



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Human Rights Challenge to City's Zoning By-laws

Date:	October 23, 2012
To:	City Council
From:	City Solicitor
Wards:	All
Reason for Confidential Information:	This report is about litigation that affects the City and contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	

SUMMARY

This report provides legal advice with respect to ongoing litigation against the City at the Human Rights Tribunal of Ontario. The legal advice is set out in confidential attachment 1. Given the ongoing litigation, Council instructions are required on an urgent basis.

RECOMMENDATIONS

The City Solicitor recommends that City Council:

1. adopt the legal recommendations from the City Solicitor, contained in confidential attachment 1; and
2. authorize the public release of Confidential Recommendations 1 to 3, if they are adopted by Council, and the remaining information remain confidential.

Financial Impact

The relevant financial information is addressed in confidential attachment 1.

ISSUE BACKGROUND

The Dream Team, an advocacy organization representing persons with mental health issues, has brought an Application to the Human Rights Tribunal of Ontario on behalf of eight of its members. The Ontario Human Rights Commission intervened in the Application, in support of the Dream Team.

The Application alleges that provisions in the zoning by-laws of the pre-amalgamation municipalities - which remain in force - and in the draft City-wide Zoning By-law, that impose mandatory separation distances for "group homes" and "residential care facilities," discriminate against persons with disabilities contrary to the Ontario *Human Rights Code* ("the Code").

The Dream Team seeks an order from the Tribunal declaring the provisions discriminatory and directing the City to remove them from the by-laws or to refrain from enforcing or applying them while the City brings them into compliance with the *Code*.

The City originally filed a Response to the Application and brought a motion to the Tribunal, arguing that the Tribunal had no jurisdiction over the subject-matter and no jurisdiction to make the order sought by the Dream Team. The Tribunal decided it needed to hear the whole case first before it could address its jurisdiction. The City initiated a judicial review of the Tribunal's decision, at the Divisional Court of Ontario. On August 9, 2012, the Divisional Court found that the Tribunal's decision to determine jurisdiction at the end of a full hearing was reasonable and that the Application should be heard.

As a result, the City filed a supplementary Response and the matter is now proceeding to a hearing before the Tribunal.

CONTACT

Antonella Ceddia, Solicitor, Litigation, Legal Services
Tel.: 416-338-2338, Fax: 416-397-1765, E-mail: aceddia@toronto.ca

SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Confidential Attachment 1 – Confidential Recommendations Regarding the Litigation

Staff report with confidential attachment on the Human Rights Challenge to the City's Zoning By-Laws