



June 27, 2023

WITHOUT PREJUDICE AND CONFIDENTIAL

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Dear Ms. Czajkowski and Mr. McKeich:

**Re: City of Toronto Application Nos. 21 235108 STE 13 OZ & 21 2351109 STE 13 SA
Without Prejudice Settlement Offer respecting OLT Case No. OLT-22-004232 and
OLT-22-004233 on behalf of DASH (Q&S) Inc.
120-134 Sherbourne Street & 225-229 Queen Street East, Toronto**

We are counsel to DASH (Q&S) Inc. ("DASH"). DASH is the owner of 120-134 Sherbourne Street and 225-229 Queen Street East, Toronto (the "**Subject Site**"). The above-noted applications for Zoning By-law Amendments and Site Plan Approval, were appealed to the Ontario Land Tribunal ("**OLT**") on July 13, 2022, for failure of the City to make a decision within the legislated timeframe (the "**Appeals**").

Following mediation held by the OLT, we are pleased to present a confidential, without prejudice offer of settlement of our client's Appeals, as set out below.

Site Description

The Subject Site is located at the southwest corner of Queen Street East and Sherbourne Street, in the City of Toronto. It is comprised of an assembly of four properties within the block bounded by Queen Street East to the north, Sherbourne Street to the east, Britain Street to the south and Stonecutters Lane to the west.

Immediately north of the Subject Site is the future Moss Park Station, currently under construction by Metrolinx. The Moss Park Station will service the Ontario Line directly across the street from the Subject Site. Moss Park, a 3.4 hectare public park, is further north from the Subject Site.

City Council recently adopted Site and Area Specific Policies 605, 763 and 764, which locate the Subject Site within the Queen Street, Moss Park and Corktown Protected Major Transit Station Areas (“**PMTSAs**”).

Applications & Heritage Designation

On November 7, 2021, DASH submitted applications for zoning by-law amendments to City of Toronto Zoning By-law 569-2013 and for site plan approval (collectively, the “**Original Applications**”). These applications were to facilitate the redevelopment of the Subject Site for a 31-storey residential condominium building with at-grade retail uses. The proposal included approximately 22,795 square metres of residential gross floor area (“**GFA**”), 512 metres of retail GFA, and retention of on-site heritage resources.

On September 28, 2022, City Council enacted and passed By-laws 1229-2022 and 1230-2022, which designated 120-122 Sherbourne Street and 229 Queen Street East as cultural heritage resources. Dash is supportive of both of the designations and no appeals were made to the OLT.

Since submission of the Original Applications, there has been significant change in the applicable planning context. These changes include the adoption of the Queen, Moss Park and Corktown PMTSAs, increased development charges, legislative changes to further encourage housing supply, and increased height and density approved or under review in the surrounding area. There has also been significant inflation in construction and development costs. As a result, on May 11, 2023, DASH filed a resubmission which responded to the comments received from staff to date and revised its proposed development to increase height and density to permit a 45-storey, 146.6 m residential condominium building with at-grade retail uses (the “**Revised Proposal**”). The Revised Proposal includes an increased GFA of 29,579 sq. m., including 411.6 sq. m. of non-residential uses. 516 units are contemplated as part of the Revised Proposal. Conservation of the designated heritage resources at 120-122 Sherbourne Street and 229 Queen Street East is maintained through the Revised Proposal. The Revised Proposal now forms the basis of the contested hearing of the Appeals before the OLT.

Settlement Proposal

As part of the Appeals, the City, DASH and the St. Lawrence Neighbourhood Association have undertaken extensive mediation efforts. As a result of these discussions and in order to resolve the Appeals, DASH is prepared to revise its application in accordance with the plans attached hereto (the “**Settlement Plans**”). In particular, the Settlement Plans provide:

1. A reduction in height from 45 storeys to 34 and 37 storeys. The maximum height of the proposed development through mediation has been reduced from 146.6 metres to 121.4 metres, including the mechanical penthouse. The revised height is massed to

reduce shadowing impact on Moss Park, avoiding various currently planned improvements such as the community gardens and playground that are intended to be provided as part of the Moss Park Redevelopment. The proposed portion above the 34th floor steps back approximately 14.83 metres to remain consistent with the shadow line cast by the 34-storey building;

2. A reduced, 6 metre tall mechanical penthouse;
3. A reduction in proposed gross floor area from 29,579 sq. m to 28,262 sq. m.;
4. A setback at the fourth and fifth storeys to continue to promote conservation of the designated heritage resources on the Subject Site, as well as increased setbacks from all rights of way. At the fourth and fifth storeys, a four-metre setback will be provided along the Sherbourne Street and Britain Street frontages, a 5.97 metre setback will be provided at the Queen Street East frontage and a 11 metre setback will be provided to the centreline of Stonecutters Lane;
5. The height of the fourth and fifth storey will be a combined 9.0 metres to provide for increased reveal of the heritage attributes;
6. Continued conservation of heritage attributes as identified in the Settlement Plans and the enclosed Heritage Impact Assessment Addendum authored by ERA Architects Inc. and dated June 22, 2023;
7. Increased setbacks of the tower to the centre line of Stonecutters Lane to 11 metres at the fourth and fifth storeys, and 10 metres beginning on the sixth storey;
8. Increased setback of the podium to the centre line of Stonecutters Lane to 5.5 metres;
9. The provision of a minimum combined indoor and outdoor space of 1,838.6 square metres;
10. Maximum of 50 vehicular parking spaces will be provided for residential uses at the P2 and P3 levels. 430 long-term and 100 short-term bicycle parking spaces will be provided for at the P1 level; and
11. The development will meet the required unit mix of the Downtown Secondary Plan (10% 3-bedroom, 15% 2-bedroom and 15% capable of being converted to 2- or 3-bedroom).

Our client agrees that, in the event City Council accepts this settlement offer, the final Order of the Ontario Land Tribunal with respect to OLT Case No. OLT-22-004232, being the appeal of the application for zoning by-law amendments, would be withheld pending:

1. Withdrawal of its appeal of the King-Parliament Secondary Plan and implementing Zoning By-law (By-law 394-2021) to the OLT within OLT Case Nos. OLT-21-001024 and OLT-21-00-1042, subject to confirmation that the zoning by-law amendments secured through OLT Case No. OLT-22-004232 prevail;
2. The final form and content of the draft Zoning By-law are to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor;
3. DASH has resubmitted the Functional Servicing and Stormwater Management Report and Hydrogeological Report, which includes confirmation of water, sanitary, and stormwater capacity, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, or the Chief Engineer and Executive Director, Engineering and Construction Services has determined that holding provisions are required in the Zoning By-law amendment;
4. DASH has addressed all outstanding issues outlined in the Urban Forestry memo dated March 17, 2022 as they relate to tree planting, soil volume, utility conflicts, tree protection, and Toronto Green Standards, to the satisfaction of the Supervisor, Tree Protection and Plan Review;
5. DASH has submitted a Revised Heritage Impact Assessment that includes a conservation strategy for the properties at 229 Queen Street East and 120-122 Sherbourne Street, to the satisfaction of the Senior Manager, Heritage Planning;
6. DASH has entered into a Heritage Easement Agreement with the City for the properties at 229 Queen Street East and 120-122 Sherbourne Street, to the satisfaction of the Senior Manager, Heritage Planning, including execution and registration of such agreement to the satisfaction of the City Solicitor; and
7. DASH 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 Revised Heritage Impact Assessment required by section 5 above, to the satisfaction of the Senior Manager, Heritage Planning.

Our client further agrees that, in the event City Council accepts this without prejudice settlement offer, the final Order of the Ontario Land Tribunal with respect to OLT Case No. OLT-22-004233, being the appeal of the application for site plan approval, would be withheld pending:

1. the City has issued Notice of Approval Conditions to the satisfaction of the Chief Planner and Executive Director, City Planning; and

2. DASH has completed all required road widenings and conveyances to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

Affordable Rental

DASH is in ongoing discussion with City of Toronto Housing respecting a potential voluntary in-kind contribution of six affordable rental units pursuant to section 37(6) of the *Planning Act*. Should these discussions not result in mutually agreeable terms, DASH will pay 4% of the value of its lands, as of the valuation date, in accordance with the *Planning Act* and City of Toronto By-law 1139-2022.

Request

In accordance with the Settlement Proposal above, we are requesting that City Council accept this Offer to Settle, which will expire at the end of the City Council meeting commencing on July 19th. Should the Offer to Settle be accepted by City Council, it may be released publicly. Until such a time as City Council accepts this Offer to Settle, it remains confidential and without prejudice.

Yours truly,

Cassels Brock & Blackwell LLP



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