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File No. 23357

## **WITHOUT PREJUDICE**

October 29, 2024

### **By Email**

Mr. Adam Ward, [Adam.Ward@toronto.ca](mailto:Adam.Ward@toronto.ca)  
City of Toronto Legal Services  
26th Floor, Metro Hall, Stn. 1260, 55 John Street  
Toronto Ontario M5V 3C6

Dear Mr. Ward:

**Re: H&R Properties Limited ("H&R")  
710 The West Mall, Toronto (the "Subject Property")  
Appeal to the Ontario Land Tribunal – Case No. OLT-24-000556  
City File No. 23 180580 WET 02 OZ**

Our client, H&R, is the registered owner of the Subject Property and has appealed its rezoning application to the Ontario Land Tribunal ("OLT" or the "Tribunal"). The Tribunal held its first Case Management Conference on Monday, September 23, 2024 and has scheduled the second Case Management Conference for Monday, February 10, 2025. Subsequent to filing the OLT appeal, City staff and H&R met to discuss City staff's concerns. Following several such meetings the proposed development has been revised in a manner which it believes address all of City staff's concerns. Accordingly, in an effort to avoid a contested OLT hearing, H&R hereby offers to settle its appeal, in its entirety, on the following terms.

### **Matters Respecting 710 The West Mall, Toronto**

1. H&R will revise its proposed development in accordance with the revised architectural plans and drawings dated June 19, 2024. As the file size is over 50MB, the plans can be downloaded at this link [710 The West Mall arch plans \(June 19 2024\).pdf](#)
2. The architectural plans incorporate the following built form revisions as compared to the initial submission:

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- a) A reduction in the overall building height from 76.0 metres to 74.25 metres (to top of MPH), as measured from established grade;
  - b) An increased minimum tower separation distance to the northeast, as between the 714 The West Mall building and the proposed tower of 38.9 metres; and
  - c) Improved street wall proportions facing The West Mall, including a more prominent secondary entrance at-grade and a reduction in the base building height on the north and northeast (interior side facing 714 The West Mall) portions of the building from 11-storeys, down to 8-storeys.
3. H&R and the City will jointly request that the Tribunal convert the second Case Management Conference (February 10, 2025) to a settlement hearing so as to allow the appeal, in part, and thereby approve the proposed development.
4. H&R and the City jointly request that the Tribunal issue a Decision allowing the appeal (in part), but withhold its Order pending satisfaction of the matters detailed in paragraph 8 below.
5. Despite the unit mix illustrated in the June 19, 2024 architectural plans, the Zoning By-law Amendment will only require the unit mix, as per the City's Growing-Up Guidelines in effect as of the date of this settlement offer.
  - a. A minimum of 10% of the residential units should be three-bedrooms or larger and a minimum of 15% of the residential units should be two-bedrooms or larger. In other words, a minimum of 25% of the residential units be what the City considered 'larger units'.
6. H&R will lead evidence in support of the settlement either at an oral settlement hearing or through Affidavit evidence at a written hearing. The City may choose to lead evidence in support of the settlement but is not required to do so. The City will, however, indicate its support of the settlement through legal counsel's submissions.
7. The parties will bear their own costs throughout.
8. With respect to the issuance of the final Order for the Zoning By-law Amendment appeal, our client is agreeable to the final Order being withheld subject to the following conditions being satisfied:
  - a. The form and content of the Zoning By-law Amendment is satisfactory to the Executive Director, Development Review Division, and the City Solicitor;
  - b. The Owner has submitted a revised Transportation Impact Study, including all requested revisions to the satisfaction of the General Manager, Transportation Services. The study shall address all previously identified concerns, including the provision of tangible Transportation Demand Management (TDM) measures, as well as pedestrian safety measures and traffic calming measures, if warranted by post-

development traffic conditions. The TDM measures shall include but are not limited to, the promotion of active and public transportation, car-share facilities, and incentives for reducing single occupancy vehicle trips;

- c. The Owner has addressed all outstanding issues identified within the Engineering and Construction Services correspondence, dated December 27, 2023, to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services;
- d. The Owner has submitted a revised Functional Servicing and Stormwater Management Report to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services, and such report shall determine the stormwater runoff, sanitary flow and water supply management resulting from the development and whether there is adequate capacity in the existing municipal infrastructure to accommodate the proposed development, and/or any upgrades that may be required;
- e. The owner has submitted a revised Hydrological Assessment Report, Hydrological Review Summary Form, Servicing Report Groundwater Summary Form and Foundation Drainage Summary Form to determine the quality and quantity of groundwater that may be required to be discharged to the City sewage works as a result of a proposed development and comply with Foundation drainage policy and guidelines to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services and the General Manager, Toronto Water;
- f. Should it be determined that upgrades are required to the infrastructure to support the development according to the Transportation Impact Study and/or the accepted Functional Servicing and Stormwater Management Report, a Holding Provision shall be included in the final form of the site specific Zoning By-law Amendment, and the Holding Provision is not to be lifted until such time as the owner has made satisfactory arrangements with the City for the design and construction of any improvements to the municipal infrastructure, including entering into appropriate agreement(s) with the City and the provision of financial securities, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and General Manager, Transportation Services;
- g. The Owner has submitted an Application to Injure or Remove Trees and it has been accepted by the General Manager of Parks, Forestry and Recreation;
- h. The Owner has submitted a Community Services and Facilities Study to the satisfaction of the Executive Director, Development Review Division;
- i. The Noise and Vibration Report has been peer reviewed at the cost of the applicant and the report has been revised to the satisfaction of the Executive Director, Development Review Division.

## **Matters Respecting 70 Dixfield Drive, Toronto**

9. In June 2018 City Council approved a redevelopment of 70 Dixfield Drive and used its (then) powers under S.37 of the Planning Act to authorize additional height and density in exchange for community benefits. Those benefits were detailed and secured through a Section 37 Agreement between the City, H&R and 70 Dixfield (West Mall) Inc. Some of the community benefits provided for in that agreement have yet to be completed. In addition, given the proposed development of 710 The West Mall, it appears prudent to revisit and revise some of the community benefits in the S.37 Agreement. Accordingly, H&R offers the following:

- a. The S.37 Agreement required an insulated pool cover for the existing outdoor pool. Given that such pool will be replaced as part of the approval for 710 The West Mall with an indoor pool, our client proposes that such indoor pool be available to all tenants of 70 Dixfield Drive, 710 The West Mall and the townhouses at 62 Dixfield Drive, and that this take the place of the current requirement for the insulated pool cover. The indoor pool will be shown in the site plan submission for 710 The West Mall and secured through that process.
- b. The S.37 Agreement require the provision of outdoor amenity space adjacent to the existing outdoor pool and an outdoor amenity space in the rear of the property that will include picnic furniture. In lieu of these items and given that the present outdoor pool is being replaced with an indoor pool, our client proposes to install a 10' x 10' gazebo in the south-west corner of the site. Our client intends to install this in 2025 but in no case later than the date when the building permit is obtained for 710 The West Mall. Moreover, the site plan drawing for 710 The West Mall shows a seating area on the north site of the proposed building and this seating area will be built as part of the construction of 710 The West Mall.
- c. Although not required by the City, our client built a new fitness room at 70 Dixfield Drive for the residents of that building. Our client hereby offers to also make that fitness room available to the future residents of 710 The West Mall; and
- d. By way of an update only, the indoor bicycle rack is a room in the expanded underground garage. That room is currently being used as a construction office for the townhouses which are nearing completion. Once the townhouses are complete, that room will house the indoor bicycle parking.

My client thanks the City for its consideration of this settlement offer and looks forward to the City's response.

**KAGAN SHASTRI DeMELO WINER PARK LLP**

Yours very truly,

A handwritten signature in cursive script that reads "Ira Kagan".

Ira T. Kagan

Enclos. [settlement plans/drawing]

Please reply to the: Yorkville Office

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