

**15 York Street – Permission for restaurant patios within
Public Walkway - Request for Instructions Report**

Date:	May 18, 2011
To:	City Council
From:	City Solicitor
Wards:	Ward 28 – Toronto Centre-Rosedale
Reference Number:	Item TE6.68

SUMMARY

Item TE6.68 being considered at the Council meeting of May 17 and 18, 2011, requests City Legal staff, in consultation with Planning staff, to report to that meeting on the request by Maple Leaf Sports & Entertainment ("MLSE") to permit two patios at 15 York Street ("Maple Leaf Square") for two restaurants, one adjacent to Bremner Blvd. (the "Bremner Patio") and one adjacent to York Street (the "York Patio") (collectively, the "Patios"). This Report would authorize amendments to the existing Section 16 Agreement to permit the Patios.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council authorize the amendment to the existing Section 16 Agreement between the City and the owner of 15 York Street to permit two patios at Maple Leaf Square for two restaurants, one adjacent to Bremner Blvd. and one adjacent to York Street, generally as set out in Attachment 1 to this report, with such further technical changes as the City Solicitor may consider appropriate.

Financial Impact

The recommendations will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

Item TE6.68 contains the following recommendations:

1. City Legal staff, in consultation with Planning staff, be requested to report to the May 17, 2011 meeting of Council on the request by Maple Leaf Sports & Entertainment ("MLSE") to permit two patios at Maple Leaf Square for two restaurants, one adjacent to Bremner Blvd. (the "Bremner Patio") and one adjacent to York Street (the "York Patio") (collectively, the "Patios");
2. the local Councillor be requested to meet with the local community to discuss the request and with MLSE to determine such conditions as may be appropriate, including but not limited to:
 - (a) a \$100,000 payment as an alternative amenity in the form of a payment for improvements to local parkland and streetscape improvements;
 - (b) a requirement that MLSE pursue the permission of the Alcohol and Gaming Commission of Ontario for an alternative patio location on York Street for the York Patio, where such patio is located adjacent to the existing planter and permits a weather protected pedestrian walkway; and
 - (c) that this consultation also include discussion of conditions such as patio width, length of the patio season, permanency of any structure erected, and the number of seasons that this agreement would be in effect.

ISSUE BACKGROUND

The purpose of Item TE6.68 is to request City Staff to report upon a request by MLSE, part owner of Maple Leaf Square at 15 York Street, for permission to locate two patios within areas designated as walkways on Bremner Blvd. and York Street. MLSE is hopeful that it could open the Patios for business as soon as possible this summer but the site specific zoning by-law, the approved site plan and the development Agreement (the "Section 16 Agreement") for Maple Leaf Square require pedestrian walkways in the location of the Patios. MLSE has therefore requested support from the City for amendments to the site plan and Section 16 Agreement and variances to the existing zoning to permit the Patios.

COMMENTS

I have now received comments from the Ward Councillor, MLSE and City Planning Staff, with respect to this matter. Attached as Attachment 1 to this report is a summary of the agreement that would implement the requested amendment to the Section 16 Agreement in accordance with those comments.

In the event Council wishes to authorize the Patios in accordance with those comments, it would be appropriate to adopt recommendation 1 of this Report. The Chief Planner would then attend to the associated amendments to the site plan drawings.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1: Summary of proposed amendment to Section 16 Agreement

Attachment 1

Summary of Proposed Amendment to the Section 16 Agreement

The permanent Bremner Blvd. Patio

The Owner may, at all times, locate and maintain the Bremner Boulevard Patio within the Public Walkway as a permanent patio, at the location shown on Schedule "A" attached.

The seasonal York St. Patio

The Owner may, on a seasonal basis between the first day of May and the last day October, locate and maintain the York Street Patio within the Public Walkway, at the location shown on Schedule "A" attached.

York St. Patio to be for two seasons with potential extensions as may be granted by the Chief Planner, in consultation with the Ward Councillor

The Owner may install the York Street Patio for a maximum of two such seasons. However, the Owner may request and the Chief Planner may permit the Owner to locate and maintain the York Street Patio within the Public Walkway for such further seasons as the Chief Planner may agree, including for the life of the building.

Owner to undertake a review of York Street Patio

The Owner shall undertake a review of the York Street Patio, in consultation with the local Councillor, City staff and community representatives, which shall be based upon a review of the patio use, including a reconsideration of the appropriate width of the sidewalk to the west of the patio and whether expansion of the width of the patio in a westward direction would be appropriate.

York Street Patio may be relocated to the west – Owner to apply to AGCO for gap between restaurant and patio

In lieu of the location of the York Street Patio shown on Schedule "A", it may be preferable to have the patio re-located further to the west and adjacent to the existing raised planters thereby providing a separation area for pedestrians between the patio and the exterior wall of the adjoining building. To that end, the Owner agrees to use reasonable commercial efforts to obtain any necessary approvals from the Alcohol and Gaming Commission of Ontario, as are required to permit a pedestrian separation space between the patio and the restaurant while permitting restaurant patrons and staff to cross the separation space for the purposes of serving and/or carrying alcohol between the restaurant and the patio. If such permission is granted, the owner will move the patio to the west if so requested by the Chief Planner, in consultation with the Ward Councillor.

Provided the Owner has made such reasonable commercial efforts, the Owner shall be relieved from continuing to make such efforts if the required permission(s) have not been obtained within two years.

Potential payment of \$100,000.00 for park and streetscape improvements

The Owner shall pay to the City a neighbourhood park and streetscape improvement payment in the amount of One Hundred Thousand Dollars (\$100,000.00), provided: (a) the Owner has obtained the written approval of the Chief Planner permitting the Owner to install and maintain the York Street Patio for each further season during the life of the building, and (b) the patio is not required to be re-located from the location shown on the attached plan.

