

Revised Statutory Public Notice Procedures under the Ontario Heritage Act

Date:	February 23, 2007
To:	Planning and Growth Management Committee Toronto Preservation Board
From:	Chief Planner and Executive Director, City Planning Division
Wards:	All
Reference Number:	pg070013

SUMMARY

The *Ontario Heritage Act* was recently amended to allow Council to set its own processes for providing statutory notice for its actions and decisions under the Act. Such processes would replace the previous requirement for newspaper advertising, which is expensive and not very effective in informing the public. The City has been advocating this change for years.

Staff recommend that the current Public Notices webpage on the City's website be used to provide these notices. A link will be provided from the webpage displaying the Inventory of Heritage Properties to the Public Notices webpage.

The money saved because newspaper advertising is no longer required will be used to register on the title of properties in new Heritage Conservation Districts notice of their inclusion. This is a requirement of the *Ontario Heritage Act* that was not provided for in City Planning's 2007 Recommended Operating Budget.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning Division recommends:

1. That Council adopt the procedures listed in Attachment 1, effective May 1, 2007, to provide notice to the public of its actions and decisions under the Ontario Heritage Act, as an alternative to newspaper advertising; and

2. the City of Toronto Municipal Code, Chapter 162, be amended to include the procedures adopted in Recommendation 1; and
3. the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto, including the introduction of any necessary bills, as soon as possible after adoption.

Financial Impact

A budget of approximately \$40,000 for notifications is included in the City Planning 2007 Recommended Operating Budget. This amount is subject to a reduction based on the actual spending and commitments necessary for newspaper advertising, prior to Council approval of the alternate procedures recommended in this report. Should Council approve the recommendations of this report, no further monies will be spent on newspaper advertising after such approval. This will provide savings of approximately \$26,700 in 2007 with incremental saving of \$13,300 in 2008.

However, recent amendments to the *Ontario Heritage Act* now require the City to register the fact of inclusion in recently designated Heritage Conservation Districts on the title of every property in such Districts. The cost of this new requirement is approximately \$30,000. It has not been included in the 2007 Recommended Budget and in the 2008/9 Outlooks. Staff recommend that the notification budget be used for these required notifications.

Over 2007, staff will monitor to see if the reduction in the notification budget due to cancellation of newspaper advertising is sufficient to cover the new costs associated with notification, through registration on title, of Heritage Conservation District. Staff will report on the results during the 2008 budget process.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the Financial Impact information.

ISSUE BACKGROUND

On January 1, 2007, the *City of Toronto Act* was proclaimed. Schedule B, Sub-sections 11 (1) and (3) of *City of Toronto Act* had the effect of amending the *Ontario Heritage Act* (the Act). Previously the Act required the City of Toronto to give notice of some of its actions and decisions under Part IV (individual designations) and Part V (Heritage Conservation Districts) through City-wide newspaper advertising. The amendments allow Council to adopt alternate policies and procedures with respect to the form, manner and times in which it will provide public notice.

COMMENTS

The City had been advocating this change to the Act since 2004, when the Province began consultations with the public and municipalities regarding amendments to the Act

as the cost of advertising in newspapers with a City-wide circulation in Toronto is significant, compared with smaller centres. (\$40,000 is recommended in the Operating budget for this purpose in 2007.) In addition, the effectiveness of this type of public notice is questionable in informing the public of Council's actions.

The Legislature did not see fit to grant the City's request in the general amendments to the Act enacted in 2005. However, the City continued to press for the change and the Province did provide relief in the City of Toronto Act (as it amended the Ontario Heritage Act). The amendments to the Act were welcomed by the City and have subsequently been extended to all Ontario municipalities.

The City is required to give statutory public notice of the following actions and decisions it may take under Parts IV and V of the Act:

1. Notice of Intention to Designate (Individual Designation)
2. Withdrawal of Notice of Intention to designate a property
3. Passage of a bylaw designating property
4. Notice of Intention to Repeal a Designating By-law (Individual Designation)
5. Repeal of a Designating Bylaw
6. Decision of Council regarding Demolition of Designated Property (Individual Designation)
7. Passage of a bylaw to designate a Heritage Conservation District Study Area
8. Passage of a bylaw to designate a Heritage Conservation District

The giving of public notice under the Act is important in that it affects the rights of property owners and is useful to residents interested in the City's heritage resources. Property owners and the public have the right to object to or appeal certain Council decisions. The period allowed for appeals of Council's Intention to Designate individual properties and designation of Heritage Conservation Districts starts with the date of publication of public notice. With demolition, if Council does not give public notice within 90 days of receipt of an application it is deemed to have given consent (Attachment 1). The ability to better control the timing of such notices through in-house procedures will be of benefit to the City.

The City wishes its actions to be transparent to the public and to ensure that the rights of persons affected by its decisions are dealt with fairly. Under the Act the Clerk must provide affected property owners with individual notification of Council's decision and this practice will continue. Staff have considered how to best inform the public of Council's decisions, in the absence of newspaper advertising.

Alternative and Recommended Processes

One alternative evaluated was the erection of a sign on the subject property, as is done with many planning applications. It is reasonable to expect applicants to post signs when they initiate a planning application. In the case of designation of property, however, the process is often City initiated and sometimes against the wishes of the owner. To expect

property owners to post a sign with any consistency under these conditions is unrealistic. It is also impractical in the case of Heritage Conservation Districts, which can involve hundreds of properties.

Posting of signs may be useful if an owner of a designated property applies for demolition. However, in the case of residential properties in the former City of Toronto, those applying for approval to demolish buildings are already required to post a notice. Also, the Act only requires public notice after Council has made a decision on demolition and only the owner may appeal Council's decision.

Statutory notices of many Council actions are currently posted on the City's website by the Clerk (<http://www.toronto.ca/involved/notices.htm>). The public has come to look for public notices there. Staff recommend that notices under the Act also be placed here. As the Clerk is also required to individually notify property owners this will simplify the task of co-ordinating public and individual notifications. Staff suggest that the notices be posted as soon as possible after Council's action and that they remain on the City's website for the duration of the appeal period, or, if none as in the case of the passage of a bylaw designating property, 30 days.

Heritage Preservation Services has also posted the City's Inventory of Heritage Properties on the City's website. This site is constantly updated by staff and has proven to be a popular and useful resource for the public and interested parties. Staff recommend that a link be added to the Inventory webpage in a prominent location that will take users directly to the Clerk's statutory notification page to ensure that users have the most recent information.

Chapter 162 of the City of Toronto Municipal Code deals with Public Notice. Staff recommend that it be amended to include the recommendations of this report. The City Clerk, City Solicitor, and Policy, Planning, Finance and Administration staff have been consulted in the preparation of this report and are in agreement with its recommendations.

CONTACT

Barbara Leonhardt, Director, Policy and Research

Tel: 416-392-8148

Fax: 416-392-3821

E-mail: bleonha@toronto.ca

SIGNATURE

Ted Tyndorf
Chief Planner and Executive Director
City Planning Division

Attachment 1 - Process for Giving Statutory Notices under the *Ontario Heritage Act*

**PROCESS FOR GIVING STATUTORY NOTICES
UNDER THE ONTARIO HERITAGE ACT**

Statutory Notice of Council's Actions and Decisions under the *Ontario Heritage Act* shall be given by the City Clerk posting such notices on the City of Toronto's Public Notices webpage as soon as possible after Council's action and for the following durations:

Statutory Notice	Duration of Notice from Date of Posting
Notice of Intention to Designate (Individual Designation)	30 days (objection period)
Withdrawal of Notice of Intention to designate a property	30 days
Passage of a bylaw designating property	30 days
Notice of Intention to Repeal a Designating By-law (Individual Designation)	30 days (objection period)
Repeal of a Designating Bylaw	30 days
Decision of Council regarding Demolition of Designated Property (Individual Designation)	30 days (appeal period – owner only)
Passage of a bylaw to designate a Heritage Conservation District Study Area	30 days (appeal period)
Passage of a bylaw to designate a Heritage Conservation District	30 days (appeal period)

A link will be provided from the City's webpage which displays the Inventory of Heritage Properties to the Clerk's Public Notices webpage.