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File No. 703254

October 23, 2023

By E-Mail to *sarah.oconnor@toronto.ca*

Sarah O'Connor, Solicitor
City of Toronto, Legal Services Division
26th Floor, Metro Hall
55 John Street
Toronto, Ontario M5V 3C6

Dear Ms. O'Connor:

**Re: Revised Settlement Offer
Appeals of Official Plan and Zoning By-law Amendment Applications
1181 Sheppard Avenue East, Toronto
OLT Lead Case No.: OLT-21-001718**

As you know, we are counsel to Concord Adex Investments Limited ("Concord"), the applicant/appellant with respect to the above matters.

By letter dated July 4, 2023, we submitted a "without prejudice" settlement offer on behalf of Concord in an effort to resolve our client's appeals to the Ontario Land Tribunal (the "Tribunal") of its Official Plan Amendment and Zoning By-law Amendment applications.

More specifically, in our July 4, 2023 letter we proposed a settlement on the following terms:

1. Concord and the City will jointly request that the Tribunal allow Concord's appeals of its Official Plan Amendment and Zoning By-law Amendment applications and approve, in principle, an official plan amendment and zoning by-law amendment for the lands at 1181 Sheppard Avenue East (the "Subject Lands") to permit a 38-storey and 32-storey mixed-use building (the "Proposal") substantially in accordance with the architectural plans prepared by Dialog dated June 19, 2023 and submitted to the City on June 20, 2023 (the "June Plans"), subject to the following revisions:
 - (a) the inset/notch on the south side of the west tower, as shown on Drawing Nos. A212 and A214-1 of the Plans, shall be a minimum of 1.5 m in depth from the 6th floor upwards. The maximum tower floor plate area, as shown on the Plans, will not change, and the floor area removed by the deeper notch on the south façade of the west tower may be deployed elsewhere on

- the west tower floor plans. The notch may be used for inset balconies;
- (b) there will be no balconies that protrude out from the south façade of the west tower from the 6th floor upwards; and
 - (c) the Plans will be revised to incorporate a direct pedestrian connection through the Proposal to and through the existing (but unfinished) pedestrian tunnel connection between the Subject Lands and the TTC's Leslie Subway Station's concourse level, to the satisfaction of the Chief Planner and Executive Director, City Planning (the "Chief Planner").
2. Concord and the City will cooperate to provide evidence and make submissions to the Tribunal in support of the settlement of Concord's appeals of its Official Plan Amendment and Zoning By-law Amendment applications.
 3. If the Tribunal approves the Proposal, Concord will provide a Privately Owned Publicly-Accessible Space ("POPS") labelled as "Pedestrian Walkway" and "Singer Court Terrace" on the southeast portion of the site substantially in accordance with Drawing No. A207 of the Plans, to be secured to the satisfaction of the Chief Planner through the site plan approval process.
 4. Subject to obtaining any required permission from the City and/or the Toronto Transit Commission (the "TTC"), Concord will design and construct, or cause the design and construction of improvements to the existing TTC pedestrian tunnel connection between the Subject Lands and the TTC's Leslie Subway Station, with Concord's total costs to be capped at 4% of the land value of the Subject Lands as determined in accordance with Section 37 of the *Planning Act* and Article VI of Chapter 415 of the City's Municipal Code (the "In-Kind Contribution", which shall specifically exclude the costs of the entrance connection fee and any costs associated with the works within the Subject Lands that are outside of the existing pedestrian tunnel), with the intention that the pedestrian tunnel connection would be open and available for public use upon the first occupancy of the Proposal, but that occupancy would not be prohibited if the completion of the pedestrian tunnel connection is delayed.
 5. Concord and the City will jointly request that the Tribunal withhold its final order regarding the official plan amendment and the zoning by-law amendment for the Subject Lands until the following matters have been satisfied:
 - (a) the form and content of the official plan amendment and the zoning by-law amendment are finalized, satisfactory to the City Solicitor and Chief Planner;

- (b) the owner has submitted a revised pedestrian level wind study to the satisfaction of the Chief Planner, with any required wind mitigation measures to be implemented through the zoning by-laws or site plan approval process to the satisfaction of the Chief Planner;
 - (c) the owner has submitted a revised transportation impact study to the satisfaction of the General Manager, Transportation Services;
 - (d) the owner has addressed outstanding issues in relation to site servicing and has submitted a revised functional servicing and stormwater management report, and any other related engineering reports and drawings, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
 - (e) the owner has entered into an in-kind contribution agreement with the City in accordance with subsection 37(7.1) of the *Planning Act* to secure the In-Kind Contribution.
6. Concord will satisfactorily address any TTC requirements, which may include the completion of TTC technical review process, provision of cost estimates, an Entrance Connection Agreement, fees and letters of credit for any transit-related works to the satisfaction of the Chief Planner and the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the TTC, through the site plan approval process.
7. Concord 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.

At its meeting on July 19 and 20, 2023, City Council adopted the staff recommendations to accept the above settlement offer and to direct the City Solicitor to attend at the Tribunal in support of the settlement.

Subsequent to the City Council decision, Concord prepared revisions to the June Plans to incorporate the revisions identified in items 1.(a), (b) and (c) above. At the same time, Concord replaced the “potential daycare” previously shown on the west tower ground floor plan and mezzanine level with residential units and also revised the upper floors (Floors 35-38) of the east tower through a reconfiguration of the floor plan and balconies (collectively, the “Revisions”). The Revisions were presented by Concord to City Planning staff on October 13, 2023, and we understand that no concerns with the Revisions were identified.

The Revisions described above are reflected in the attached set of architectural plans prepared by Dialog, dated October 16, 2023 (the “October Plans”), and summarized in the attached revisions table and comparison chart.

Accordingly, we are writing to propose a relatively minor revision to the settlement; namely, that the settlement of Concord's appeals to the Tribunal be based on the October Plans, but that the terms of the settlement otherwise remain as accepted by City Council at its July 2023 meeting. For greater clarity, we propose that Item 1 of the terms of the settlement above be revised as follows, and that Items 2 through 7 be maintained as identified above:

1. Concord and the City will jointly request that the Tribunal allow Concord's appeals of its Official Plan Amendment and Zoning By-law Amendment applications and approve, in principle, an official plan amendment and zoning by-law amendment for the lands at 1181 Sheppard Avenue East (the "Subject Lands") to permit a 38-storey and 32-storey mixed-use building (the "Proposal") substantially in accordance with the architectural plans prepared by Dialog dated October 16, 2023 (the "October Plans").

We look forward to receiving your response as soon as possible after City Council has had an opportunity to consider this revised settlement offer at its meeting commencing on November 8, 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

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copy: Client
Peter Smith, Bousfields Inc.