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October 22, 2020

**BY E-MAIL to [jessica.cullen@calgary.ca](mailto:jessica.cullen@calgary.ca) and [stephen.wheeler@calgary.ca](mailto:stephen.wheeler@calgary.ca)**

Jessica Cullen  
Land Agent, Real Estate & Development Services  
The City of Calgary | Mail Code #195  
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- and -

Steve Wheeler  
Lawyer, Law Department  
The City of Calgary | Mail Code #8053  
PO Box 2100, Stn. M, Calgary, AB, Canada | T2P 2M5

**Attention: Ms. Jessica Cullen and Mr. Steve Wheeler**

Dear Ms. Cullen and Mr. Wheeler:

**Re: The Owners of Condominium Plan No. 9510906 (“the Owners” or “our clients”)  
Municipally known as Units 4 – 12 and 18 – 50 Barclay Walk SW, Calgary AB,  
also known as the River Run Townhomes (“River Run Townhomes”)  
The City of Calgary’s (the “City”) Greenline LRT (the “Green Line”)**

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We are in receipt of Ms. Cullen’s email to Tom McWilliams, Patrick Lindsay, and Joel Gaucher, “RE: [EXT] Any update on timing of appraisal and next steps” (19 Oct 2020, 3:52 p.m.) and Mr. Wheeler’s email to us of October 20, 2020 responding to our letter dated September 30, 2020.

As noted in our previous correspondence, BLG represents the Owners of the River Run Townhomes municipally known as Units 4-12 and 18-50 (that is, all units except for the unit municipally known as Unit 14). We identified our clients by name and unit for you in our September 30, 2020 correspondence.

In response to your two emails, at this time we respond as follows:

- Our clients disagree with the City’s position on whether our clients are entitled to be paid their reasonable legal and appraisal costs. The City’s position is unreasonable, and

particularly disappointing given that our clients have in good faith consolidated their legal counsel, which will lead to a reduction in the City's overall legal costs. In addition, the City's approach is clearly designed to create inequality of bargaining power, and cost pressure on our clients. This offends the City's duty to deal with its citizens in good faith, and not to attempt to improperly circumvent its statutory obligations. It is obvious that what the City proposes with our clients is not a "voluntary transaction", and the compensation principles of the *Expropriation Act* have now been engaged. The City cannot reasonably avoid this reality by pretending that this is a voluntarily process, or by improperly setting up the City's internal approvals in a way designed for the improper purpose of attempting to avoid the City's obligations. In our view, the City's position respecting costs is inconsistent with the clear guidance of the Court of Appeal in *Thoreson v Alberta*, 2006 ABCA 250, para 13:

*The state's obligation to fairly compensate is not discharged by tough positions advanced during negotiations or in subsequent proceedings in the event negotiations are unsuccessful. The role of government in an expropriation is not to obtain the land at the lowest possible price but to provide full compensation to a landowner.*

- We reserve our client's rights to claim their legal, appraisal, and other reasonable costs incurred in responding to the City's desire to acquire their property. However, we recognize that resolving this costs issue may not be necessary if the City appropriately provides compensation for those costs, as Mr. Wheeler suggests it will, and otherwise acceptable terms of an involuntary transaction are reached. So, for now, we will defer further comment or action on the costs issue at this time;
- We repeat our request and advice that any and all communications or proposals to the Owners, whether by the Law department or Real Estate & Development Services, should be sent to BLG directly on behalf of our clients;
- On behalf of our clients, we look forward to receipt of the Cushman & Wakefield report;
- On behalf of our clients, we look forward to receiving the City's proposals for the acquisition of our clients' properties, and any other appraisal information you have to support those proposals. We note that Mr. Wheeler's email response to us failed to consider, among other things, the obvious entitlement to "home for a home" compensation pursuant to the *Expropriation Act*. We will defer further comment until we have the City's proposals and supporting material;
- Our clients' receipt of any proposals, and engagement with the City in these involuntary negotiations, is without prejudice to all of our clients' rights, including without limitation, and if necessary, challenging any future formal expropriation process.

Correspondence may be directed to the writer, with a copy to Ms. Stacy McFarlane at [stmcfarlane@blg.com](mailto:stmcfarlane@blg.com).

Yours truly,

**BORDEN LADNER GERVAIS LLP**

A handwritten signature in black ink, appearing to read "Marion", with a stylized flourish at the end.

Michael A. Marion

cc: The Owners (via email)

cc: Stacy McFarlane (via email)