall be 4% of the value of the net area of the Property calculated in accordance with Section 37 of the Planning Act and the CBC By-law;
- c. If the City elects to accept the New Community Space as an in-kind contribution in accordance with No. 13(b), at the same time Staff will determine whether the New Community Space is to be conveyed as either:

- a) The space shown on the Ground Floor Plan (included in Appendix A) for the New Community Space, not to exceed 4% of the value of the net area of the Property in accordance with the CBC By-law; or,
  - b) The space shown on the Ground Floor Plan (included in Appendix A) for the New Community Space along with finished construction thereof, not to exceed 4% of the value of the net area of the Property in accordance with the CBC By-law.
- d. 221 Sterling agrees to work with Staff through the site plan approval process on design details and valuation of same for the New Community Space (if applicable), and timing for the delivery of the New Community Space.
- e. If the City elects not to accept the New Community Space as an in-kind contribution in accordance with No. 13(b), the GFA associated with that space will be used for another use permitted by the amending by-law.
14. The development will include the conservation of the heritage attributes of the Property in accordance with the removal and alterations proposed by the Heritage Permit Application, a copy of which is included herewith as Appendix "D". 221 Sterling will provide an Interpretation Plan, which will include, among other matters, a commemoration strategy for the industrial history of the Property and the rail line that ran within and alongside the Property.
15. It is acknowledged that the City recently accepted a settlement offer by Lamb Sterling Corp. to resolve its appeals of applications for official plan amendment and zoning by-law amendment to permit a new mixed-use development on the Lamb Site. Included in the accepted settlement offer is a proposed modification to the official plan amendment that would, as modified, identify the Ruttan Street extension as a new planned but unbuilt road on Schedule 2 of the Official Plan, and introduce a new Site and Area Specific Policy in Chapter 7 of the Official Plan (the "**Proposed SASP**").

By acceptance of the within settlement offer, City Council confirms that nothing contained in the proposed official plan amendment described above, including, without limitation, the Proposed SASP, is intended to preclude an interim design and construction of the Ruttan Street Extension, and for greater certainty, will not operate in any way to prohibit 221 Sterling from developing and constructing the Interim Condition in accordance with the terms of this settlement offer.

(collectively, the "**Settlement Offer**")



In support of the Settlement Offer, we enclose the following:

1. the architectural plans and drawings prepared by Turner Fleischer Architects Inc. dated February 1, 2023 and enclosed as **Appendix “A”**;
2. the Ultimate Road Condition Plan, prepared by WSP dated April 25, 2023; and enclosed as **Appendix “B”**;
3. the Interim Road Condition Plan, prepared by WSP dated April 25, 2023, and enclosed as **Appendix “C”**; and,
4. the Heritage Permit Application, enclosed as **Appendix “D”**.

### **Other Matters**

If City Council accepts the Settlement Offer, 221 Sterling will lead evidence in support of the revised Zoning By-law Amendment proposal described in this correspondence at the Hearing, and 221 Sterling and the City will jointly request that prior to the final Tribunal Order issuing to bring into force the modified zoning by-law amendment the following matters have been satisfied:

- a. 221 Sterling has registered a restriction in favour of the City pursuant to Section 118 of the Land Titles Act against the New Public Park, the Additional Park Area, and the portion of the Ultimate Condition on the Property;
- b. The City Solicitor has advised the Tribunal that the Zoning By-law Amendments have been prepared in a content and form satisfactory to the City Solicitor and the Chief Planner and Executive Director, City Planning;
- c. 221 Sterling has submitted a revised Functional Servicing and Stormwater Management Report, Hydrogeological Report and supporting documents, including confirmation of water and fire flow, sanitary and storm capacity (the "**Engineering Reports**"), to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and, should it be determined that improvements or upgrades and/or new infrastructure are required to support the development, 221 Sterling has designed and submitted financial securities for any upgrades or required improvements to the existing municipal infrastructure and/or new 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 has addressed all comments that may arise further to the review of materials submitted as part of the

process by Engineering and Construction Services, including those of the General Manager, Transportation Services;

- d. 221 Sterling has provided a detailed Conservation Plan prepared by a qualified heritage consultant that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment for 221 Sterling Road prepared by Goldsmith Borgal & Company Ltd. Architects, dated February 10, 2023, and details all future conservation efforts as part of this application, all to the satisfaction of the Senior Manager, Heritage Planning;
- e. 221 Sterling and the City have entered into a Heritage Easement Agreement for the Property at 221 Sterling Road substantially in accordance with plans and drawings prepared by Turner Fleisher Architects Inc. and dated February 1, 2023, submitted with the Heritage Impact Assessment prepared by Goldsmith Borgal & Company Ltd. Architects dated February 10, 2023, subject to and in accordance with the approved Conservation Plan, all to the satisfaction of the Senior Manager, Heritage Planning including execution of such agreement to the satisfaction of the City Solicitor;
- f. 221 Sterling has withdrawn its appeal of the heritage designation by-law 1130-2022 at the Ontario Land Tribunal (Case OLT-22-004437); and
- g. 221 Sterling has withdrawn its appeal of Official Plan Amendment 558.

221 Sterling acknowledges that as part of either the subdivision or site plan approval process, its Compatibility and Mitigation Study and Noise and Vibration Study will be peer reviewed by the City at 221 Sterling's expense. 221 Sterling also acknowledges that its Wind Study will require further review by the City, through the Site Plan Approval process, as the design of the development is refined; with the cost of such review, potential additional study, and any necessary mitigation measures being borne by 221 Sterling.

221 Sterling and City staff have agreed that if City Council accepts the Settlement Offer, 221 Sterling and City Staff will work expeditiously in an effort to resolve the final form of the implementing instruments (Zoning By-law Amendment, Draft Plan of Subdivision and Conditions of Draft Plan of Subdivision Approval). 221 Sterling and the City will jointly request that the appeal of the Draft Plan of Subdivision be adjourned *sine die*, provided that either party may seek to have the appeal thereof scheduled for a hearing in the event that it is not satisfied with the progress made to resolve the appeal. To this end, 221 Sterling and the City will jointly request that the Tribunal be available to be spoken to in the event 221 Sterling and the City are unable to agree on the final form of the Draft Plan of Subdivision and Conditions of Draft Plan of Subdivision.

As agreed amongst legal counsel, in the event that City Council does not accept the Settlement Offer, nothing contained herein, including, without limitation, Nos. (d) to (f) under "Other Matters" above, will be used to prejudice the owner's ongoing appeal of the the heritage designation by-law 1130-2022 (OLT Case No. OLT-22-004437).

The Settlement Offer is open until May 13, 2023. In this regard, the Settlement Offer is being submitted for consideration by City Council at its meeting on May 10-12, 2023. If the Settlement Offer is accepted, 221 Sterling consents to the within correspondence and City Council's consideration thereof being made public.

Yours truly,

**Overland LLP**

A handwritten signature in black ink, appearing to read "Daniel B. Arsenosi", written over a horizontal line.

Per: Daniel B. Arsenosi  
Partner

Encl.