



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

**939 Lawrence Avenue East, 1090 Don Mills Road, 49 and
75 The Donway West – Settlement Offer**

Date:	February 22, 2010
To:	City Council
From:	City Solicitor
Wards:	Ward 25- Don Valley West
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege. This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
Reference Number:	01 036318 NM1 25OZ

SUMMARY

The applicant has applied for an official plan and zoning by-law amendments in order to develop a series of mixed use buildings, ranging from 12 to 26 storeys, with approximately 1387 residential units. The matter has been appealed to the Ontario Municipal Board (the "OMB"). The parties to the appeal have been in confidential negotiations involving the Office of the Provincial Development Facilitator, including the Chief Planner and the City Solicitor, in accordance with Council's direction of September 30 and October 1, 2010. This Report outlines the details of a potential settlement for Council's consideration.

March 9 and 10, 2010 have been set aside for the hearing of preliminary motions before the OMB, and seven weeks have been set aside for a full hearing, to commence April 19, 2010. The proposed minutes of settlement will expire at the end of the Council meeting commencing February 22, 2010. As such, this matter is time sensitive and requires Council's immediate attention.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council provide instructions to City staff based on the confidential recommendations contained in Attachment 1.
2. Council authorize the public release, at the end of this Council meeting, of the confidential instructions, financial impact, if adopted by Council.

FINANCIAL IMPACT

The financial impacts are discussed in the confidential attachment.

DECISION HISTORY

At its February 9, 2010 meeting, North York Community Council adopted a motion directing City officials to request the parties to the negotiations to disclose publicly, confidential principles of settlement that are deemed to be without prejudice.

<http://www.toronto.ca/legdocs/mmis/2010/ny/bgrd/backgroundfile-27244.pdf>

At its meeting of September 30 and October 1, 2009, City Council rejected a settlement offer from the applicant, and directed that any further negotiations with the applicant, in an attempt to resolve this appeal, include the Chief Planner and Executive Director, City Planning, and that he lead such negotiations in conjunction with the City Solicitor.

<http://www.toronto.ca/legdocs/mmis/2009/ny/reports/2009-09-15-ny27-cr.htm#NY27.54>

City Planning's comments and recommendations respecting the most recent submission can be found in its report of June 9, 2009.

<http://www.toronto.ca/legdocs/mmis/2009/ny/bgrd/backgroundfile-22203.pdf>

ISSUE BACKGROUND

At its meeting of September 30 and October 1, 2009, City Council rejected a settlement offer from the applicant, and directed that any further negotiations with the applicant, in an attempt to resolve this appeal, include the Chief Planner and Executive Director, City Planning, and that he lead such negotiations in conjunction with the City Solicitor.

Since that time, the Chief Planner, the Director of Urban Design, the General Manager of Parks Forestry & Recreation, and Legal Services staff have been in negotiations with the applicant and the Don Mills Residents Inc., which were led by the Office of the Provincial Development Facilitator. A fourth party had also been involved in the negotiations but has since withdrawn from the OMB proceedings. The parties convened

a panel of experts in urban design and architecture, including landscape architecture, for the purpose of three of the negotiation meetings. The Confidential Attachment to this report outlines a potential settlement opportunity for Council's consideration on a confidential and without prejudice basis.

COMMENTS

The details of the potential settlement must remain confidential subject to Council's accepting the terms thereof.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

1. Attachment 1 – Confidential Information