



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

2968 Islington Avenue – Demolition Permit

Date:	August 21, 2013
To:	Etobicoke York Community Council
From:	City Solicitor Chief Building Official
Wards:	Ward 7 – York West
Reason for Confidential Information:	This report contains advice or communication that is subject to solicitor-client privilege.
Reference Number:	

SUMMARY

This report responds to a request from Etobicoke York Community Council for a report regarding an application for a demolition permit with respect to a single family dwelling at 2968 Islington Avenue, and a subsequent appeal to the Ontario Municipal Board.

RECOMMENDATIONS

1. That Community Council receive this report for information.
2. That Confidential Attachment 1 to this report remain confidential.

Financial Impact

The recommendations will have no financial impact.

DECISION HISTORY

On June 18, 2013, Etobicoke York Community Council adopted the following (EY25.36):

1. Requested the Chief Building Official to consider the preference of the Community Council that no building or demolition permit be issued for this

location until after the September 10, 2013, meeting of the Etobicoke York Community Council, and requested that City Legal and Building staff report to that meeting, on:

- details of the appeal that was filed with the Ontario Municipal Board;
 - details as to why Legal staff were not present at the OMB hearing;
 - details on why Members of Council were not aware of the appeal;
 - a Legal opinion as to what rights the Community Council has to appeal the decision of the OMB, to Divisional Court, given that the City was not a party to the OMB hearing.
2. Requested the City Clerk to advise the Committee of Adjustment, Etobicoke York Panel, of the preference of the Community Council that the Panel defer this matter at its July 4, 2013 meeting, in order that the September 10, 2013 decision of the Community Council related to this property can be considered.

ISSUE BACKGROUND

This chronology sets out the background information relating to the above.

Chronology

October 29, 2012 – Application for demolition permit submitted to demolish single family detached dwelling at 2968 Islington Avenue.

January 22, 2013 – EYCC considers report dated December 19, 2012 regarding application for demolition permit from Director of Building and Deputy Chief Building Official, Etobicoke York District (EY21.8).

- ** EYCC defers report to April 9, 2013, meeting of EYCC, requests report back from MLS regarding inspection of property, including an opinion on roof and mould conditions.

April 9, 2013 – EYCC considers deferred report, as well as submission from MLS and Medical Officer of Health, and Report from MLS dated March 18, 2013, regarding inspection.

- ** EYCC defers consideration of item to September 10, 2013, meeting of EYCC.

April 12, 2013 – Owner appeals to OMB.

April 26, 2013 – OMB sends notice of Appointment for Hearing to City, scheduling OMB hearing for June 3, 2013.

June 3, 2013 – OMB holds hearing on appeal of demolition application, issues oral decision authorizing issuance of demolition permit.

June 18, 2013 – EYCC considers letter from Councillor Mammoliti requesting planning study of 2966 and 2968 Islington Avenue (EY25.36).

** EYCC adopts recommendation requesting report from Legal and Building staff to September meeting of EYCC.

June 27, 2013 – OMB issues written Decision ordering issuance of demolition permit for 2968 Islington, subject to conditions (copy attached).

July 4, 2013 – City issues demolition permit for 2968 Islington Avenue

COMMENTS

Notice of OMB Appeal

The OMB issued an Appointment For Hearing for the subject appeal on April 26, 2013, sending it to the City Clerk and the Legal Services Division (Director of Planning and Administrative Tribunal Law). This type of appeal is not common and, as the City Clerk does not process these appeals, City Clerk's staff forwarded a copy of the notice to the Director of Planning and Administrative Tribunal Law and to the Director of Building, Etobicoke District. A copy was not sent to the Ward Councillor's office by Legal Services, Toronto Building or the City Clerk's Office.

When the City Solicitor receives notice from the OMB that a hearing has been scheduled, staff review their records to determine whether the matter has already been assigned to a specific solicitor and whether City Council has given instruction to the City Solicitor as to its position on the OMB appeal. There are many OMB appeals, for example appeals from decisions of the Committee of Adjustment, for which Council does not take a position and, as a result, solicitors from the City's Legal Services Division do not attend the OMB hearings.

In the present case, Legal staff consulted their records and confirmed that there was no direction from Council with respect to the appeal for 2968 Islington Avenue. Accordingly, a solicitor from the City Solicitor's office was not in attendance at the OMB hearing on June 3, 2013.

Attendance at OMB Hearing by City Staff

The Director of Building and Deputy Chief Building Official for the Etobicoke York District was served a summons on May 28, 2013 to appear at the OMB hearing, and attended under summons at the OMB hearing held on June 3, 2013. As Council had not taken a position on the application for demolition permit, the City Solicitor had no instructions either to oppose or support the application at the OMB hearing. Accordingly, no member of City Legal Staff attended the hearing.

Rights of Appeal

The City Solicitor's opinion as to the City's rights to appeal the OMB decision is set out in the Confidential Attachment to this report.

CONCLUSION

Appeals of the City's failure to make a decision on a demolition application are rare. Staff acknowledges that a process for notification of the Ward Councillor was not in place in this case. Staff will establish a process to ensure that going forward Ward Councillors receive a copy of any appeals and notices of OMB hearings received by the City arising from an application for a demolition permit pursuant to section 33 of the *Planning Act*.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

Ann Borooah, Chief Building Official

ATTACHMENTS

Copy of OMB Decision dated June 27, 2013 (PL130340)

Confidential Attachment 1 – City Solicitor's advice on rights of appeal