

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** August 09, 2019

**CASE NO(S):** PL180033

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

|                               |   |
|-------------------------------|---|
| Applicant and Appellant:      | 110 Broadway Inc. and Broadway Redpath Development Corporation  |
| Subject:                      | Application to amend Zoning By-law No. 438-86 – Refusal or neglect of the City of Toronto to make a decision  |
| Existing Zoning:              | R2 Z2.0   |
| Proposed Zoning:              | Site Specific (To be determined)  |
| Purpose:                      | To permit a 28-storey tower and 35-storey tower connected by a 6-storey base building, consisting of 822 residential units including 121 rental replacement units |
| Property Address/Description: | 110, 114 & 120 Broadway Ave   |
| Municipality:                 | City of Toronto   |
| Municipality File No.:        | 17 218847 NNY 25 OZ   |
| OMB Case No.:                 | PL180033  |
| OMB File No.:                 | PL180033  |
| OMB Case Name:                | Broadway Redpath Development Corporation v. Toronto (City)  |

**Heard:** July 29, 2019 in Toronto, Ontario

**APPEARANCES:**

**Parties**

100 Broadway Inc. and Broadway Redpath Development Corporation

**Counsel**

D. Bronskill and J. Hoffman

City of Toronto

L. Bisset and C. Iltan

CAPREIT Limited Partnership

J. Shapira

## **DECISION OF THE TRIBUNAL DELIVERED BY R. ROSSI**

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### **INTRODUCTION**

[1] 110 Broadway Inc. and Broadway Redpath Development Corporation (“Applicant”) is appealing to the Tribunal the City of Toronto (“City”) non-decision on the Applicant’s proposal to rezone and develop its lands at 110 Broadway Avenue and abutting lands subsequently acquired, located at 114 and 120 Broadway Avenue (together, the “subject lands”).

[2] It is important to note that two separate but related appellate matters are being dispensed with at this settlement hearing. The Tribunal’s file numbers are PL180033 for the subject lands and PL160910 for 100 Broadway and 223-233 Redpath lands (100 Broadway Developments Inc.), which abut the subject lands. On consent, the Tribunal has not joined these matters and it is issuing two decisions – one for this matter affecting the subject lands and the other for PL160910 – as these are deemed to be two separate matters. Further, issuing two separate orders will permit the zoning to come into effect at different times as development proceeds.

[3] The Applicant and the City have agreed to a comprehensive solution for development of the assembled lands (110, 114, and 120 Broadway Avenue). The Tribunal is in receipt of electronic and written correspondence dated July 26, 2019 from Johanna Shapira (placed on the Tribunal’s file), counsel for CAPREIT Limited Partnership (“CAPREIT”) – tenant of the property known municipally as 124 Broadway Avenue. This property abuts the subject lands on the east side of the developable site and CAPREIT confirms that it has reached a settlement with the Applicants on these files as it relates to the subject appeals.

[4] The letter details CAPREIT's agreement to the Applicant's settlement offer based on items 1a-d, 2 and 3, referencing the matter of joint driveway access from the 110 Broadway lands; podium setbacks for the 110 Broadway lands along the shared lot line; east elevation balconies on the north podium of these lands; an easement over a portion of the 110 Broadway lands to the registered owner of the 124 Broadway Avenue lands "to facilitate the future vehicular, loading and pedestrian access" to those lands; and other terms as set out in the settlement agreement.

[5] The Applicant's Planner, Craig Hunter, was qualified to provide his professional land use planning evidence in support of the development, the settlement details and the conditions for the Tribunal's consideration. He described the entire development – the building heights, step backs and podium heights; how a new park will be created at the corner of Broadway Avenue and Redpath Avenue; and how an easement along the east of the subject lands will be secured and provide good separation with the abutting lands at 124 Broadway Avenue that are tenanted by CAPREIT. He noted that this easement will not impede future development of that address. A complete description of the new development is found in the Applicant's document book (Exhibit 1) with visual examples provided in the Applicant's Visual Evidence (Exhibit 2).

[6] With the acquisition of all these lands as assembled, Mr. Hunter explained how the various towers will interact and how the development constitutes good planning. On this latter point, he provided his summary opinion that the development achieves the direction and applicable policies of the Province's upper-tier instruments and the City's Official Plan and zoning permissions and standards as well as its relevant guidelines.

[7] The Tribunal also heard how the Applicant and the City worked closely together to ensure that the new development will provide existing renters with new homes by way of a coordinated tenancy agreement that will, among other things, move the existing property residents to other locations while construction begins and is completed. Further, what makes the new development so supportable in the Tribunal's view is that replacement rental housing will be provided; the Applicant is providing rental

tenancy for renters living in nearby Broadway Avenue properties; the Applicant exceeds the number of required rental units; and the Applicant is also providing affordable housing opportunities within the new development.

[8] Both applications went to City Council, which endorsed the settlements to ensure that the subject lands will develop in an ordered and comprehensive fashion. Mr. Hunter provided details of how the buildings will be sited in order to accommodate the new public park at the corner of Broadway Avenue and Redpath Avenue. He explained that the revised proposal will consolidate into a single 36-storey tower all of the rental replacements on the current lands as well as those rental units from a previous approval for 117 and 127 Broadway Avenue. The finalized agreement will speak to the tenancy agreement that preserves the tenancy of existing renters in the new building. The Tribunal notes that, in providing 413 rental apartments, the Applicant is also providing an additional 89 units beyond the requirement. And, as reference earlier, the Applicant is expanding the range of housing options by providing no less than 50 affordable housing units.

[9] As an area with the Apartment Neighbourhoods designation in the Official Plan, the Tribunal notes that the area can accommodate a greater scale of development, as is intended. Such growth is a priority found in the Growth Plan for the Greater Golden Horseshoe and in the Yonge-Eglinton Secondary Plan. Correspondingly, with the level and amount of growth in the area, the City has expanded its existing parks and sought out new park locations. In this regard, the Applicant has proposed a new park roughly 746 square metres in size.

[10] Finally, Mr. Hunter reviewed the conditions to be applied for the Tribunal's consideration. The Tribunal notes that these are to be satisfied on each property and based on the planner's opinion and recommendation, the Tribunal will support these conditions as reasonable for the successful outcome of consolidated development that is supportable in the planning context.



[11] Based on the uncontradicted evidence and opinion of the planner and on a full review of the supporting documentation on file, the Tribunal finds the proposed development for each property to constitute good planning. As the settlement details are voluminous, the Settlement document is attached to this decision of the Tribunal (PL180033) as Attachment 1, but is cross-referenced to the Tribunal's associated related decision for PL160910 as being applicable and germane to the successful development of the subject lands.

### **DECISION FOR 110, 114 AND 120 BROADWAY AVENUE**

[12] 110 Broadway Inc. and Broadway Redpath Development Corporation's appeal is allowed, in part, and the zoning by-law amendments to permit the redevelopment of 110, 114 and 120 Broadway Avenue, in the City of Toronto, are approved in principle, with the Local Planning Appeal Tribunal's Order being withheld until the Local Planning Appeal Tribunal has been advised by the City Solicitor that:

1. the proposed zoning by-law amendments are in a form satisfactory to the City, securing, among other things, the affordable rental and replacement units, rents, tenant relocation and assistance plans and any other related rental matters for the rental dwelling units at 110, 114 and 120 Broadway Avenue, and are in conformity with Section 3.2.1.6 of the Official Plan;
2. City Council has approved the rental housing demolition application 17 218847 NNY 25 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act*, 2006 to demolish the 121 existing rental dwelling units at 110, 114 and 120 Broadway Avenue;
3. the City has received an executed section 37 agreement and the section 37 agreement has been registered on title to 110, 114 and 120 Broadway Avenue;
4. the Chief Engineer, and Executive Director, Engineering and Construction Services has confirmed water, sanitary and stormwater capacity, and has received a satisfactory Functional Servicing Report, a Storm Water Management Report and Hydrogeological Report to the satisfaction of the Environmental Monitoring and Protection Unit of Toronto Water;

5. the General Manager, Transportation Services has received a revised satisfactory Transportation Impact Study and a Transportation Demand Management Report; and
6. the Chief Planner and Executive Director, City Planning has received a revised pedestrian Wind Study, Shadow Study, Toronto Green Standards, Checklist, Urban Design Brief, and a full architectural package including site plan, landscape plans, elevations, sections and floor plans.

*"R. Rossi"*

R. ROSSI  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Tribunals Ontario - Environment and Land Division  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

**ATTACHMENT 1**

**THE R.W. ONE HUNDRED LAND CORPORATION**

**And**

**110 BROADWAY INC.**

**And**

**BROADWAY REDPATH DEVELOPMENT CORPORATION**

**And**

**CAPREIT LIMITED PARTNERSHIP and  
3414493 CANADA INC.**

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**MINUTES OF SETTLEMENT**

**July \_\_, 2019**

**LPAT CASE NO. PL180033**

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**ADDENDA**

**SCHEDULE "A" DESCRIPTION OF THE 100 BROADWAY LANDS**

**SCHEDULE "B" DESCRIPTION OF THE 110 BROADWAY LANDS**

**SCHEDULE "C" DESCRIPTION OF THE 124 BROADWAY LANDS**

**SCHEDULE "D" SITE PLAN DRAWING**

**SCHEDULE "E" FORM OF EASEMENT**

## MINUTES OF SETTLEMENT

### RECITALS:

- (1) The R.W. One Hundred Land Corporation (“**100 Broadway**”) is the registered owner of the property municipally known as 100 Broadway Avenue and 223 – 225 Redpath Avenue, City of Toronto as more particularly described in Schedule “A” (the “**100 Broadway Lands**”).
- (2) 110 Broadway Inc. and Broadway Redpath Development Corporation (collectively “**110 Broadway**”) are the registered owners of the property municipally known as 110, 114 and 120 Broadway Avenue, City of Toronto as more particularly described in Schedule “B” (the “**110 Broadway Lands**”).
- (3) 3414493 Canada Inc. (“3414493”) is the tenant pursuant to a lease of the property municipally known as 124 Broadway Avenue, City of Toronto as more particularly described in Schedule “C” (the “**124 Broadway Lands**”), wherein 3414493 is a nominee and bare trustee for CAPREIT Limited Partnership (3414493 and CAPREIT Limited Partnership are hereinafter collectively referred to as “**CAPREIT**”).
- (4) On September 25, 2015, 100 Broadway filed an application for a Zoning By-law Amendment with the City of Toronto (the “**City**”) to permit the redevelopment of the 100 Broadway Lands for the purposes of a residential condominium building (File No. 15 228723 NNY 25 OZ) (the “**100 Application**”), and on August 18, 2017, 110 Broadway Inc. filed an application for a Zoning By-law Amendment with the City to permit the redevelopment of the 110 Broadway Lands for the purposes of a residential condominium building (File No. 17 218847 NNY 25 OZ) (the “**110 Application**”).
- (5) On September 15, 2016, 100 Broadway appealed the 100 Application to the Local Planning Appeal Tribunal (the “**LPAT**”) for Council’s failure to make a decision on the 100 Application within 120 days pursuant to Subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (OMB Case No. PL160910) (the “**100 Appeal**”) and on December 21, 2017, 110 Broadway appealed the 110 Application to the LPAT for Council’s failure to make a decision on the 110 Application within 120 days pursuant to Subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (OMB Case No. PL180033) (the “**110 Appeal**”).
- (6) On July 31, 2018, the LPAT held a prehearing conference on the 110 Appeal, during which the LPAT granted party status in the appeal proceeding to CAPREIT, as noted in the Memorandum of Oral Decision issued on August 8, 2018. CAPREIT sought party status in the appeal proceeding to address issues regarding the relationship of the proposed redevelopment of the 110 Broadway Lands with both the existing development of the 124 Broadway Lands and the future redevelopment of the 124 Broadway Lands.
- (7) On April 10, 2019, the LPAT held a prehearing conference on the 100 Appeal, during which the LPAT granted party status in the appeal proceeding to CAPREIT, as noted in the Memorandum of Oral Decision issued on April 17, 2019 and subject to the Correction Notice issued on May 8, 2019.

- (8) 100 Broadway, 110 Broadway and CAPREIT have sought to settle the issues raised by CAPREIT regarding the proposed redevelopment of the 100 Broadway Lands and the 110 Broadway Lands. As a result of settlement discussions amongst the Parties, which included an LPAT-led mediation with the City, 100 Broadway and 110 Broadway have agreed to incorporate certain elements into the redevelopment plans for the 110 Broadway Lands, which elements are described in Section 2.1(1)(a) of this Agreement and are referred to collectively in this Agreement as the “**CAPREIT Elements**”. 110 Broadway has also agreed to grant an easement and right-of-way over a portion of the 110 Broadway Lands in order to facilitate future vehicular, loading and pedestrian access to the 124 Broadway Lands.
- (9) By letter date June 17, 2019, 100 Broadway and 110 Broadway submitted an offer to the City to settle both the 100 Appeal and the 110 Appeal, the basis of which are plans that include the CAPREIT Elements, which offer was accepted by City Council at its meeting that commenced on June 18, 2019 (the “**Settlement**”). The Settlement will form the basis of a settlement hearing at the LPAT to commence on July 29, 2019 or on such date as the LPAT orders (the “**Settlement Hearing**”).

In consideration of the above and for other good and valuable consideration, the parties agree as follows.

## ARTICLE 1 INTERPRETATION

### Section 1.1 Defined Terms.

As used in this Agreement, the following terms have the following meanings:

“**Agreement**” means these Minutes of Settlement.

“**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which Canadian chartered banks are closed for business in Toronto, Ontario.

“**Easement**” has the meaning set out in Section 3.1(1)(b).

“**Easement Lands**” has the meaning set out in Section 3.1(1)(a).

“**North Tower**” means the tower portion of the building above the Podium located on the northern part of the 110 Broadway Lands.

“**Notice**” has the meaning set out in Section 8.1.

“**Party**” means any one of The R.W. One Hundred Land Corporation, 110 Broadway Inc., Broadway Redpath Development Corporation, CAPREIT Limited Partnership and 3414493 Canada Inc., and any other Person who becomes a party to this Agreement.

“**Person**” means an individual, partnership, limited partnership, limited liability partnership, corporation, limited liability company, unlimited liability company, joint stock company, trust,

unincorporated association, joint venture or other entity or governmental entity, and pronouns have a similarly extended meaning.

“**Podium**” means the base portion of a building.

“**Shared Costs**” has the meaning set out in Section 3.1(1)(f).

“**Shared Lot Line**” means the lot line shared between the 110 Broadway Lands and the 124 Broadway Lands.

“**South Tower**” means the tower portion of the building above the Podium located on the southern part of the 110 Broadway Lands.

“**Tower**” means the tower portion of a building located above a Podium.

### **Section 1.2 Gender and Number.**

Any reference in this Agreement to gender includes all genders. Words importing the singular number include the plural and vice versa.

### **Section 1.3 Headings, etc.**

The provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect its interpretation.

### **Section 1.4 Incorporation of Schedules.**

The schedules attached to this Agreement form an integral part of it.

### **Section 1.5 References to Persons and Agreements.**

Any reference in this Agreement to a Person includes its legal representatives, successors and permitted assigns.

### **Section 1.6 Statutes.**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it as it or they may have been, or may from time to time be, amended, re-enacted or replaced.

## **ARTICLE 2 DEVELOPMENT**

### **Section 2.1 Non-Objection.**

(1) The Parties agree as follows:

- (a) CAPREIT shall not object to any request to the LPAT to approve the Settlement, which includes the plans prepared by IBI Group dated June 11, 2019 for the 100



Broadway Lands and the plans prepared by IBI Group dated June 11, 2019 for the 110 Broadway Lands (together, the “**Settlement Plans**”), on the basis that the plans being presented for approval by the LPAT include the following elements:

- (i) a joint driveway access from Broadway Avenue of at least 6 metres in width on the east side of the 110 Broadway Lands, flanked to the east by a 2.5 metre wide landscaped buffer and a 2.1 metre wide mid-block connection, which driveway includes a break in the landscaped buffer to allow a future connection to the 124 Broadway Lands, as generally depicted in the Settlement Plans;
- (ii) in respect of the southern portion of the proposed building on the 110 Broadway Lands, a Podium setback of at least 14.35 metres from the Shared Lot Line and a South Tower setback of at least 15.85 metres from the Shared Lot Line, as generally depicted in the Settlement Plans;
- (iii) in respect of the northern portion of the proposed building on the 110 Broadway Lands, a Podium setback of at least 7.5 metres from the Shared Lot Line and a North Tower setback of at least 10.0 metres from the Shared Lot Line, as generally depicted in the Settlement Plans; and
- (iv) the balconies located on the east elevation of the north Podium on the 110 Broadway Lands shall have a depth of no more than 1.5 metres.

The four (4) elements identified above in (i) through (iv) will be collectively referred to in this Agreement as the “**CAPREIT Elements**”.

- (b) With respect to subsection (1)(a) above, 110 Broadway and CAPREIT acknowledge that the redevelopment of the 110 Broadway Lands is subject to Site Plan Approval pursuant to Section 114 of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A., as amended, and the specific location and configuration of the driveway, balconies and other aspects of the redevelopment are to be approved as part of that process. It is agreed that 110 Broadway shall not, directly or indirectly, seek to amend or modify any of the CAPREIT Elements, nor seek any amendments or modifications to the redevelopment plans that would be inconsistent with any of the CAPREIT Elements, through the Site Plan Approval process or any subsequent development application or otherwise. In the event that an approval authority, or representative thereof, requests an amendment or modification to any of the CAPREIT Elements, or an amendment or modification that is inconsistent with any of the CAPREIT Elements, 110 Broadway shall use reasonable commercial efforts to resist such amendment or modification and shall immediately notify CAPREIT of such request and allow CAPREIT to make submissions to the approval authority in connection with such request.
- (c) 100 Broadway and 110 Broadway shall not, directly or indirectly, object to, oppose or interfere with any future development applications or related proceedings before the City of Toronto, the Local Planning Appeal Tribunal and/or the City of Toronto Local Appeal Body, or any successor approval authority or body, in respect of any future redevelopment of the 124 Broadway

Lands, provided the separation distance between any Podiums on the 110 Broadway Lands and the 124 Broadway Lands is no less than 11 metres and the separation distance between any Towers on the 110 Broadway Lands and the 124 Broadway Lands is no less than 23 metres.

**Section 2.2 Local Planning Appeal Tribunal Proceedings.**

- (1) Upon execution of this Agreement, CAPREIT shall notify the LPAT in writing that it does not object to:
  - (a) the Settlement, on the basis that
    - (i) the Settlement Plans include the CAPREIT Elements,
    - (ii) 110 Broadway has agreed to grant the Easement over a portion of the 110 Broadway Lands to facilitate future vehicular, loading and pedestrian access to the 124 Broadway Lands, and
    - (iii) the Parties have entered into this Agreement, which addresses items (i) and (ii) and related matters; or to
  - (b) the 100 Appeal and 110 Appeal being heard together, or consolidated, or as 100 Broadway and 110 Broadway may otherwise determine appropriate, on July 29, 2019 or such other date that the LPAT schedules.
- (2) The Parties agree that 100 Broadway or 110 Broadway will lead evidence at the Settlement Hearing that identifies this Agreement and specifically addresses the scope, nature and intent of the CAPREIT Elements, as well as the Easement as defined in this Agreement, and that a request will be made of the LPAT to enter a copy of this Agreement as an exhibit at the Settlement Hearing.
- (3) The Parties agree that in the event that the Settlement is not approved by the LPAT in the course of the proceedings for the 110 Appeal, or is approved by LPAT at a lesser height and/or density than proposed in the Settlement, and the zoning by-law amendments implementing such LPAT approval in principle are not brought into force and effect, this Agreement shall be null and void.
- (4) Subject to Section 3.1 of this Agreement, the Parties shall each bear their own costs in connection with the 100 Appeal and 110 Appeal and the negotiation and preparation of this Agreement. The Parties agree that they shall not make requests to the LPAT for costs in connection with the 100 Appeal and the 110 Appeal.

**ARTICLE 3  
EASEMENT**

**Section 3.1 Easement Matters**

- (1) In order to facilitate coordination between the redevelopment of the 110 Broadway Lands and the future redevelopment of the 124 Broadway Lands, 110 Broadway and CAPREIT have agreed that:
  - (a) 110 Broadway shall grant a surface easement and right-of-way in perpetuity to the registered owner of the 124 Broadway Lands, in the location generally depicted on the site plan drawing attached as Schedule "D" to this Agreement (the "**Easement Lands**").
  - (b) The surface easement and right-of-way identified in paragraph (a) of this Section shall permit vehicular and pedestrian ingress and egress from Broadway Avenue to and from any future redevelopment of the 124 Broadway Lands (including for the purposes of deliveries and loading), and shall be in the form attached as Schedule "E" to this Agreement (the "**Easement**"). In the event that, in the context of future redevelopment of the 124 Broadway Lands, the registered owner of the 124 Broadway Lands (the "**Transferee**") is of the view, in its sole discretion, that the Easement is not required for pedestrian and vehicular ingress and egress from and to the 124 Broadway Lands, the Transferee may so advise 110 Broadway in writing and the Transferee shall deliver to 110 Broadway such reasonable documents as may be required to release and abandon the Easement. For greater certainty, the term "future redevelopment" in this section does not include minor improvements or minor alterations to the buildings or other improvements existing on the 124 Broadway Lands as of July 24, 2019.
  - (c) 110 Broadway shall grant the Easement by including the grant of the Easement in the condominium declaration and description for the redevelopment of the 110 Broadway Lands. In the event that the approval authority does not agree to include the Easement as a condition of condominium approval, or 110 Broadway fails to include the Easement in the condominium declaration and description, or 110 Broadway does not proceed with registering a condominium in respect of the redevelopment of the 110 Broadway Lands, 110 Broadway shall include in the declaration that it is a duty of the condominium corporation to grant the Easement and, if required, CAPREIT, as the agent of 110 Broadway, shall prepare, submit and process the consent application and shall bear all costs in relation to the consent application, including but not limited to all reasonable out-of-pocket costs incurred by 110 Broadway, any and all costs and fees related to the registration of the Easement, securing full and final approval of a consent from the committee of adjustment, or any appeal body or any other public authority, tribunal or court with jurisdiction on appeal, as well as the preparation and registration of the plan of reference identifying the Easement Lands, all to the satisfaction of 110 Broadway. 110 Broadway shall co-operate in any such application and appeal.
  - (d) Prior to the registration of the condominium declaration and description for the redevelopment of the 110 Broadway Lands, 110 Broadway shall deliver to

CAPREIT a copy of a draft reference plan prepared by an Ontario Land Surveyor which shows the final location and configuration of the Easement, in accordance with the terms of this Agreement. CAPREIT shall, within ten (10) business days of receipt of the draft reference plan, either confirm to 110 Broadway that CAPREIT approves the reference plan, or that CAPREIT has objections to the reference plan, in which case CAPREIT shall set out such objections in writing to 110 Broadway. 110 Broadway and CAPREIT shall work to resolve any objections raised by CAPREIT diligently and in good faith within ten (10) business days. Should a resolution not be reached within ten (10) business days as provided herein, 110 Broadway may proceed to register the condominium declaration and description for the redevelopment of the 110 Broadway Lands, and the parties agree to continue to work to resolve any objections raised by CAPREIT diligently and in good faith, and CAPREIT shall subsequently prepare, submit and process the consent application in accordance with section 3.1(1)(c) herein.

- (e) CAPREIT shall bear all reasonable out-of-pocket expenses incurred by 110 Broadway directly in connection with the grant of the Easement, including but not limited to such costs incurred related to granting the Easement in the declaration and description of the condominium. If requested by CAPREIT, 110 Broadway will provide CAPREIT will copies of invoices, or other evidence, of the reasonable out-of-pocket expenses incurred by 110 Broadway referred to herein.
- (f) 110 Broadway and CAPREIT acknowledge that it will be necessary to enter into an agreement for the sharing of maintenance costs associated with the Easement Lands, including the costs associated with snow clearing, asphalt maintenance, landscaping and replacement (the “**Shared Costs**”), which agreement will commence at the commencement of the Easement term (the “**Shared Costs Agreement**”). The Shared Costs Agreement shall be registered on title to 110 Broadway Lands and the 124 Broadway Lands at the time of registration of the condominium declaration on the 110 Broadway Lands. The Shared Costs will be shared on the basis that 110 Broadway and CAPREIT will each be responsible for 50% of the cost of maintaining the Easement Lands, for the duration of the Easement. 110 Broadway and CAPREIT shall diligently and in good faith negotiate and settle the terms of the agreement relating to Shared Costs within 12 months of the date of this Agreement and the parties shall each bear their own costs in connection with the Shared Costs Agreement. In the event that the registered owner of the 124 Broadway Lands is of the view, in its sole discretion, that the Easement is not required for pedestrian and vehicular ingress and egress from and to the 124 Broadway Lands in the context of a future redevelopment of the 124 Broadway Lands, prior to the term of the Easement commencing, and per Section 3.1(1)(b) of this Agreement, advises 110 Broadway in writing of such view, the Shared Costs Agreement shall not come into effect and the Transferee shall deliver to 110 Broadway such reasonable documents as may be required to terminate the Shared Costs Agreement and both parties shall execute and deliver such documents as may be required to release and delete the Shared Costs Agreement from titles to the 110 Broadway Lands and 124 Broadway Lands. For greater certainty, the term “future redevelopment” in this section does not include

minor improvements or minor alterations to the buildings or other improvements existing on the 124 Broadway Lands as of July 24, 2019.

- (g) For greater clarity, the Shared Costs do not include the cost of constructing the improvements over the Easement Lands. 110 Broadway and CAPREIT covenant and agree that 110 Broadway shall be responsible for designing, constructing and installing the driveway and all other improvements over the Easement Lands in the course of constructing the new development on the 110 Broadway Lands and in accordance with all municipal requirements and codes.
- (h) The access arrangements provided for in this Agreement may be modified at a future date when the 124 Broadway Lands are redeveloped, but only if 110 Broadway and CAPREIT enter into a written agreement regarding those arrangements that is acceptable to both of them.

#### **ARTICLE 4 TRANSFER OF LANDS**

##### **Section 4.1 Sale of Lands**

Nothing in this Agreement shall prevent or be deemed to have prevented the sale, transfer, charging, mortgaging, pledging or the disposition by any Party of the whole or any part of or interest in its property provided that any transferee or mortgagee executes a written assumption agreement agreeing to be bound by the provisions of this Agreement as if it was an original party thereto with respect to its respective lands. In the event of a sale or transfer of the property or any part thereof the owner of such part of the property shall immediately be released from its obligations under this Agreement in relation to such lands provided that the purchaser or transferee executes the applicable assumption agreement as aforesaid. For greater certainty, an arm's length purchaser of a condominium unit shall not be required to enter into an assumption agreement.

##### **Section 4.2 Assumption by Condominium Corporation**

As soon as reasonably possible following the registration of a declaration under the Condominium Act (Ontario) in respect of a condominium on the 110 Broadway Lands or the 124 Broadway Lands or any part thereof, and prior to such condominium's turnover meeting, 110 Broadway or CAPREIT, as the case may be, shall cause such condominium corporation to enter into an assumption agreement, in the form attached hereto as Schedule "E", whereby such condominium corporation shall agree to assume and be bound by all of the terms and conditions of this Agreement in place and stead of 110 Broadway or CAPREIT, as the case may be, and, subject to Section 2.1 hereof, 110 Broadway or CAPREIT, as the case may be, shall be automatically and fully released from any and all of its obligations hereunder, to the extent of the obligations so assumed, and all of the rights and obligations accruing to 110 Broadway or CAPREIT, as the case may be, hereunder shall thereafter accrue to and benefit and be enforceable by such condominium corporation in place and stead of 110 Broadway or CAPREIT, as the case may be, as if it were an original signatory. 110 Broadway or CAPREIT, as the case may be, shall provide a copy of the signed assumption agreement to the other as soon as reasonably possible following its execution. 110 Broadway and CAPREIT shall include a provision in the registered declaration of such condominium corporation making it a duty of such



condominium to enter into, and comply with the provisions of, the said assumption agreement and this Agreement.

## **ARTICLE 5 INSURANCE**

### **Section 5.1 Required Insurance**

The Parties covenant and agree that:

- (1) Each of 110 Broadway and CAPREIT shall maintain its own comprehensive general liability insurance in an amount of not less than Ten Million Dollars (\$10,000,000.00) with respect to any one accident arising from, under, or through the use of the Easement, or in connection with the enjoyment or exercise of any other rights conferred under this Agreement, and each of 110 Broadway and CAPREIT shall deliver a certified copy of certificate of such policy to the other at any time or times upon request. Each of 110 Broadway and CAPREIT (in this context the "Releasing Party") hereby releases the other party (in this context the "Released Party") from all damages, losses, or other liabilities whatsoever arising as a result of occurrences required to be or otherwise insured against by the Releasing Party (except to the extent caused by the negligence of the Released Party or those for whom it is in law responsible), without taking into account any deductible or coinsurance provisions or clauses in the Releasing Party's insurance policy or policies. This release shall extend to and be for the benefit of the mortgagees of 110 Broadway and CAPREIT, as the case may be. Alternatively, each comprehensive general liability insurance policy upon written request shall name the other party and its mortgagee as additional insured and shall contain cross-liability endorsements and severability of interests clauses; and
- (2) Either Party hereto acting reasonably shall have the right for a period of sixty (60) days following the end of each five (5) year period during the term of this Agreement, to give written notice to the other party requiring the amount of the coverage of the said liability insurance to be increased. The amount of such increase shall be an amount commensurate with the then current standard of liability insurance coverage with respect to the operation of an access easement used in conjunction with residential operations.

## **ARTICLE 6 INDEMNITIES**

### **Section 6.1 110 Broadway Indemnity**

Notwithstanding any other terms, covenants and conditions contained in this Agreement, 110 Broadway shall indemnify CAPREIT and save it harmless from and against any and all loss, claims, actions, damages, liability, and expenses in connection with loss of life, personal injury, damage to property or any other loss or injury whatsoever arising from or out of this Agreement, or the occupancy or use by 110 Broadway of the 110 Broadway Lands or any part thereof, or occasioned wholly or in part by any negligent or wilful act or omission of 110 Broadway, its agents, contractors, employees, servants, licensees and invitees, or by anyone permitted to be upon the 110 Broadway Lands. If CAPREIT shall, without fault on its part, be made a party to any litigation commenced by or against 110 Broadway, 110 Broadway shall protect, indemnify

and hold CAPREIT harmless and shall defend such action in the name of CAPREIT or otherwise and pay all costs, expenses, and legal fees so that CAPREIT shall suffer no loss or harm in connection with such litigation.

#### **Section 6.2 CAPREIT Indemnity**

Notwithstanding any other terms, covenants and conditions contained in this Agreement, CAPREIT shall indemnify 110 Broadway and save it harmless from and against any and all loss, claims, actions, damages, liability, and expenses in connection with loss of life, personal injury, damage to property or any other loss or injury whatsoever arising from or out of this Agreement, or the occupancy or use by CAPREIT of the Easement Lands or the 124 Broadway Lands or any part thereof, or occasioned wholly or in part by any negligent or wilful act or omission of CAPREIT, its agents, contractors, employees, servants, licensees and invitees, or by anyone permitted to be upon the 124 Broadway Lands. If 110 Broadway shall, without fault on its part, be made a party to any litigation commenced by or against CAPREIT, CAPREIT shall protect, indemnify and hold 110 Broadway harmless and shall defend such action in the name of 110 Broadway or otherwise and pay all costs, expenses, and legal fees so that 110 Broadway shall suffer no loss or harm in connection with such litigation.

### **ARTICLE 7 CERTIFICATE OF COMPLIANCE**

#### **Section 7.1 Certificate of Compliance**

Each of the Parties hereto hereby covenant and agree that, at any time during the term of this Agreement, and within ten (10) days after written request by a party hereto, they shall execute and deliver to the other Party, a certificate stating and confirming:

- (1) whether this Agreement or any supplementary, replacement and/or counterpart agreement hereto (the "**Replacement Agreement**"), has been modified and if so, the nature of such modifications, and confirming that it is in full force and effect; and
- (2) any existing default by any Party under this Agreement within its knowledge, specifying the nature and extent thereof.

#### **Section 7.2 Effect of Certificate of Compliance**

The certificate of compliance set forth in this article may be pleaded and shall constitute a complete defense by the Party and others to whom it is addressed to any action brought, or to any claim that is inconsistent with the facts recited in the said certificate.

**ARTICLE 8  
MISCELLANEOUS**

**Section 8.1 Notices.**

Any notice, direction or other communication given regarding the matters contemplated by this Agreement (each a "Notice") must be in writing, sent by personal delivery, courier, email or facsimile and addressed:

- (1) to CAPREIT

Attention: Dayna Gilbert  
Email: d.gilbert@capreit.net  
Telephone: 416-306-3489

and

Attention: Corinne Pruzanski  
Email: c.pruzanski@capreit.net  
Telephone: 416-306-3069

- (2) to 100 Broadway and 110 Broadway

c/o Shane Fenton, Reserve Properties Limited

Attention: Shane Fenton  
Email: shane@reserveinvest.com  
Telephone: (416) 440-2904 ext. 225

with a copy to:

Goodmans LLP  
Bay Adelaide Centre - West Tower  
333 Bay Street, Suite 3400  
Toronto, ON M5H 2S7

Attention: David Bronskill and Joe Hoffman  
Email: dbronskill@goodmans.ca / jhoffman@goodmans.ca  
Telephone: (416) 597-4299 / (416) 597-5168

**Section 8.2 Amendments.**

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by all of the Parties.

**Section 8.3 Further Assurances**

The Parties agree that at all times and from time to time hereafter upon every reasonable written request to do so by another Party, that they shall make, execute, deliver or cause to be



made, done, executed and delivered, all such further acts, deeds, assurances, and things as may be required for more effectively implementing and carrying out the true intent and meaning of this Agreement.

**Section 8.4 Waiver.**

No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right it may have.

**Section 8.5 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties with respect to the transactions contemplated by this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties with respect to such transactions. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The Parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

**Section 8.6 Successors and Assigns.**

This Agreement becomes effective when executed and delivered by all of the Parties. Upon delivery, this Agreement will be binding upon and enure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns.

**Section 8.7 Severability.**

If any provision of this Agreement is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

**Section 8.8 Governing Law.**

This Agreement is governed by, and will be interpreted and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 8.9 Counterparts.**

This Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of this Agreement.

The Parties have executed this Agreement.

**THE R.W. ONE HUNDRED LAND  
CORPORATION**

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer

I/We have the authority to bind the corporation.

**110 BROADWAY INC.**

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer

I/We have the authority to bind the corporation.

**BROADWAY REDPATH DEVELOPMENT  
CORPORATION**

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer

I/We have the authority to bind the corporation.

**CAPREIT LIMITED PARTNERSHIP BY ITS  
GENERAL PARTNER CAPREIT GP INC.**

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer  
I/We have the authority to bind the corporation.

**3414493 CANADA INC.**

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer

By: \_\_\_\_\_  
Name:  
Authorized Signing Officer  
I/We have the authority to bind the corporation.

**SCHEDULE "A"**  
**DESCRIPTION OF THE 100 BROADWAY LANDS**

PIN 21136-0280

PT LT 10-11 PL 806 NORTH TORONTO AS IN CA669928; S/T CA669928; CITY OF TORONTO

PIN 21136-0267

PT LT 10-11 PL 806 NORTH TORONTO PT 1, 63R1214;; CITY OF TORONTO

PIN 21136-0268

PT LT 10-11 PL 806 NORTH TORONTO PT 2 & 3, 63R1214; S/T & T/W CA756499; CITY OF TORONTO

**SCHEDULE "B"**  
**DESCRIPTION OF THE 110 BROADWAY LANDS**

PIN 21136-0279

LT 12 PL 806 NORTH TORONTO; CITY OF TORONTO. S/T AN EASEMENT IN FAVOUR OF ROGERS CABLE COMMUNICATIONS INC. AS IN AT941028.

PIN 21136-0278

PT LT 13 PL 806 NORTH TORONTO AS IN CT848679; S/T & T/W CT848679; CITY OF TORONTO

PIN 21136-0277

PT LT 13 PL 806 NORTH TORONTO AS IN EO106750; S/T & T/W EO106750; CITY OF TORONTO

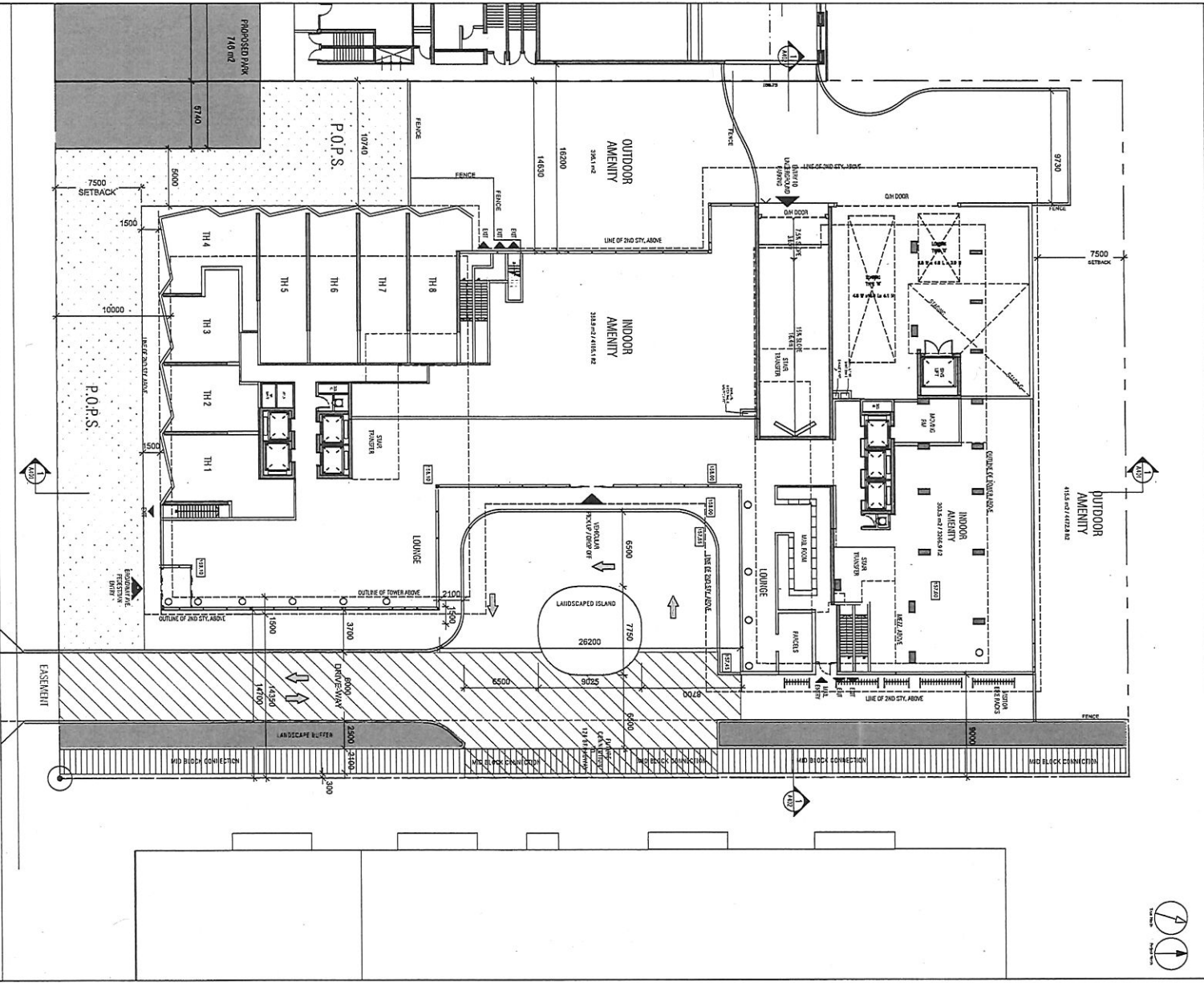
**SCHEDULE "C"**  
**DESCRIPTION OF THE 124 BROADWAY LANDS**

PIN 21136-0275

PT LT 14-15 PL 806 NORTH TORONTO AS IN CA392677; CITY OF TORONTO, AND  
MUNICIPALLY KNOWN AS 124 BROADWAY AVENUE, TORONTO, ONTARIO, WHICH  
SHARES A BOUNDARY WITH THE TRANSFEROR'S LANDS

**SCHEDULE "D"**  
**SITE PLAN DRAWING**

BROADWAY AVE.



| CLIENT<br>Reserve Properties /<br>Westdale Properties   |                          |      |
|---|--------------------------|------|
| Street Address<br>City, Country, Postal Code  |                          |      |
| <small>COPYRIGHT</small><br>This drawing is the property of the licensor and shall not be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of the licensor. The licensor shall not be liable for any damages, including consequential damages, arising from the use of this drawing for any purpose other than that for which it was prepared. |                          |      |
| <small>ME Group Architects (Canada) Inc.</small><br>A member of the ME Group of companies   |                          |      |
| ISSUES  |                          |      |
| No.   | DESCRIPTION              | DATE |
|   |                          |      |
| CONSULTANTS   |                          |      |
| SEAL  |                          |      |
| <small>ME GROUP</small><br>60 St. Clair Avenue West, 17th Floor<br>Toronto, ON M5V 2Y7, Canada<br>Tel: 416 593-0200 or 416 596-5544<br>Fax: 416 593-0201  |                          |      |
| PROJECT<br>110-120 Broadway<br>110-120 Broadway<br>Toronto, ON<br>MAP 1V7   |                          |      |
| PROJECT NO:<br>120426   | DRAWN BY:<br>Author      |      |
| DRAWN BY:<br>Author   | CHECKED BY:<br>Checker   |      |
| PROJECT MGR:<br>Designer  | APPROVED BY:<br>Approver |      |
| SHEET TITLE<br>GROUND FLOOR PLAN<br>SC. 1:150   |                          |      |
| SHEET NUMBER<br>A201  | ISSUE<br>20190611        |      |

2018-05-23 12:52:52 PM



**SCHEDULE "E"**  
**FORM OF EASEMENT**

**Properties**

*PIN* 21136 - 0277 LT *Interest/Estate* Easement  Add Easement

*Description* SERVIENT LANDS:  
PART OF LOT 13, PLAN 806, NORTH TORONTO, DESIGNATED AS PART \_\_\_\_\_ ON  
PLAN 66R-\_\_\_\_\_, CITY OF TORONTO.

DOMINANT LANDS:  
PT LT 14-15 PL 806 NORTH TORONTO AS IN CA392677; CITY OF TORONTO, BEING ALL  
OF PIN 21136-0275 (LT).

*Address* 120 BROADWAY AVE  
TORONTO

**Consideration**

*Consideration* \$2.00

**Transferor(s)**

The transferor(s) hereby transfers the easement to the transferee(s).

*Name* 110 BROADWAY INC.  
Acting as a company

*Address for Service* 120 Broadway Avenue, Toronto, ON

I, , have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Transferee(s)***Capacity**Share*

*Name* 124 BROADWAY INVESTMENTS INC.  
Acting as a company

*Address for Service* 124 Broadway Avenue, Toronto, ON

**Statements**

Schedule:

**Calculated Taxes**

*Provincial Land Transfer Tax* \$0.00

*Municipal Land Transfer Tax* \$0.00

**File Number**

*Transferor Client File Number* : 18.2147

*Transferee Client File Number* : 120 BROADWAY EASEMENT TO 124 BROADWAY

## ACCESS EASEMENT

### SCHEDULE

THE TRANSFEROR IS THE REGISTERED OWNER OF LAND DESCRIBED IN PIN 21136-0277 (LT), AS PT LT 13 PL 806 NORTH TORONTO AS IN EO106750; S/T & T/W EO106750; CITY OF TORONTO AND MUNICIPALLY KNOWN AS 120 BROADWAY AVENUE, TORONTO, ONTARIO (the "Transferor's Lands").

THE TRANSFEREE IS THE REGISTERED OWNER OF LAND DESCRIBED IN PIN 21136-0275 (LT), AS PT LT 14-15 PL 806 NORTH TORONTO AS IN CA392677; CITY OF TORONTO, AND MUNICIPALLY KNOWN AS 124 BROADWAY AVENUE, TORONTO, ONTARIO, WHICH SHARES A BOUNDARY WITH THE TRANSFEROR'S LANDS (the "Transferee's Lands").

### RIGHTS AND EASEMENT GRANTED

The Transferor grants, conveys and transfers to the Transferee, its successors and assigns, in perpetuity, but subject to all the terms and conditions hereinafter contained, a non-exclusive surface easement and right-of-way (the "Easement") to permit unimpeded access to, in, over, along, across, and upon the lands for the purpose of pedestrian and vehicular ingress and egress (including for the purposes of deliveries and loading) at any and all times on the lands hereinafter described, being Part ● on Plan ● (the "Easement Lands") from Broadway Avenue to and from the Transferee's Lands.

The aforementioned rights and easement are herein granted on the following terms and conditions which are hereby mutually covenanted and agreed to by and between the Transferor and the Transferee.

1. The term of the Easement shall commence upon the later to occur of: (a) substantial completion of the driveway on the Transferor's Lands, which is subject to the Easement, and to be constructed by the Transferor as part of the redevelopment of the Transferor's Lands; or (b) substantial completion of any buildings on the Transferee's Lands, as part of any future redevelopment of the Transferee's Lands, for which the Transferee is of the view that the Easement Lands are required for pedestrian and vehicular ingress and egress for the Transferee's Lands. In the event that, in the context of future redevelopment of the Transferee's Lands, the Transferee is of the view, in its sole discretion, that the Easement is not required for pedestrian and vehicular ingress and egress from and to the Transferee's Lands, the Transferee may so advise the Transferor in writing and the Transferee shall deliver to the Transferor such reasonable documents as may be required to release and abandon the Easement. For greater certainty, the term "future redevelopment" in this section does not include minor improvements or minor alterations to the buildings or other improvements existing on the 124 Broadway Lands as of July 24, 2019.
2. Either the Transferor or the Transferee may confirm to the other in writing of the commencement date of the term of the Easement based upon Section 1 hereof.
3. The Transferee shall bear all reasonable out-of-pocket expenses incurred by the Transferor in connection with the grant of the Easement, including but not limited to such costs incurred related to granting the Easement in the declaration and description of the condominium.
4. The Transferor and the Transferee acknowledge that the Easement Lands are intended to be used as a mutual driveway servicing both the Transferor's Lands and the Transferee's Lands. In this regard, the parties acknowledge that it will be necessary to enter into an agreement for the sharing of costs associated with the maintenance of the Easement Lands, including the costs associated with snow clearing, asphalt maintenance, landscaping and replacement (the "Shared Costs"). The Shared Costs will be shared on the basis that the Transferor and the Transferee will each be responsible for 50% of the overall costs for the Easement Lands, in accordance with an agreement to be entered into by the Transferor and the Transferee.

5. The Transferor and the Transferee shall not allow the parking of any vehicles in, over or through the Easement Lands.
6. The Transferor and the Transferee shall not interfere with the non-exclusive surface easement and right-of-way, and shall, subject to an emergency, not obstruct the Easement Lands without the prior written consent of the other.
7. The Transferor and the Transferee shall be each responsible for any damage to the Easement Lands, caused directly or indirectly by its acts or omissions or the acts or omissions of persons acting under the authority of the Transferor or Transferee, as applicable, in connection with the use and maintenance of the Easement Lands.
8. The Transferee shall save harmless and indemnify the Transferor from and against all manner of action, causes of action, claims, demands, loss, costs, suits, including legal costs of such suits that may arise, be sustained or prosecuted against the Transferor whatever and including, but without restricting the generality of the foregoing, any claims for nuisance in connection with the use of the Easement Lands by the Transferee or persons for whom the Transferee is responsible in law, made against the Transferor as owner of the Easement Lands and in connection with the Easement Lands for or by reason of the neglect or fault of the Transferee and persons for whom it is responsible in law in the exercise of the rights herein granted to the Transferee.
9. The Transferor shall save harmless and indemnify the Transferee from and against all manner of action, causes of action, claims, demands, loss, costs, suits, including legal costs of such suits that may arise, be sustained or prosecuted against the Transferee whatever and including, but without restricting the generality of the foregoing, any claims for nuisance in connection with the use of the Easement Lands by the Transferor or persons for whom the Transferor is responsible in law, made against the Transferee as having the benefit of the Easement and in connection with the Easement Lands for or by reason of the neglect or fault of the Transferor and persons for whom it is responsible in law.
10. Each of the Transferor and the Transferor shall maintain its own comprehensive general liability insurance in an amount of not less than Ten Million Dollars (\$10,000,000.00) with respect to any one accident arising from, under, or through the use of the Easement, or in connection with the enjoyment or exercise of any other rights conferred under this Agreement, and each of the Transferor and the Transferor shall deliver a certified copy of certificate of such policy to the other at any time or times upon request. Each of the Transferor and the Transferor (in this context the "Releasing Party") hereby releases the other party (in this context the "Released Party") from all damages, losses, or other liabilities whatsoever arising as a result of occurrences required to be or otherwise insured against by the Releasing Party (except to the extent caused by the negligence of the Released Party or those for whom it is in law responsible), without taking into account any deductible or coinsurance provisions or clauses in the Releasing Party's insurance policy or policies. This release shall extend to and be for the benefit of the mortgagees of the Transferor and the Transferor, as the case may be. Alternatively, each comprehensive general liability insurance policy upon written request shall name the other party and its mortgagee as additional insured and shall contain cross-liability endorsements and severability of interests clauses.
11. The Easement shall run with the Transferor's Lands for the benefit of the Transferee's Lands and shall benefit and be binding upon the Transferee and its respective successors and assigns in title and shall burden and be binding upon the Transferor and its respective successors and assigns in title.

**SCHEDULE "F"**

**CONDOMINIUM CORPORATION ASSUMPTION AGREEMENT**

**THIS AGREEMENT** made the ● day of ●.

**AMONGST:**

●  
(hereinafter called the "Declarant")

OF THE FIRST  
PART

- and -

**TORONTO STANDARD CONDOMINIUM  
CORPORATION NO. ●**  
(hereinafter called this or the "Condominium Corporation")

OF THE SECOND  
PART

●  
(hereinafter called the "OWNER")

OF THE THIRD  
PART

**WHEREAS** the Declarant and the Owner entered into an amended and restated easement and cost sharing agreement dated ●, a true copy of which is annexed as a schedule hereto (the "Easement Agreement");

**AND WHEREAS** the parties hereto have entered into this Agreement in order to formally evidence and confirm the Condominium Corporation's agreement to assume, be bound by and comply with the terms and provisions of the Easement Agreement, and, without limitation, to assume all outstanding and ongoing obligations and liabilities of the Declarant set forth in or arising under the Easement Agreement;

**NOW THEREFORE THESE PRESENTS WITNESSETH** that in consideration of the sum of \$10.00 of lawful money of Canada now paid by each of the parties hereto to the other, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged), the parties hereto hereby confirm the veracity of the foregoing recitals, both in substance and in fact, and the parties hereto covenant and agree with each other, as follows:

1. That the Condominium Corporation hereby assumes and agrees to be bound by and comply with the terms and provisions of the Easement Agreement, and, without limitation, to assume all outstanding and ongoing obligations and liabilities of the Declarant set forth in or arising thereunder as fully and to the same extent as if the Condominium Corporation were originally named as a party to, and had executed and delivered the Easement Agreement.
2. That the Declarant is hereby fully released from any and all further obligations under the Easement Agreement to the extent of the obligations so assumed.
3. That the Condominium Corporation shall execute and give such further documents and/or assurances as the Declarant and/or the Owner may hereafter require, from time to time, in order to evidence and confirm the foregoing.
4. That Owner shall obtain the benefit of all covenants and agreements on the part of the Condominium Corporation hereinbefore set forth, and shall be entitled to rely upon the Condominium Corporation's assumption of all outstanding obligations and liabilities arising under or in connection with the Easement Agreement.
5. That if any claim or proceeding is made or pursued against the Declarant by the Owner as a result of (or arising from or in connection with) the breach of any term or provision of the Easement Agreement committed by the Condominium Corporation and/or any of its employees, agents, representatives, unit owners, tenants, permitted occupants or invitees or any other person or persons for whom the Condominium Corporation may at law or in equity be responsible, then the Condominium Corporation shall fully indemnify and save the Declarant harmless from and against all costs, claims, damages and/or liabilities which the Declarant may suffer or incur as a result thereof, or in connection therewith.
6. That the parties covenant and agree to execute whatever further documents or assurances are required, and shall and will sign such further and other papers and documents, and shall cause such meetings to be held, resolutions passed and by-laws enacted and cause to be done and performed such further and other acts or things as may be necessary or desirable from time to time in order to give full effect to this agreement and each and every part hereof.
7. That time shall be of the essence of this agreement and of each section of this agreement provided otherwise and provided that the time for doing or completing any matter provided for in this agreement may be extended or abridged by an agreement in writing executed by the parties or their respective solicitors who are hereby expressly appointed in this regard.

**IN WITNESS WHEREOF** the undersigned parties have hereunto executed this agreement as of the date first above-mentioned.

**[DECLARANT]**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have the authority to bind the corporation

**TORONTO STANDARD CONDOMINIUM  
CORPORATION NO. ●**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have the authority to bind the corporation

**[OWNER]**

Per: \_\_\_\_\_

Name:

Title:

I have the authority to bind the corporation