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File No. 704052

**WITHOUT PREJUDICE**

July 4, 2023

**By E-Mail**

Jessica Braun and Michelle LaFortune  
City of Toronto, Legal Services Division  
Metro Hall, 26<sup>th</sup> Floor  
55 John Street  
Toronto, Ontario  
M5V 3C6

Dear Ms. Braun and Ms. LaFortune:

**Re: Without Prejudice Settlement Offer  
Appeals of Zoning By-law Amendment and Site Plan Control Applications  
1837-1845 Bayview Avenue, Toronto  
OLT Lead Case No.: OLT-22-002912**

As you know, we are counsel to Bayview Broadway Developments Inc. ("BBDI"), the applicant/appellant in the above matter.

As you are aware, the Ontario Land Tribunal (the "Tribunal") has scheduled a hearing for BBDI's appeals of its Zoning By-law Amendment and Site Plan Control applications commencing on October 17, 2023. In the meantime, we are writing to propose a "without prejudice" offer to settle our client's appeals with the City of Toronto (the "City") on the following terms:

1. BBDI and the City will work together to prepare a zoning by-law amendment for the subject lands at 1837-1845 Bayview Avenue (the "Subject Lands") to permit a 22-storey mixed use building that has a built form and massing that is substantially in accordance with the attached architectural plans prepared by Arcadis Architects (Canada) Inc., dated June 23, 2023. Please note that as a result of potential internal changes to the proposed building, some of the site statistics may be revised, which could include, among other things, the number of residential units and/or the "gross floor area" based on the zoning by-law definition of that term with certain inclusions/exclusions. Balcony sizes and locations will be as depicted on the plans. The parties will use best efforts to have a final draft zoning by-law amendment (the "Draft ZBA") prepared to submit to the Tribunal in advance of October 17, 2023.

2. In addition to what is depicted on the architectural plans, BBDI agrees as part of this settlement offer to:
  - (a) work with City staff through the Site Plan Approval process to appropriately landscape the southern boulevard of Broadway Avenue between Bayview Avenue and the vehicular access point for the proposed building. BBDI acknowledges that such landscaping shall not constitute an “In-kind contribution” pursuant to the City’s Community Benefits Charge By-law;
  - (b) limit the number of south facing primary windows within the podium portion of the proposed building for corner units that also have east or west facing windows;
  - (c) provide a residential unit mix that meets the requirements of Policy 7.1 of the Yonge-Eglinton Secondary Plan (OPA 405); and
  - (d) provide indoor and outdoor amenity space that satisfies the requirements of Regulation 40.10.40.50(1) of By-law 569-2013, but with a total minimum outdoor amenity space of 535 sm.
3. BBDI and the City will jointly request that the Tribunal allow BBDI’s appeal of its Zoning By-law Amendment application and approve the Draft ZBA. In that regard, BBDI and the City will cooperate to provide evidence and make submissions to the Tribunal in support of the approval of the Draft ZBA.
4. BBDI and the City will use best efforts to resolve any outstanding matters regarding BBDI’s appeal of its related Site Plan Control application prior to October 17, 2023, subject to appropriate conditions of approval. If BBDI and the City are able to resolve the Site Plan Control application, subject to agreed upon conditions of approval, BBDI will withdraw the appeal of its Site Plan Control application when the City is prepared to issue Site Plan Approval.
5. BBDI and the City will jointly request that the Tribunal withhold its final Order with respect to the Draft ZBA until the following matters have been satisfied, unless such matter(s) have already been satisfied:
  - (a) the final form and content of the Draft ZBA are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
  - (b) the owner has submitted a Travel Demand Management (TDM) Plan acceptable to, and to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services and that such matters arising from such TDM Plan be secured if required;

- (c) the owner has satisfactorily addressed the Transportation Services matters in the Engineering and Construction Services Memorandum dated December 30, 2021, and matters that may arise from the revised proposal, to the satisfaction of the General Manager, Transportation Services; and
- (d) the owner has satisfactorily addressed servicing-related matters from Engineering and Construction Services and Solid Waste Management Services, in the Engineering and Construction Services Memorandum dated December 30, 2021, and matters that may arise from the revised proposal, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Solid Waste Management Services.

In respect of the above, the City will identify for BBDI, in writing, any outstanding matters regarding items 5.(b), (c) and (d), on or before August 15, 2023, and BBDI and the City will then work cooperatively to attempt to resolve any such outstanding matters prior to October 17, 2023. However, in the event that BBDI and the City are unable to resolve any such outstanding matters, they will jointly request that the Tribunal retain the week of October 30, 2023 on the hearing calendar so that the Tribunal can adjudicate any such outstanding matters and, if such adjudication is required, BBDI and the City will cooperate to identify dates for the exchange of written evidence in advance of such adjudication and, failing agreement, will request that the Tribunal make a ruling.

- 6. BBDI agrees that the following matters, among others, will need to be addressed to the City's satisfaction prior to the City granting Site Plan Approval:
  - (a) the owner has submitted an updated complete Toronto Green Standards (TGS) Checklist and Statistics Template, to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - (b) the owner has satisfactorily addressed matters from Engineering and Construction Services and Solid Waste Management Services, in the Engineering and Construction Services Memorandum dated December 30, 2021, and matters that may arise from the revised proposal, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Solid Waste Management Services;
  - (c) the owner has submitted a Subsurface Investigation for the possible presence of methane gas on the property and any required mitigation measures, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;

- (d) the owner has satisfactorily addressed matters from the Toronto Transit Commission memorandum dated June 21, 2022, and matters that may arise from the revised proposal, to the satisfaction of the Toronto Transit Commission;
  - (e) if it is determined that there are affected rental housing units and/or dwelling rooms with existing tenants, the owner has submitted a tenant relocation and assistance plan to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor;
  - (f) if it is determined that a Rental Housing Demolition Application is necessary, that City Council, or the Chief Planner and Executive Director, City Planning where authorized to do so, has authorized the Rental Housing Demolition Application under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006, as applicable; and
  - (g) the owner has submitted a complete resubmission of the applications to be circulated to relevant divisions and agencies and all revisions and identified pre-approval conditions through the circulation process have been met for the Site Plan Control application, to the satisfaction of the Chief Planner and Executive Director, City Planning.
7. BBDI and the City will bear their own costs in respect of this matter and will not seek an order for costs from the Tribunal as against the other.

We look forward to hearing from you in response to this settlement offer as soon as possible after City Council has had an opportunity to consider this offer at its meeting that is scheduled to commence on July 19, 2023. In the meantime, please do not hesitate to contact us if you have any questions regarding this proposal.

Yours truly,  
**DAVIES HOWE LLP**



Mark R. Flowers  
Professional Corporation

encl.

copy: Client  
Michael Goldberg, Goldberg Group.