



Eileen P.K. Costello
Direct: 416.865.4740
E-mail: ecostello@airdberlis.com

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WITH PREJUDICE

Matter No. 132065

BY EMAIL: Ray.Kallio@toronto.ca; Derin.Abimbola@toronto.ca

Ray Kallio and Aderinsola (Derin) Abimbola
Planning and Administrative Tribunal Law
City of Toronto Legal Services Division
55 John Street
26th Floor, Metro Hall
Toronto ON M5V 3C6

Dear Mr. Kallio and Ms. Abimbola:

**Re: 35-47 Camden Street
OLT Case No. OLT-22-003265
WITH PREJUDICE Offer to Settle**

We are counsel for 35 Camden Street Inc., BJI Properties Inc. and 47 Camden Inc., (collectively, our “clients”) with respect to the properties municipally known as 35-47 Camden Street in the City of Toronto (the “**Site**”). The Site is located on the south side of Camden Street midblock between Brant Street and Spadina in the King-Spadina area of Downtown Toronto.

Background

In November 2021, our clients filed an application for Zoning By-law Amendment to facilitate a mixed-use development (the “**ZBA Application**”) only on the lands municipally known as 39-47 Camden Street (the “**Original Site**”). On April 4, 2022, our clients appealed the City’s failure to make a decision on the ZBA Application within the statutory timeframe (the “**ZBA Appeal**”) to the Ontario Land Tribunal (the “**OLT**”). An initial Case Management Conference was held on August 17, 2022.

On February 7, 2023, City Council adopted Item TE2.4 directing the City Solicitor and staff to attend the OLT in opposition to the ZBA Application as appealed and to continue discussions with our clients in an attempt to resolve outstanding issues. A second Case Management Conference was held on February 21, 2023 and hearing dates were set for April 15, 2024.

In the interim, our clients have continued to work cooperatively with City Staff as part of a concerted effort to settle the outstanding matters related to the ZBA Application. This has included, at the request of City staff, the purchase in December, 2023 of the property immediately adjacent to the Original Site, and municipally known as 35 Camden Street.

Settlement Proposal

We are writing to provide a **with prejudice** offer to resolve the ZBA Appeal (the “**Settlement**”

Proposal) which our clients are prepared to lead evidence in support of at the hearing before the OLT which is scheduled to commence on April 15, 2023.

The purpose of the ZBA Application, as modified by this Settlement Proposal, is to permit the redevelopment of the Site with a 17-storey mixed use building (plus mechanical penthouse) and a total gross floor area (“**GFA**”) of 14,030 m², comprised of 13,677.2 m² of residential GFA and 352.9 m² of commercial retail GFA.

The Settlement Proposal is depicted in the attached drawings for the Site, prepared by architects Alliance and dated February 23, 2024, which are enclosed herewith.

The Settlement Proposal includes the following modifications from the ZBA Application:

- As requested by the City, the Original Site (941 m² in area) has been extended by adding 35 Camden for a total Site area of 1,152 m²;
- As a result of the enlarged site area, the total GFA has increased from 11.67 FSI/10,990 m² (with 10,625 m² of residential GFA and 364 m² of non-residential GFA, to 12.23 FSI/14,088 m² in total (with 13,739.5 m² of residential GFA and 348.8 m² of non-residential GFA);
- The number of units has also increased from 154 units to 237 units. Please note that the while the final unit count has not been determined at this time, the unit mix will include 15% two-bedroom units and 10% 3-bedroom units;
- The height has slightly increased from 16 storeys (52.15 metres) to 17 storeys (54.65 metres). Note that the overall height to the top of the mechanical penthouse (58.15 metres) has remained the same;
- The setback from the south property line has increased from 4.40 metres to 5.50 metres at Level 2 and above;
- At the request of City Staff, the building has been “notched” in the northeast corner, stepping back for a portion of the northern façade by 2.5 metres above the 5th floor, and then by an additional 3 metres above the 7th floor;
- The stepback along the remainder of the northern façade has decreased slightly from 2.5 metres above the 13th floor to 1.95 metres above the 14th floor;
- The stepback along the western façade has increased from 5.37 metres above Level 15 to 7.40 above Level 17. As a result, the west-facing private terrace on Level 16 has been removed and been relocated as exterior amenity on the mechanical penthouse level;
- The number of parking spaces has increased from 52 spaces (including 11 EVSE parking spaces) to 64 spaces, all of which are now EVSE spaces;
- The loading and vehicle access has been revised to consolidate access from the private laneway adjacent to the site rather than from the adjacent property fronting onto Richmond Street;
- In order to accommodate the vehicle manoeuvring, the Type G loading space has been revised to a Type B;
- The amount of amenity space has increased with the addition of amenity on the mechanical penthouse level (from 2.15 m² /unit of indoor amenity and 0.55 m² unit of outdoor amenity to 2 m² /unit of indoor amenity and 1.51 m² /unit of outdoor amenity); and
- 214 long-term bicycle parking spaces (0.9/unit) and 48 short-term bicycle parking spaces (0.2/unit) are being provided, including 33 e-bike spaces within the long-term spaces.

As the Settlement Proposal will be the subject of a revised Site Plan Control Application (City File No. 23 186707 STE 10 SA) the precise location and number of units, configuration of non-residential space, parking stalls (vehicles and/or bikes) and amenity space (interior and exterior) remain subject to change through design development.

Finally, concurrently with the submission of this with prejudice offer, our office will file an updated ZBA Application form and pay the increased application fee to reflect the increased Site area and overall GFA for the Settlement Proposal.

Implementation

Based on discussions to date with City Staff and our clients' consultant team, we understand that the Settlement Proposal is acceptable to City staff and will form the basis of a report to Council at the meeting commencing on **March 20, 2024** recommending that City Council support the Settlement Proposal.

Please note that this settlement offer is conditional upon that timing being achieved and upon the following implementation matters:

1. Should Council accept the enclosed Settlement Proposal the City will:
 - a. consent to the filing of the February 23, 2024 plans with the OLT;
 - b. consent to a request for an abridged deadline for service of settlement materials to the OLT in advance of the April 15, 2024 appearance;
 - c. consent to a request the April 15, 2024 appearance be converted to a settlement hearing; and
 - d. attend in support of the Settlement Proposal at the settlement hearing on April 15, 2024 or a date to be set by the OLT;
2. At the settlement hearing, the City will consent to a request that the OLT grant the appeal. in part, and approve the Settlement Proposal in principle through an Interim Decision. The parties agree that a Final Order shall only issue once the following conditions are fulfilled:
 - a. the final form and content of the draft Zoning By-law Amendment are to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor;
 - b. the Owner has, at its sole cost and expense:
 - i. 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;
 - ii. the Owner shall enter into a financially secured agreement for the construction of any improvements to the municipal infrastructure, should it be determined that upgrades and road improvements are required to

- support the development, according to the Functional Servicing and Stormwater Management Report and Hydrogeological Report, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- iii. submitted a revised Transportation Impact Study or addendum, including streetscape and curb extension provisions, acceptable to, and to the satisfaction of, the General Manager, Transportation Services and the Chief Engineer and Executive Director, Engineering and Construction Services and that such matters arising from such study, be secured if required;
 - iv. submitted a revised Landscape Plan (with a public utility plan underlay in an updated soil volume plan) acceptable and satisfactory to the General Manager, Parks, Forestry and Recreation;
 - v. the Owner has submitted an Archeological Assessment to the satisfaction of the Chief Planner and Executive Director, City Planning; and,
 - vi. The Owner has submitted a revised Pedestrian Level Wind Study to the satisfaction of the Chief Planner and Executive Director, City Planning, with any required wind mitigation measures to be secured through the Site Plan approval process.

We respectfully request that the City confirm each of the above matters.

In the event that City Council does not accept this Settlement Proposal and the Implementation Matters noted above, the City acknowledges that the within architectural plans will be filed with the OLT after the conclusion of the Council meeting beginning on March 20, 2024 and will form the basis of the proposal at the contested hearing scheduled to begin on April 15, 2024. The City agrees to not object to the hearing proceeding on April 15, 2024, and the parties shall mutually agree upon a revised witness statement deadline, which will be on a day after March 20, 2024 and within the timeframe remaining before the commencement of the hearing.

We appreciate the opportunity to continue this dialogue with the City. Should you have any questions about the foregoing, please contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



Eileen P.K. Costello
EPKC/NM/gg

cc Client

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