



Barristers & Solicitors

Bay Adelaide Centre, West Tower
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.ca

Direct Line: +1 (416) 597-4299
dbronskill@goodmans.ca

November 4, 2024

Our File Nos.: 231405 and 240147

WITHOUT PREJUDICE

Via Email

City of Toronto
Legal Services
26th Floor, 55 John Street
Metro Hall
Toronto, ON M5V 3C6

Attention: Daniel Elmadany and Leslie Forder

Dear Sirs/Mesdames:

**Re: Lead Case No. OLT-24-000293 – 17-41 Henning Avenue
Lead Case No. OLT-24-000917 – 50-90 Eglinton Avenue West & 17-19 Henning
Avenue
Without Prejudice Settlement Offer**

We are writing on behalf of our clients to provide a without prejudice settlement offer in respect of the above-noted appeals before the Ontario Land Tribunal (the “**Tribunal**”). In particular, we are writing as solicitors for:

- 27 Henning Avenue Limited, who is the owner of the properties known municipally in the City of Toronto (the “**City**”) as 21, 23, 25, 27, 29, 31, 33 and 35 Henning Avenue (the “**Henning Lands**”);
- 60 Eglinton West Limited, 90 Eglinton Avenue West Limited, 2498703 Ontario Inc. and 2498704 Ontario Inc., who are the owners of the properties known municipally in the City as 17-19 Henning Avenue and 50-90 Eglinton Avenue West (the “**Eglinton Lands**”).

Please note that the without prejudice settlement offer related to the appeals before the Tribunal should be considered as open until the conclusion of the City Council meeting scheduled to commence on November 13, 2024, unless otherwise indicated.

As you know, our client engaged in without prejudice discussions with City staff over the last several months regarding the redevelopment proposal for the Henning Lands and the Eglinton

Lands. These discussions resulted in the addition of the lands known municipally in the City as 37, 39 and 41 Henning Avenue (the “**Parkland**”) to the Henning Lands and the Eglinton Lands for the purposes of an on-site parkland dedication to the City in accordance with Section 42 of the *Planning Act*.

These without prejudice discussions ultimately resulted in the consolidation of the redevelopment proposals for the Henning Lands and the Eglinton Lands, along with the Parkland (collectively, the “**Combined Lands**”). Accordingly, revised sets of plans have been prepared as follows:

- For the Combined Lands – revised and consolidated plans prepared by Turner Fleischer Architects, dated October 17, 2024 (the “**Revised Plans**”), attached hereto as Schedule “A”

The terms of this without prejudice settlement offer are as follows:

1. The Official Plan Amendment and Zoning By-law Amendment appeals before the Tribunal regarding the Eglinton Lands and the Henning Lands will be consolidated, together with the inclusion of the Parkland, such that the Combined Lands will be the subject of a settlement hearing with any development approval implemented through a single Official Plan Amendment (substantially in accordance with the attachment to this offer letter as Schedule “B”), and a single zoning by-law amendment that will amend Zoning By-law No. 1263-2022 (OLT).
2. Prior to the issuance of the first above-grade building permit for all or any part of the Combined Lands, in accordance with Section 42 of the *Planning Act*, the 602.2 square metres parkland dedication requirement of the Combined Lands will be fully satisfied by:
 - a. the conveyance of an on-site dedication of the Parkland, which has a minimum land area of 585.5 square metres, free and clear, above and below grade, of all easements, encumbrances, and encroachments, in an acceptable environmental condition to the satisfaction of the General Manager, Parks, Forestry and Recreation. The owner may propose the exception of encumbrances of tiebacks, where such an encumbrance is deemed acceptable by the General Manager, Parks, Forestry and Recreation, in consultation with the City Solicitor; and such an encumbrance will be subject to the payment of compensation to the City, in an amount as determined by the General Manager, Parks, Forestry and Recreation and the Executive Director, Corporate Real Estate Management; and
 - b. the payment of the remaining required parkland dedication of 16.7 square metres through a payment of cash-in-lieu of parkland, to the satisfaction of the General Manager, Parks, Forestry and Recreation.
3. In this circumstance, in the event that the Owner requires the on-site parkland dedication for construction staging purposes following conveyance of the lands to the City, the Owner

shall enter into an agreement with the City on terms satisfactory to the General Manager, Parks, Forestry & Recreation, save and except for the payment of any occupancy fees, as agreed upon and acknowledged by the Owner and the City. The agreement shall stipulate that use of the on-site parkland dedication for construction staging purposes shall occur for no more than 36 months after the issuance of the first above grade building permit for the Henning Lands, unless otherwise approved by the General Manager, Parks, Forestry & Recreation.

4. Our client supports the request for a development charge credit against the Parks and Recreation component of the Development Charges for the design and construction by the Owner of the Above Base Park Improvements to the required parkland dedication under Section 42 of the Planning Act, to the satisfaction of the General Manager, Parks, Forestry and Recreation, to be available to our client in the event that our client undertakes Above Base Park Improvements.
5. The Owner will enter into, and register on title to the Combined Lands, a Section 37 Agreement securing community benefits for the Combined Lands as follows:
 - a. Prior to the issuance of first above-grade building permit for all or any part of the Combined Lands, the owner shall:
 - i. convey to the City, an off-site parkland dedication of 57 Montgomery Avenue, 61 Montgomery Avenue and 58 Helendale Avenue under Section 37 of the Planning Act to the satisfaction of the General Manager, Parks, Forestry and Recreation (the “**Section 37 Parkland Conveyance**”);
 - ii. the Section 37 Parkland Conveyance shall be in base park condition, include the required service connections in accordance with City standards, and be free and clear, above and below grade, of all easements, encumbrances, and encroachments, in an acceptable environmental condition to the satisfaction of the General Manager, Parks, Forestry and Recreation;
 - iii. complete the demolition of, and base park improvements to, the City-owned property known municipally as 55 Montgomery Avenue to the satisfaction of the General Manager, Parks, Forestry and Recreation (the “**55 Montgomery Improvements**”);
 - b. Prior to the issuance of first above-grade building permit for all or any part of the Combined Lands, the owner shall provide a cash contribution to the City in an upwards indexed amount of \$1,431,000.00 (the “**Financial Contribution**”);
 - c. The Financial Contribution shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census

Metropolitan area, calculated from the date of entering into the Section 37 Agreement to the date of payment of the Financial Contribution;

- d. Schedule A of the By-law 1263-2022(OLT) will be amended to reflect the Section 37 matters outlined above, including but not limited to amending the existing cash contribution in Schedule A, Section 2 of By-law 1263-2022(OLT) to reflect the Financial Contribution, adding the new requirement for the Section 37 Parkland Conveyance and the 55 Montgomery Improvements. The inclusion of the Section 37 Parkland Conveyance, the 55 Montgomery Improvements and the Financial Contribution, all of which combined would fully satisfy the Owner's obligations pursuant to Section 37 of the *Planning Act*; and,
 - e. Any other such matters of legal convenience required to support the development as determined by the Executive Director, Development Review and the City Solicitor.
6. The revised Official Plan Amendment attached to this offer letter provides for the re-designation of *Neighbourhoods* to *Mixed Use Areas* and *Parks*, to align with the Revised Plans, addresses the coordination between the office replacement requirement on this property with 90-110 Eglinton Avenue East and permits the proposed development in the YESP as a Site Specific Policy.
 7. The settlement offer is based on the Revised Plans, which would be implemented through the resulting zoning by-law amendment. Key aspects of the redevelopment include:
 - a. Site Area: The site area has been increased through consolidation of the Henning Lands, the Eglinton Lands and the Parkland, resulting in a total site area is 6,175.8 square metres.
 - b. Density and Gross Floor Area: The proposed total gross floor area of the Combined Lands is 100,145.4 square metres, with a resulting FSI of 16.2, based on the site area of the Combined Lands.
 - c. Tower Separation: The previously approved minimum 20.0 metre tower separation between the west and east towers on the Eglinton Lands has been maintained, with no projecting balconies on the east face of the west tower or the west face of the east tower. To maintain visual separation between the Eglinton Lands and Henning Lands, no projecting balconies will be permitted to encroach within the 20.0 metre tower separation distance. Therefore, no projecting balconies will be permitted on the north face of the west tower on the Eglinton Lands or on the south face of the tower on the Henning Lands. Additionally, no projecting balconies from the north façade of the tower on Henning Lands will be permitted fronting the future public parkland.

- d. Unit Mix: The proposed unit mix for the Combined Lands will be secured in the draft Zoning By-law Amendment in conformity with the Yonge Eglinton Secondary Plan, being a 10% - 3-bedroom units and 15% - 2-bedroom units, with an additional 15% of all units to be a combination of 2-bedroom and/or 3-bedroom units, and/or units that can be converted to 2-bedroom and 3-bedroom units through the use of adaptable design measures, such as knock-out panels.
- e. Amenity Space: As noted on the Revised Plans, 1,886.7 m² of indoor amenity space (approximately 1.7 m² per unit) and 865.8 m² of outdoor amenity space (approximately 0.8 m² per unit) will be provided for the Eglinton Lands. As noted on the Revised Plans, 687.0 m² of indoor amenity space ((approximately 1.5 m² per unit) and 865.8 m² of outdoor amenity space (approximately 1.0 m² per unit) will be provided for the Henning Lands. Accordingly, both the Eglinton Lands and Henning Lands will provide approximately 2.5 square metres of amenity space per unit.
- f. The Eglinton Lands
 - i. Height: The height of the east tower has been reduced from 58-storeys (189.0 metres) to 49-storeys (160.55 metres) with the height of the west tower maintained at 46-storeys (151.1 metres), exclusive of mechanical components, measured from the Canadian Geodetic Datum of 163.13 metres.
 - ii. Density and Gross Floor Area: The proposed total gross floor area is 69,378.3 square metres.
 - iii. Setbacks and Stepbacks: The previously approved setbacks and stepbacks have been maintained in accordance with the previous approval and Zoning By-law No. 1263-2022.
 - iv. Refined Ground Floor: The ground floor has been refined from the previously approved plans to reflect the relocated office replacement off-site and associated removal of the office lobby. The resulting continuous retail frontage along Eglinton Avenue West provides over 1,000 square metres of high-quality retail uses.
 - v. Urban Design: The architectural style and expression of the proposal has been refined from the previous approval to provide a high-quality urban design and relationship with the public realm, in accordance with comments from Urban Design staff.

- vi. **Heritage:** The previously approved heritage approach to the former Toronto Hydro substation building has been refined to provide an improved relationship with the public realm with removal of the pedestrian colonnade. The Revised Plans otherwise maintain the retention of the south and east facades of the heritage building and include the introduction of a canopy along the east façade of the heritage building to provide weather protection, in accordance with discussions with Urban Design and Heritage staff. This Settlement Offer will be considered concurrent with a requested approval under the Section 33 of the Ontario Heritage Act to provide for permitted alterations to facilitate the development.
- vii. **Parking and Loading:** The previously approved minimum parking requirements have been maintained and are reflected in the draft Zoning By-law Amendment. The previously proposed loading spaces have also been maintained in accordance with Zoning By-law No. 1263-2022.
- viii. **Private Laneway:** The previously approved privately-owned, publicly accessible laneway continues to be provided on the north side of the proposed buildings. The design of this privately-owned laneway will be further refined through the site plan approval process.

g. **The Henning Lands**

- i. **Height:** The proposed overall height of the building is 40-storeys (130.01 metres), exclusive of mechanical components, measured from the Canadian Geodetic Datum of 163.13 metres;
- ii. **Density and Gross Floor Area:** The proposed total gross floor area is 30,767.1 square metres;
- iii. **Built Form and Stepbacks:** The built form incorporates a variety of tower setbacks and stepbacks noted below:
 Podium setback to the north property line of 35 Henning Avenue increased from 3.0 metres to 5.0 metres, facing the future public parkland;

 Podium setback to the west property line along Henning Avenue increased from 2.5 metres to 3.12 metres (4.62 metres to the main wall of the west façade);

 East facing podium massing reduced in height from 4-storeys to 1-storey, resulting in relocation of indoor and outdoor amenity from the 5th floor and terrace to the 2nd floor and terrace;

Tower setback to the west property line increased from 5.0 metres to 6.38 metres, with tower setback to the east property line decreased from 11.65 metres to 10.25 metres, but maintaining an appropriate setback to the Hydro One building on the adjacent property;

Tower setback to the future public parkland to the north is 5.0 metres to align with the revised podium setback;

Podium at southwest corner is defined with a 2-storey streetwall and increased setbacks at the residential lobby to improve the relationship to the podium on the Eglinton Lands to the south;

Introduction of a 1-storey reveal at the 2nd floor (providing a stepback of 2.0 metres to the north and a minimum stepback of 2.8 metres from the mainwall of the 1-storey streetwall along the Henning Avenue frontage);

- iv. Refined Ground Floor: The previously proposed townhouse units fronting Henning Avenue have been replaced with indoor amenity space to address challenging grading conditions and achieve a “front yard” condition, providing outdoor amenity space along the street frontage. The resulting setback to the west property line has increased at-grade from 2.5 metres to 4.62 metres to the main wall of the 1-storey west façade. At the southern end of the Henning Lands, to assist in defining the residential lobby, this setback increases to 5.5 metres to the 2-storey streetwall;
- v. Tower Floorplate and Tower Separation: While the setbacks and stepbacks of the tower have been modified as noted above, the minimum 20.0 metre tower separation to the Eglinton Lands to the south have been maintained, resulting in a tower floorplate of approximately 795 square metres;
- vi. Soil Volume: In accordance with Section EC 1.1 of the Toronto Green Standards, Version 4, the required soil volume can be achieved within the boulevard and the Henning Lands. Final details of the soil volume and street tree planting will be provided, through the approval process for the associated site plan application (City File No. 23 179321 NNY 08 SA).
- vii. Servicing: In response to comments received from Engineering and Construction Services staff and Planning Staff, a new “looped” watermain on Henning Avenue, connecting to the existing 300mm watermain on the south side of Eglinton Avenue will be provided to service the Henning Lands. Our understanding is that the balance of the servicing comments have been addressed.

- viii. Residential Parking: Parking minimums, as per the City-wide Zoning By-law 569-2013 (as amended by By-law 89-2022), have been maintained and are reflected in the performance standards of the draft Zoning By-law Amendment. Our client's intent is to accommodate visitor parking for Henning Lands in the public parking garage on the Eglinton Lands. Our client will continue to explore the reduction of visitor parking spaces through a revised Transportation Impact Study to the satisfaction of the General Manager, Transportation Services.
 - ix. Loading: The previously proposed Type "G" loading space has been maintained, and the staging area has been increased to meet the minimum area requirements in response to Transportation Services comments.
 - x. Rental Housing Demolition: As confirmed in the Rental Housing Demolition Application for the Henning Lands and the City's Strategic Initiatives, Policy & Analysis staff, at the time of submission of the applications to the City, two (2) residential rental units existed on the Henning Lands.
8. Our client agrees that, in the event City Council accepts this without prejudice settlement offer, and the Ontario Land Tribunal allows the appeals, to request the Tribunal to withhold its Order until such time as the Tribunal has been advised by the City Solicitor of the following:
- a. the final form and content of the draft Official Plan Amendment substantially in accordance with the attachment to this without prejudice offer letter, satisfactory to the Executive Director, Development Review and the City Solicitor;
 - b. the final form and content of the draft Zoning By-law Amendment amending By-law 1263-2022(OLT) for the lands municipally known as 50 – 90 Eglinton Avenue West and 17 - 41 Henning Avenue is satisfactory to the Executive Director, Development Review and the City Solicitor, including the minimum bedroom unit mix in conformity with the Yonge-Eglinton Secondary Plan;
 - c. the Owner has, at its sole cost and expense:
 - i. submitted a revised Servicing Report, Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report ("Engineering Reports") to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water;
 - ii. secured the design and the future provision of financial securities, in the Section 37 Agreement as a matter of legal convenience, in respect of any

upgrades or required improvements to the existing municipal infrastructure identified in the accepted Engineering Reports, including a new “looped” watermain on Henning Avenue, connecting to the existing 300mm watermain on the south side of Eglinton Avenue will be provided to service the properties along 17-41 Henning Avenue, all to support the development, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water, should it be determined that improvements or upgrades are required to support the development, according to the Engineering Reports, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water;

- iii. ensured that implementation of the accepted Engineering Reports does not require changes to the proposed amending By-law or that any required changes have been made to the proposed amending By-law to the satisfaction of the Executive Director, Development Review and the City Solicitor, including the potential use of a Holding ("H") By-law symbol regarding any new municipal servicing infrastructure or upgrades to existing municipal servicing infrastructure, as may be required; and
 - iv. submitted a Pedestrian Level Wind Study demonstrating there are no uncomfortable or unsafe wind conditions, and where necessary incorporating any required mitigation measures in the Zoning By-law Amendment or otherwise implemented at Site Plan Control, to the satisfaction of the Executive Director, Development Review; and
 - v. submitted a revised Transportation Impact Study, or addendum, with respect to the reduction of visitor parking spaces and proposed accommodation of reduced visitor parking spaces through alternative means on the development site, to the satisfaction of the General Manager, Transportation Services;
- d. City Council, or the Chief Planner and Executive Director, City Planning where authorized to do so, has approved a Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006, to permit the demolition of the three existing rental dwelling units at 21, 25 and 37 Henning Avenue and the owner has secured an acceptable Tenant Relocation and Assistance Plan for the tenant in the existing rental dwelling unit at 37 Henning Avenue addressing financial compensation and other assistance to lessen hardship, and subject to written confirmation through affidavit of owner that there has not been any rental use on 39 and 41 Henning Avenue within the last 5 years, and on such terms and conditions in an agreement with the City, to the

satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor;

- e. the owner has entered into a Section 37 Agreement with the City that has been executed, and registered on title to Combined Lands, all to the satisfaction of the Executive Director, Development Review and the City Solicitor securing the owner's Section 37 contributions, and any matters agreed to and/or required in support of the development of the property, including but not limited to:
 - i. securing the design, provision of securities and construction in respect of any upgrades or required improvements to the existing municipal infrastructure as may be identified in the accepted Engineering Reports through a municipal infrastructure agreement, including a new “looped” watermain on Henning Avenue connecting to the existing 300mm watermain on the south side of Eglinton Avenue to service the properties along 17-41 Henning Avenue, all to support the development, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water.
- f. the Owner 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 Heritage Impact Assessment for 50 Eglinton Avenue West, prepared by GBCA Architects dated March 2024, to the satisfaction of the Senior Manager, Heritage Planning; and
- g. the Owner has entered into a Heritage Easement Agreement with the City for the property at 50 Eglinton Avenue West substantially in accordance with plans and drawings prepared by Turner Fleischer dated October 17, 2024, and the Heritage Impact Assessment prepared by GBCA Architects dated March 2024, subject to and in accordance with the approved Conservation Plan required above, to the satisfaction of the Senior Manager, Heritage Planning, including registration of such agreement to the satisfaction of the City Solicitor on the lands municipally known as 50 – 90 Eglinton Avenue West.

As noted above, this without prejudice settlement offer will remain open until the end of the City Council meeting scheduled to commence on November 13, 2024, unless otherwise indicated, at which point it should be considered as withdrawn if not accepted by City Council. If City Council accepts the Settlement Offer, our client consents to the release of this Settlement Offer, including all enclosures.

Yours truly,

Goodmans LLP

A handwritten signature in blue ink, appearing to read "D. Bronskill", is positioned above the typed name.

David Bronskill
DJB/rv
Encls.