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January 20, 2024

Our File No. 132666

**BY EMAIL**

***With Prejudice***

Matthew Longo  
Planning and Administrative Law  
Legal Services, City of Toronto  
Metro Hall, 26<sup>th</sup> floor  
55 John Street  
Toronto ON M5V 3C6

Dear Mr. Longo:

**Re: With Prejudice Settlement Proposal  
175-185 King Street East, Toronto  
OLT Case No. OLT-23-000244**

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Aird and Berlis LLP represents 179-183 King Developments Inc. and 185 King Developments Inc. ("**King Developments**") with respect to the proposed development of the properties municipally known as 175-185 King Street East (the "**Site**").

The Site is located at the southwest corner King Street East and George Street within the St. Lawrence Neighbourhood. When originally filed, the frontage along King Street East was 27.10 metres and 43.54 m on George Street. As a result of the addition of 175 King Street East, the frontage along King Street East has been increased to 34.10m and the area of the Site has been increased from 1,176 m<sup>2</sup> to 1,344 m<sup>2</sup>.

Following three days of mediation on November 7<sup>th</sup>, December 4<sup>th</sup> and December 19<sup>th</sup>, 2023, with the City and the St. Lawrence Neighbourhood Association ("**SNLA**"), we are pleased to provide you with the enclosed revised architectural drawings prepared by Arcadis, dated December 19, 2024, (the "**Revised Proposal**"). Also enclosed is an HIA Addendum Letter, dated January 16, 2024, prepared by ERA Architects Inc., along with an application for a permit pursuant to Section 42 of the *Ontario Heritage Act*, executed by our client.

**Based on the discussions with the representatives of the respective parties during the meditation, we understand that the Revised Proposal is responsive to the issues and concerns of the SLNA and City staff.**

**Background**

On August 10, 2022, King Developments submitted applications for rezoning and site plan approval to permit the construction of a 33-storey (123-metre including mechanical penthouse)

mixed use building including 11,743 square metres of residential space providing 190 units, and 7,578 square metres of hotel space with 140 units (the “Original Proposal”).

The Notice of Complete Application was issued on September 30, 2022.

Following the submission of its applications, King Developments and our office contacted staff on over a dozen occasions requesting to meet or to receive comments from Community Planning and other divisions. Although staff advised that the applications were under review as early as October 21, 2022, and committing to provide comments before the Community Consultation Meeting on January 26, 2023, comments were not received until February 23, 2023. The delays in receiving comments resulted in our client filing an appeal of the applications on March 23, 2023.

Notwithstanding the limited engagement with City staff, and in an effort to advance the applications, King Development’s instructed its consultant team to prepare for the second submission of the applications (the “**Second Submission**”) on August 11, 2023. The critical change to the development was our client’s acquisition of the 175 King Street East, which increased the frontage on King Street East to 34.10 m and the overall site area to 1,344 m<sup>2</sup>. Other notable changes included:

- The height number of storeys increased to 35 with an overall height of 123.47 m to the top of the mechanical penthouse, commensurate with the height in the Original Proposal. The increased number of storeys was achieved by reducing the overall floor to ceiling heights.
- With the addition of the 175 King Street East, the tower floorplate increased to 750 m<sup>2</sup>.
- The proposed hotel use was removed. A total of 24,884 m<sup>2</sup> of GFA was proposed which included 24,406 m<sup>2</sup> of residential GFA and 478 m<sup>2</sup> of non-residential GFA.
- The ground floor was redesigned to provide for a continuous retail space along King Street East and the residential lobby fronting onto George Street South. The proposal continued to include the retention of the heritage facades along King Street East and a portion along George Street.

It was this Second Submission which formed the basis of the mediation process which was undertaken in November and December of this past year.

### **Summary of Revised Proposal**

During the mediation process, the following important changes have been made to the development proposal as contemplated in the Second Submission:

- The typical floor plate of the tower has been significantly reduced from 750 m<sup>2</sup> to approximately 657 m<sup>2</sup>. As a result, the overall height has increased from 35-storeys (123.47 metres to the top of the MPH) to 46-storeys (157.12 metres to the top of the MPH).
- The tower portion now includes a 10 m setback from the west lot line for the first 12.01 m from the north side of the tower, which is then reduced to 5.5 m. This change will allow for the animation of the tower on the west façade.
- From the north side, a 10 m setback is retained at levels three to five to maintain the reveal above the existing heritage buildings. The tower introduces a gradual stepping pattern of

8.0 metres at level six, and 7.0 metres from levels seven to 46. This is in contrast with the Second Submission which proposed a 7.5 metres setback above level six.

In addition to the built form changes identified above, our client's heritage architect, ERA Architects, worked closely with Heritage Planning throughout the mediation. As a result, a heritage conservation strategy has been developed that will include the retention and reconstruction of the George Street elevation, including the retention of the first 11m of that elevation. The remaining 18 metres will be removed to facilitate construction access and then reconstructed. Other adjustments to the east elevation will re-introduce a roof form consistent with the original ridge line (since removed), the details of which will be developed through the site plan process.

The enclosed draft Zoning By-law Amendment, dated January 10, 2024, implements the above changes. **We would ask that staff in the City's Buildings Department expedite its review of the Zoning By-law Amendment to ensure no additional modifications are required.**

### Settlement Proposal

In addition to the considerable built form changes which have been summarized above, and which are reflected in the Revised Proposal, our client is also prepared to commit to the following as part of a settlement with the City (collectively, the "**Settlement Proposal**"):

1. **Unit Mix:** The Revised Proposal provides 10% 3 bedroom units and 15% 2 bedroom units. In addition, a minimum of 15% of the smaller units will be convertible to 2 or 3 bedroom units. This unit mix will be secured in the final form of the ZBLA.
2. **Heritage Conservation Strategy:** The delivery of the HIA memorandum to the satisfaction of Heritage Planning staff with updated conservation information to implement the heritage conservation referred to above, particularly with respect to the reconstruction of a portion of the east façade. King Developments also agrees to:
  - Work with Heritage Planning staff to reduce the visual impact of the proposed cantilever soffit through compatible materials, exploring a chamfered edge, or the positioning of lights on the terrace.
  - Provide drawings that include a commercial storefront for each heritage building on King Street East, consistent with HCD Plan policy requirements.
  - Apply for the required applications under s.42 of the *Ontario Heritage Act*.
3. **Trees:** King Developments will undertake to review, through the development of a Construction Management Plan, if the City owned trees on the King Street and George Street frontages of the Site can be retained through construction. Should it be confirmed by King Developments that the existing City owned trees cannot be properly protected in accordance with the Private Tree By-Law and the City of Toronto's "Tree Protection Policy and Specifications for Construction Near Trees" then proposed replacement trees shown on the plans contained in the Settlement Proposal will be of the largest caliber possible for viable planting.

4. **Parking:** In addition to providing a single car share parking in a manner satisfactory to Transportation staff, King Developments will provide the following Transportation Demand Measurements:
  - One (1) annual car-share membership per unit, offered for the first five (5) years of occupancy;
  - One (1) Presto card per unit, pre-loaded with the value of a monthly pass, offered for the first year of occupancy;
  - A minimum of one (1) bike repair station provided on-site;
5. **Zoning By-law Amendment:** The following provisions will also be secured the zoning by-law amendment:
  - **Balconies:** Non-contiguous balconies will be located only on the north and south building elevations; balconies will not be permitted on the east and west elevations;
  - **Outdoor Amenity Space:** Provide a minimum 140 square metres outdoor amenity space;
  - **Non-Residential Uses:** No hotel use will be permitted; and,
  - **Retail Unit Sizes:** A maximum retail unit size of 275 square metres to be permitted on the ground floor to facilitate multiple retail units along King Street East.

The Settlement Proposal is conditional upon the following matters:

6. **Heritage Permit:** enclosed with this correspondence is an application for a Heritage Permit pursuant to Part IV of the Ontario Heritage Act to permit the proposed alterations of the designated property, together with an application pursuant to Part V of the Ontario Heritage Act to allow for the development within the St. Lawrence HCD area. These applications are accompanied by a Heritage Impact Memorandum prepared by ERA Architects.

The City has agreed that Heritage Planning Staff will report out on these permit applications at the February 9, 2024, meeting of the Toronto Preservation Board and thereafter considered by Council at its meeting commencing on March 20, 2024;
7. **Report to Council:** the Settlement Proposal will be the subject of an *in camera* report which will be prepared and submitted for consideration by City Council at its meeting commencing on March 20, 2024;
8. **Case Management Conference:** the City will consent to and support the scheduling of a Case Management Conference before the Tribunal as soon as possible following the release of the decision of City Council on the Settlement Proposal and will consent to and support a request for the CMC to be converted to a settlement hearing as the Tribunal may permit. We note that a CMC has now been scheduled by the Tribunal, with the consent of the City, for May 1, 2024;

**9. Interim Decision:** the City will consent to the issuance of an Interim Decision of the Tribunal approving the ZBLA in principle with a Final Order to be withheld until conditions imposed by City Council have been satisfied, to the satisfaction of the City Solicitor and Chief Planner. It is our understanding that these conditions will be limited to:

- The finalization of the zoning instruments;
- The Owner has provided confirmation of water, sanitary and stormwater, and traffic capacity to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, or the determination of whether holding provisions are required in the Zoning By-law amendment;
- Delivery of an updated Transportation Impact Statement and Functional Servicing Report to the satisfaction of the City; and,
- The applicant has addressed all outstanding issues raised by Urban Forestry, Tree Protection and Plan Review as they relate to the Zoning by-law Amendment application, to the satisfaction of the Supervisor, Tree Protection and Plan Review;
- The Owner has submitted a Revised Heritage Impact Assessment that includes a conservation strategy for the on-site significant heritage resource, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;
- The Owner has entered into a Heritage Easement Agreement with the City for the property in line with the accepted Heritage Impact Assessment;
- 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; and
- The Owner has gained approval in writing under Section 33 of the Ontario Heritage Act for the proposed alterations to the heritage properties on the Site.

It is our understanding that the Settlement Proposal, and the enclosed Heritage Permit Applications, respond in full to the matters raised by the City and the other parties in mediation.

We would respectfully request that you confirm that the City will prepare the necessary reports to ensure this matter is considered by City Council at its meeting commencing on March 20, 2024.

On behalf of our client and its consultant team, please accept our thanks and appreciation of the efforts that you and City staff have undertaken to reach a resolution of this matter.

January 20, 2024  
Page 6

Should you require any further information, please do not hesitate to contact the undersigned or Andrew Everton, a land use planner in our office at [aeverton@airdberlis.com](mailto:aeverton@airdberlis.com).

AIRD & BERLIS LLP



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Encl.

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