

Revised Report - Short-Term Delegation of Authority to Deal with Applications under Parts IV and V of the Ontario Heritage Act During and After the 2010 Municipal Election

Date:	May 11, 2010
To:	Toronto Preservation Board Planning & Growth Management
From:	Chief Planner and Executive Director, City Planning Division
Wards:	All Wards
Reference Number:	pg10036

SUMMARY

City Council at its meeting held May 11, 2010, referred this report back to staff. This report has been revised based on additional information received from the City's Legal Services Division.

This report recommends that City Council delegate authority to the Chief Planner and Executive Director, City Planning Division, to make decisions in relation to applications to repeal designating By-laws and applications to erect, alter or demolish buildings or structures on properties designated under Parts IV and V of the Ontario Heritage Act, (the "Act") and to give notice of intention to designate listed properties, after the last City Council meeting of the term, until the resumption of regular City Council meetings following the October 2010 municipal election.

RECOMMENDATIONS

The City Planning Division recommends that:

1. Approval of this report by the Toronto Preservation Board shall be considered to be consultation with the Toronto Preservation Board for all purposes under the Act, including subsections 29(2), 32(2), 33(4), 33(15), 34(2) and 42 (4.1).

2. Except for permits that must be or are deemed to be issued under Article IV of the Municipal Code, Chapter 103, Heritage, City Council direct the Chief Planner to refuse applications made under Parts IV and V of the Ontario Heritage Act that have not been considered by Council at or prior to its last regularly scheduled meeting before the October 2010 municipal election and for which the ninety-day period in which Council must respond will expire before Council's first regularly scheduled meeting in 2011, unless the applicant or owner agrees to extend this period to allow Council to consider the application at its first regularly scheduled meeting in 2011.
3. City Council direct the Chief Planner to express Council's intention to designate listed properties, after the last City Council meeting of the term until the resumption of regular City Council meetings following the October 2010 municipal election when an application to alter or demolish a listed property is submitted.
4. City Council direct the Chief Planner to report back to City Council through the Toronto Preservation Board and respective Community Councils at the next available meeting after the resumption of regular City Council meetings following the October 2010 municipal election with a list of the applications received and the decisions made during the delegation period.

Financial Impact

There are no financial implications resulting from the adoption of this report.

ISSUE BACKGROUND

Apart from specific authorities already delegated to the Chief Planner and Executive Director, City Council is required to consider any applications to repeal a designating by-law or applications to alter or to demolish properties designated under Part IV of the Ontario Heritage Act (OHA). Under the Act, Council must give notice of its decision within ninety days of receiving an application to repeal a designating by-law or demolish a Part IV protected property, and within ninety days after a notice of receipt of the application has been served on the applicant in the case of an application to alter a designated property. If Council fails to respond within the ninety day period, Council is deemed to have consented to the application.

In heritage conservation districts, which are designated under Part V of the OHA, the requirement for Council to give notice differs because of the method of approving permits as set out in Article IV of Chapter 103, Heritage, of the Municipal Code. For certain exterior alterations specified in the Municipal Code, permits are deemed to have

been given by Council or, for alterations that conform to the district guidelines, staff may grant permits on Council's behalf. When the application does not conform to the district guidelines or demolition of a building or structure is proposed, Council, and not staff, is required to make a decision within ninety days after notice of receipt has been served on the applicant. If Council fails to respond within the ninety-day period, Council is deemed to have consented to the application.

In addition to designation, Council has expressed its heritage interest in properties by listing them in the City's Inventory of Heritage Properties. Although such listed properties are not designated under either Part IV or Part V of the Act, they are considered worthy of designation by both the Toronto Preservation Board and by Council. When an application is made to demolish buildings on a listed property or where a proposed alteration will result in an unacceptable degree of impact on the heritage value of the resource, if Council does not express its intention to designate the property under the Act, within 60 days of receiving written notice of the owner's intention to demolish or remove the building or structure, provided that all other conditions are met, the Chief Building Official is required to issue a demolition permit. Likewise, building permits cannot be held for alterations to listed buildings unless Council has stated its intention to designate.

COMMENTS

In 2010, the last Council meeting before the municipal election is scheduled for August 25-26 and the last Council meeting for the year is scheduled for December 16, 2010. In this interim period there may be heritage-related applications that require a response from Council. As there will be no opportunity to consult with the Preservation Board or to seek Council approval of any alterations to or demolition of heritage buildings, the ninety-day response period (sixty days in the case of listed buildings) may expire, in which case Council will be deemed to have consented to such applications. As failure to respond may result in the inappropriate alteration or demolition of significant heritage buildings, it is necessary to have another mechanism in place to deal with applications, until such time as Council is in a position to render a decision.

Accordingly, it is desirable to direct the Chief Planner to refuse applications to repeal designating by-laws and applications to erect, alter or demolish buildings or structures on properties designated under Part IV and V of the Act, and to give notice of intention to designate listed properties upon receipt of an application to alter or demolish a listed

property that places the property at risk, after the last City Council meeting of the term until the resumption of regular City Council meetings following the 2010 municipal election. This interim process will cease once the regular Community Council and City Council meeting cycle has convened.

This report has been revised to reflect additional comments received by City Legal Services prior to the item being considered by City Council on May 11, 2010. The revised wording within the recommendations provided by City Legal Services clarifies the scope and authority of the delegation.

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SIGNATURE

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