



**Mark Flowers**  
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File No. 704296

**WITHOUT PREJUDICE**

October 22, 2025

**By E-Mail to *Derin.Abimbola@toronto.ca***

Derin Abimbola  
City of Toronto, Legal Services Division  
26th Floor, Metro Hall  
55 John Street  
Toronto, Ontario M5V 3C6

Dear Ms. Abimbola:

**Re: Without Prejudice Settlement Offer  
Appeals of Official Plan Amendment and Zoning By-law Amendment  
Applications  
847-855 Kingston Road, City of Toronto (the "Subject Lands")  
OLT Case Nos.: OLT-24-001142 and OLT-24-001143**

We are counsel to Gabriele Homes Ltd. (the "Owner"), the applicant/appellant in the above matters.

**Applications and Appeals**

In June 2015, the Owner submitted applications for an Official Plan Amendment ("OPA") and a Zoning By-law Amendment ("ZBA") (together, the "Applications") to the City of Toronto (the "City") for a 7-storey mixed-use building containing 29 residential units on the Subject Lands, excluding 855 Kingston Road.

In May 2020, the Owner acquired 855 Kingston Road. On December 21, 2022, the Owner resubmitted the Applications to include the additional property and proposed an 11-storey mixed-use building with 99 residential units.

On November 12, 2024, the Owner appealed the revised Applications to the Ontario Land Tribunal (the "Tribunal" or "OLT") on the basis that the City failed to make a decision within the time periods prescribed under the *Planning Act* (the "Appeals"). As you are aware, the Tribunal has scheduled a 15-day hearing for the Appeals to begin on April 13, 2026.

### **Without Prejudice Offer to Settle the Appeals**

As a result of mediation sessions in August 2025, as well as subsequent discussions with City staff and the Toronto and Region Conservation Authority (the “TRCA”), our client’s architect, Teeple Architects Inc., has prepared revised architectural plans dated October 17, 2025, for a 13-storey mixed-use building with a total gross floor area (“GFA”) of approximately 8,600 sm, consisting of approximately 8,200 sm of residential GFA and approximately 400 sm of non-residential GFA (the “Revised Plans”), a copy of which is attached.

For clarity, where this settlement offer references planning instruments being substantially in accordance with the Revised Plans, it is in relation to the built form and massing depicted in the Revised Plans, as well as the minimum amount of amenity area and the maximum amount of residential and non-residential GFA, but not the layout of the interior areas in the proposed development.

We are writing to present the City with a “without prejudice” offer to settle the Appeals, based on the following terms:

1. The Owner and the City will work cooperatively to prepare a revised draft OPA to redesignate the Subject Lands from *Neighbourhoods* to *Mixed Use Areas* and *Natural Areas*, as shown on the attached Schedule 1, and to establish a Site and Area Specific Policy to permit a development substantially in accordance with the Revised Plans (the “Revised Draft OPA”).
2. The Owner and the City will work cooperatively to prepare a revised draft Zoning By-law Amendment for the Subject Lands to permit a development substantially in accordance with the Revised Plans, subject to reasonable rounding of numeric values for various development standards (the “Revised Draft ZBA”).
3. Among other things, the Revised Draft ZBA will zone the 3 m wide area south and west of the proposed building on the Subject Lands that is located partially within the setback from the Long Term Stable Top of Slope in an Open Space (ON) zone, subject to an appropriate site-specific exception to permit the following: (i) building maintenance and management; (ii) conservation works; (iii) fencing; (iv) passive recreation elements, including walkways and seating areas; and (v) below ground construction shoring and tie-backs ancillary to a building or structure on the Subject Lands (the “3 m Buffer”). The Owner confirms that the area comprising the 3 m Buffer will not be counted toward required outdoor amenity space in the ZBA.
4. The Owner and the City will jointly request that the OLT schedule a settlement hearing for the Appeals as soon as reasonably possible (the “Settlement Hearing”) and release any previously scheduled hearing dates.

5. At the Settlement Hearing, whether conducted orally or in writing, the Owner will lead evidence in support of a development on the Subject Lands that is substantially in accordance with the Revised Plans, and will lead evidence in support of the Revised Draft OPA and the Revised Draft ZBA, all of which the City will support, and the Owner and the City will jointly request that the OLT allow the Appeals and approve, in principle, the Revised Draft OPA and the Revised Draft ZBA, but withhold its final Order until such time as the OLT has been advised by the City Solicitor that the following conditions have been satisfied:
  - a. the final form and content of the Official Plan Amendment and the Zoning By-law Amendment are to the satisfaction of the City Solicitor and the Executive Director, Development Review;
  - b. the Owner has completed the following, at its own sole cost and expense, based on the Revised Plans:
    - i. provided a revised Natural Heritage Impact Study, related to buffers/setbacks, including illustrating the proposed enhancement/re-naturalization with a dense mix of native, non-invasive trees and shrubs, to the satisfaction of the Chief Planner and Executive Director, City Planning;
    - ii. provided a Ravine Stewardship Plan for the setback, buffer and feature areas located within the property boundary and/or within the lands to be conveyed into public ownership, including illustrating the proposed enhancement/re-naturalization with a dense mix of native, non-invasive trees and shrubs, to the satisfaction of the Chief Planner and Executive Director, City Planning;
    - iii. provided a revised Landscape Plan to the satisfaction of the Chief Planner and Executive Director, City Planning;
    - iv. provided a Public Utility Plan, including Quality Level A data, to determine and confirm the location of utilities and tree planting to the satisfaction of the Chief Planner and Executive Director, City Planning;
    - v. provided a revised Pedestrian Level Wind Study, including a Wind Tunnel Study, to the satisfaction of the Chief Planner and Executive Director, City Planning;
    - vi. provided a revised Toronto Green Standard Checklist and Statistics, to the satisfaction of the Chief Planner and Executive Director, City Planning;

- vii. provided a revised Arborist Report and Tree Protection Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- viii. submitted a revised Functional Servicing and Stormwater Management Report and a revised Hydrogeological Review, ("Engineering Reports") to the satisfaction of the Director, Engineering Review, Development Review, in consultation with the General Manager, Toronto Water;
- ix. secured the design and financial securities in respect of any upgrades or required improvements to the existing municipal infrastructure identified in the accepted Engineering Reports, to support the development, all to the satisfaction of the Director, Engineering Review, Development Review 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 Director, Engineering Review, Development Review and the General Manager, Toronto Water, unless otherwise secured through a holding provision in the by-law;
- x. 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, the Director, Engineering Review, Development Review and the City Solicitor, including the 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;
- xi. addressed all outstanding issues raised by Development Engineering in the memo dated March 17, 2023, as they relate to the Zoning By-law Amendment application to the satisfaction of the Director, Engineering Review, Development Review;
- xii. provided a Methane Gas Study and Report to the satisfaction of the General Manager, Solid Waste Management Services; and
- xiii. registered or authorized the City to register a section 118 restriction on title to the Subject Lands, to be limited to a restriction on the transfer of the Subject Lands, to the satisfaction of the Executive Director, Development Review and the City Solicitor, in consultation

with the Executive Director, Environment, Climate and Forestry and the General Manager, Parks and Recreation, with such restriction to be withdrawn upon completion of the requirements in paragraph 6 below.

6. If the Tribunal approves an OPA and ZBA to permit a development on the Subject Lands that is substantially in accordance with the Revised Plans, the Owner shall, prior to two (2) years after the issuance of the above-grade building permit for the development:
  - a. implement the approved Ravine Stewardship Plan; and
  - b. convey to the City, at no cost, the lands identified in green on the Site Plan (Plan A-004) in the Revised Plans, with the conveyance to be free and clear of any encumbrances except any encumbrance(s) acceptable to the City (the "Conveyance"). The Owner acknowledges that it will not be entitled to receive any credit against parkland conveyance requirements under s.42 of the *Planning Act* for the Conveyance and that it will satisfy its parkland requirement through a payment in lieu. Further, the Owner acknowledges that the Conveyance shall be secured in a Site Plan Agreement for the development and registered on title to the Subject Lands.
7. The Owner and the City shall bear their own costs in respect of the Appeals and neither the Owner nor the City shall seek an Order from the Tribunal for costs as against the other party.
8. This settlement offer is conditional on City Council accepting all of the terms of this offer at its meeting that is scheduled to commence on November 12, 2025, and this settlement offer will remain open for consideration until the conclusion of that meeting. The City Solicitor shall advise counsel for the Owner, on a confidential basis, as to whether or not the City accepts the settlement offer as soon as possible following this offer being considered by City Council.

If this settlement offer is accepted by City Council, the Owner consents to the public release of this letter and the Revised Plans.

We look forward to receiving confirmation of the City's acceptance of this settlement offer following the City Council meeting scheduled to begin on November 12, 2025. In the meantime, please do not hesitate to contact us if you have any questions regarding this proposal, or if you require anything further in advance of presenting this settlement offer to City Council.

Yours truly,  
**DAVIES HOWE LLP**

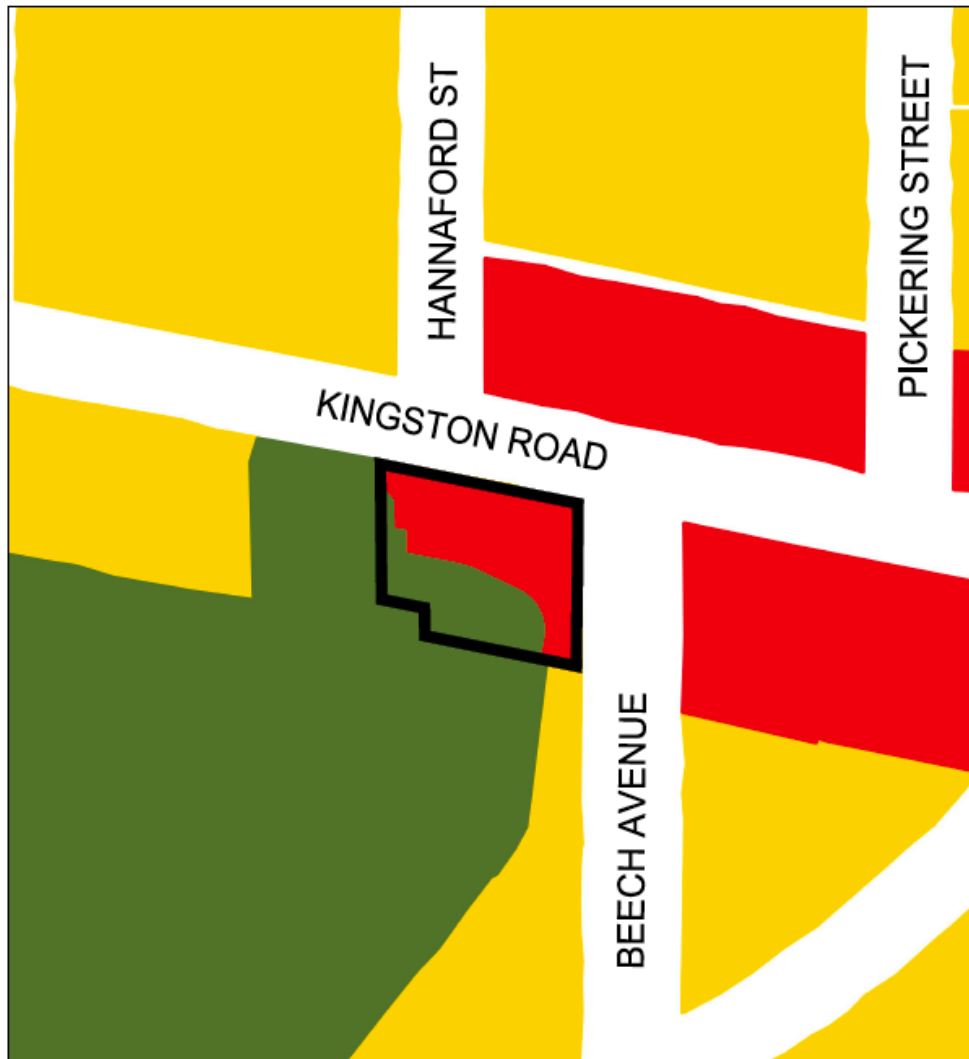


Mark R. Flowers  
Professional Corporation

encls.: As above.

copy: Client

## SCHEDULE 1



### Official Plan Amendment - Map 21



Site Location: From Neighbourhoods to Mixed Use Areas and Natural Areas



Neighbourhoods



Natural Areas



Mixed Use Areas



## Derin Abimbola

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**From:** Mark Flowers <markf@davieshowe.com>  
**Sent:** November 13, 2025 6:20 PM  
**To:** Derin Abimbola  
**Cc:** Alexia Ivo  
**Subject:** [External Sender] RE: Appeals by Gabriele Homes Ltd. re 847-855 Kingston Road, Toronto - OLT Case Nos. OLT-24-001142 and OLT-24-001143

Without Prejudice

Derin,

Further to our discussions this evening, I am writing to confirm that our client is requesting that City Council defer its consideration of our settlement offer dated October 22, 2025 to the December 2025 Council meeting. Accordingly, item 8 of our settlement offer is hereby amended by extending the offer to the conclusion of the City Council meeting that is scheduled to commence on December 16, 2025.

Please let me know if you have any questions or require anything further.

**Mark Flowers \***

Partner

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*Novae Res Urbis (NRU) #1 Development Law Firm in the GTHA for 2020, 2017, 2014, 2013 and 2010  
Consistently ranked in the Top 3 by NRU for both Toronto and the GTHA since 2008*

\* Mark Flowers Professional Corporation

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**From:** Mark Flowers <markf@davieshowe.com>  
**Sent:** October 22, 2025 3:02 PM  
**To:** Derin Abimbola <derin.abimbola@toronto.ca>  
**Cc:** 'Rutledge, Matthew W.' <mrutledge@foglers.com>; Alexia Ivo <alexiai@davieshowe.com>  
**Subject:** Appeals by Gabriele Homes Ltd. re 847-855 Kingston Road, Toronto - OLT Case Nos. OLT-24-001142 and OLT-24-001143

Without Prejudice



Derin,

Please find attached our client's without prejudice settlement offer, together with the related architectural plans prepared by Teeple Architects dated October 17, 2025.

**Mark Flowers \***

Partner

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Mobile: 416-843-4884



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