



**LAW, Legal Services** (8053)

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Our File: RE3956

November 20, 2020

**WITHOUT PREJUDICE**

Borden Ladner Gervais LLP  
Centennial Place, East Tower  
1900, 520 - 3<sup>rd</sup> Avenue S.W.  
Calgary, Alberta T2P 0R3

**Attention: Michael A. Marion**

Dear Mr. Marion:

**Re: The City of Calgary (the “City”) and River Run Condominiums (“River Run”)**

Further to your correspondence dated September 30, 2020 and October 22, 2020, I respond as follows:

- Notwithstanding your repeated assertions to the contrary, the purchase and sale transactions that the City is proposing are not involuntary transactions, intended expropriations, or actual expropriations. If your position were to be taken at face value, every time the City identified a property as being required for a municipal undertaking, such proposed acquisition would immediately become a de facto, or actual, expropriation. This is clearly not true. The City's intent through the voluntary acquisition process is to provide an owner with as much lead time as possible relating to the property requirements for a given municipal undertaking, thereby allowing any owner that is interested in this process the opportunity to participate. This process is well established, and has proven itself to be successful on the Green Line project, as well as many historical projects. Furthermore, while we currently have corporate authority to negotiate with River Run unit owners on the basis of voluntary transactions, we have no approvals to initiate expropriation proceedings relating to any of the River Run units. We also have no definitive timeline as to when, or even if, such approvals would ever be sought by Administration.
- As there is no actual or intended expropriation, the City is not required to, and will not, compensate the River Run unit owners as if their units were expropriated. If you continue to mischaracterize the transactions we are currently proposing as involuntary, or if either you or any of the River Run unit owners continue to insist on the inclusion of *Expropriation Act* damages or compensation in the absence of an actual or intended expropriation, then there is no point in continuing discussions or negotiations relating to the purchase and sale of the River Run units.

- Notwithstanding the above, and to ensure that any River Run unit owners who wish to sell their unit on a voluntary basis are fully compensated, the City is willing to propose transactions based on the following:
  - The City will pay for independent third party appraisals to be completed for each individual River Run unit. These appraisals will establish the market value of such units for any subsequent purchase and sale transaction, and will consider each particular unit's size, location, condition, and improvements. If desired, each River Run unit owner may participate in the selection of the independent third party appraiser for their unit.
  - If a physical improvement has been made to a River Run unit that has a unique value to the owner of that unit, but the value of that improvement may not be reflected in the market value appraisal, the City would consider including additional compensation for such physical improvement.
  - The parties, through the negotiation process, may propose additional terms and conditions as may be appropriate for each unique transaction. However, these terms and conditions would not extend to include payment of any *Expropriation Act* or analogous damages or compensation.
  - The City will pay each River Run unit owner an additional lump sum amount of \$40,000.00 to cover any expenses that such owner may reasonably be expected to incur as a result of the sale of its unit, including moving costs, legal fees, mortgage payout penalties and similar expenses.
  - If any River Run unit owner requires additional time to relocate, the City would allow such owner(s) to continue to occupy the unit post-closing as a tenant. The City would not charge such former owner(s) any rental fee, although the former owner(s) would continue to be responsible for payment of property or other taxes, condominium fees and utility fees.
  - All terms and conditions of each proposed transaction would be conditional on the City obtaining any necessary internal corporate approvals.

In light of the foregoing, if some River Run unit owners are willing to continue discussing the purchase and sale of their units as described, while others are not, please provide us with a list of those who are and we will move forward with obtaining independent third party appraisals of those units in consultation with such owners. However, if no River Run unit owners are willing to move forward as described, then we will not move forward with any appraisals or subsequent purchase and sale proposals at this time.

Further to earlier discussions between the City and the River Run Condominium Board, the City has retained an independent third party appraiser to complete an analysis on the highest and best use of the entire River Run property. A copy of that analysis is attached.

Please ensure all future correspondence from your firm relating to any acquisitions of the River Run units is sent to my attention alone, and I will distribute internally as appropriate.

Yours truly,

A handwritten signature in black ink, appearing to read 'Steve Wheeler', with a stylized, cursive script.

**Steve Wheeler**  
**Barrister & Solicitor**

SBW/sms  
Enclosures

cc: Sarah Quayle, Real Estate & Development Services  
Jarret Moisan, Real Estate & Development Services  
Jessica Cullen, Real Estate & Development Services  
John Simpson, Real Estate & Development Services  
Andrew Barbero, Law, Legal Services