



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# OPA 387 LPAT Appeal - Lands generally bounded by Don Roadway, DVP, Sunlight Park Road, Eastern Avenue, Coxwell Avenue, and Lake Shore Boulevard East; and Broadview Avenue from Queen Street East to Sunlight Park Road/Eastern Avenue - Request for Direction Report

**Date:** June 10, 2019

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 14

### REASON FOR CONFIDENTIAL INFORMATION

---

This report concerns litigation that affects the City of Toronto. This report contains advice or communications that are subject to solicitor-client privilege.

### SUMMARY

---

Official Plan Amendment 387 was adopted by City Council on February 1, 2018 by By-law 87-2018 ("OPA 387"). OPA 387 amends the City of Toronto Official Plan (the "Official Plan") by altering the right-of-way widths for certain existing roadways shown on Map 3; by identifying the Broadview Avenue extension on Map 5 as a surface transit priority route; and by identifying the extensions of Broadview Avenue and Bouchette Street as planned but unbuilt roads on Schedule 2, along with other new streets in the South of Eastern area.

OPA 387 was appealed by the Toronto Port Authority ("Ports Toronto") to the Local Planning Appeal Tribunal ("LPAT") on March 1, 2018 (the "Appeal"). On May 10, 2019, the parties, including the City, the appellant Ports Toronto, and First Gulf, attended Tribunal-led mediation which resulted in a settlement proposal that would resolve the Appeal and allow OPA 387 to come into force (the Settlement Proposal).

The purpose of this report is to seek instructions regarding the Settlement Proposal. City Planning has been involved in the preparation of this report.

OPA 387 LPAT Appeal - Lands generally bounded by Don Roadway, DVP, Sunlight Park Road, Eastern Avenue, Coxwell Avenue, and Lake Shore Boulevard East; and Broadview Avenue from Queen Street East to Sunlight Park Road/Eastern Avenue - Request for Direction Report

## RECOMMENDATIONS

---

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, and Confidential Appendix B, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 and Confidential Appendix A are to remain confidential at the discretion of the City Solicitor, as it contains advice that is subject to solicitor-client privilege.

## FINANCIAL IMPACT

---

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

## DECISION HISTORY

---

On December 5, 6, 7 and 8, 2017 City Council considered clause PG24.6, which included, amongst other matters pertaining to the Port Lands Planning Initiatives, an amendment to the City's Official Plan for major public streets, transit priority segments and right-of-way widenings in the South of Eastern Area. The implementing OPA (OPA 387) was adopted by City Council on February 1, 2018 by By-law 87-2018. For more information, see the Council consideration and Report for Action at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.6>  
<https://www.toronto.ca/legdocs/mmis/2017/pg/bgrd/backgroundfile-107844.pdf>

## COMMENTS

---

OPA 387 has two primary purposes: to enable the City to secure lands for right-of-way widenings and transit dedicated rights-of-way pursuant to Sections 114(11)(a) and (e) of the *City of Toronto Act*; and to further protect the public street network required to support existing uses and development in the area in accordance with Policy 2.2.3 of the Official Plan.

A case management conference took place at the LPAT on January 15, 2019. At this CMC, the Appeal was scoped on consent to deal only with the extensions of Broadview Avenue and Bouchette Street with the overarching issue being the alleged potential impact of the extensions on the ongoing operation of the Keating Yard and its function of shunting rail cars.

OPA 387 LPAT Appeal - Lands generally bounded by Don Roadway, DVP, Sunlight Park Road, Eastern Avenue, Coxwell Avenue, and Lake Shore Boulevard East; and Broadview Avenue from Queen Street East to Sunlight Park Road/Eastern Avenue - Request for Direction Report

The Keating Yard is the existing shunting and storage rail yard located between the Don Roadway and Booth Street on the north side of Lake Shore Boulevard East. The main rail line - the Harbour Lead Line - also extends through the Yard and then continues eastward into the Port Lands. The City of Toronto is the primary user of the Harbour Lead Line and the two streets can be extended while maintaining the rail line. There is currently a single storage track in the Yard that is approximately 450 metres long. The balance of storage tracks were removed starting in the late 2000s.

The Harbour Lead Line and Yard is owned by and maintained by CreateTO (formerly Toronto Economic Development Corporation). There is an existing legal agreement - the 2003 Structured Settlement - between the City, Ports Toronto and CreateTO and a 2012 Cost Sharing Agreement that addresses the maintenance and operation of rail lines and the Keating Yard.

The City Solicitor requires instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential information and should be considered by Council in camera.

## **CONTACT**

---

Robert Robinson, Solicitor, Planning & Administrative Law, Tel: 416-392-8367, Fax: 416-397-5624, E-mail: [Robert.Robinson@toronto.ca](mailto:Robert.Robinson@toronto.ca)

Sarah O'Connor, Solicitor, Planning & Administrative Law, Tel: 416-397-5378, Fax: 416-397-5624, E-mail: [Sarah.OConnor@toronto.ca](mailto:Sarah.OConnor@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

Confidential Attachment 1 - Confidential Report from City Solicitor  
Confidential Appendix A – Confidential Information  
Confidential Appendix B – Confidential Information