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December 3, 2020

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

**WITH PREJUDICE**

Legal Services  
City of Calgary  
12<sup>th</sup> Floor, 800 Macleod Trail SE  
Calgary, AB, Canada | T2G 2M5

**Attention: Steve Wheeler, Barrister and Solicitor**

Dear Mr. Wheeler:

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

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We refer to our earlier letters of September 30 and October 22, 2020.

We understand the City’s position to be that there is no actual or intended expropriation, and therefore our clients’ rights under the *Expropriation Act* are not engaged. Of course, for the reasons set out in our earlier letters, we and our clients disagree with the City and believe that this is not a position taken in good faith. In our view, once the City has decided it requires property, and the shadow of that need is made public and affects the property, the expropriation process has *de facto* begun. It makes absolutely no sense to ignore realities and pretend that something else is happening – such positional manoeuvring will only create animosity, skepticism, and will undoubtedly cost the City more in the long run. Needless to say, we are disappointed with the City’s choice to structure its affairs for the purpose of avoiding its obligations, as well as to create an unfair bargaining situation.

The City’s position that it seeks to engage in “voluntary” transaction negotiations is particularly troubling and out of step with reality. We point to:

- None of our clients are interested in selling their properties;
- The City chose to respond to our letters with a letter under the heading “without prejudice” – by definition this means that you believe you are attempting to compromise a position in a dispute. That is not indicative of voluntary negotiations on the open market;
- The City of Calgary bulletin board a few feet from the River Run property that has a picture of a train running through the River Run property;

- The City of Calgary sandwich board a few feet from the River Run property that depicts the future state of Eau Claire with the River Run homes whited out;
- The City of Calgary website that has pictures of a train running through the River Run property and pictures that depict the future state of Eau Claire with the River Run homes whited out;
- The July 21, 2020 statement of Graham Gherylo, Senior Manager Green Line Planning, to the River Run board of directors, that the City will absolutely require the River Run property as part of segment 2A of the Green Line project and that the River Run owners will not be permitted to be involved in the redevelopment of their properties; and
- The September 2, 2020 statement of Jessica Cullen, Land Acquisitions, to the River Run board of directors, that the City expects to require vacant possession of River Run homes by June 2022.

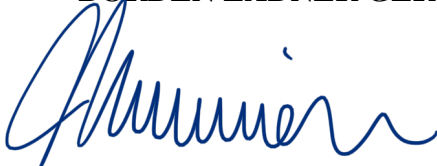
The City's consistent communications that indicate the City intends to destroy the River Run homes for municipal purposes is wholly inconsistent with your assertions that this is a voluntary transaction. It is patently clear that the expropriation process has already begun. However, if the City is not prepared to proceed in good faith and with common sense, then this is its choice.

We note that, whether the City agrees to acknowledge the reality of the situation or not, the City's conduct has effectively frozen our clients' properties. Our clients are now vulnerable to the City's processes, and are experiencing additional stress and loss as a result of the City's refusal to engage in good faith. Please be advised that our clients will continue to hold the City responsible for all their losses and damages, including additional damages that they may suffer as a result of the City's unreasonable decision to delay proceeding with acquisition or expropriation, while simultaneously freezing our clients' properties.

Once the City is prepared to have discussions on the basis set out in our earlier letters, or on some other agreeable basis that acknowledges expropriation compensation principles and our clients' right to consider the City's proposals with appropriate legal and appraisal advice paid for by the City, we will look forward to hearing from you. Until then, we wait.

Yours truly,

**BORDEN LADNER GERVAIS LLP**



Michael A. Marion

cc: The Owners (via email)  
cc: Stacy McFarlane (via email)