



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

**Items TE12.98 to TE12.119 Consideration of Sign
Variance Applications by City Council – Additional
Information**

Date:	January 5, 2012
To:	Toronto and East York Community Council
From:	City Solicitor
Wards:	ALL
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege and pertain to litigation or potential litigation.
Reference Number:	

SUMMARY

This report is to provide additional advice from the City Solicitor concerning the roles and responsibilities of Members of Council with respect to Applications to Consider filed under Municipal Code Chapter 694, Signs, General.

The confidential attachment provides legal advice on the implications for the Sign Variance Applications currently before Community Council.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council receive this report for information.
2. City Council direct that Confidential Attachment 1 remain confidential as it contains advice that is subject to solicitor-client privilege and potential litigation.

FINANCIAL IMPACT

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

DECISION HISTORY

At its meeting of November 22, 2011, the Sign Variance Committee heard, considered and granted one or more variances from Chapter 694, with respect to each of Item Nos. SB6.2, SB6.3, SB6.4, SB6.6, SB6.7, SB6.9, SB6.11, SB6.12, SB6.13, SB6.14, SB6.15, SB6.17, SB6.18, SB6.19, SB6.20, SB6.21, SB6.22, SB6.23, SB6.24, SB6.25, & SB6.26 (<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getDecisionDocumentReport&meetingId=4602>)

Applications to Consider for each of the abovementioned items were filed with the Chief Building Official. As each of the abovementioned matters relates to a premises within the geographical area assigned to the Toronto and East York Community Council, the matters were added to the January 10, 2012, Toronto and East York Community Council meeting agenda as Item Nos. TE12.99, TE12.100, TE12.101, TE12.102, TE12.103, TE12.104, TE12.105, TE12.106, TE12.107, TE12.108, TE12.109, TE12.110, TE12.111, TE12.112, TE12.113, TE12.114, TE12.115, TE12.116, TE12.117, TE12.118, and TE12.119.

ISSUE BACKGROUND

City Council, at its meeting of February 23, 2010, enacted By-law Nos. 196-2010 and 198-2010, thereby enacting Chapter 694, establishing the Sign Variance Committee and delegating Council's authority to grant variances for third party signs to the Sign Variance Committee. City of Toronto By-law Nos. 196-2010 and 198-2010 establish that the delegated authority of the Sign Variance Committee is subject to an Application to Consider being filed by the Ward Councillor. The Sign Variance Committee sits as a quasi-judicial body and conducts hearings in accordance with the *Statutory Powers Procedure Act*, its Rules of Procedure By-law, and The Code of Conduct for Members of Adjudicative Boards, City of Toronto.

Subsection 694-30R(2) of Chapter 694 establishes that a decision of the Sign Variance Committee to grant a variance or to grant a variance with conditions will be final and binding unless an Application to Consider is filed by the Ward Councillor. Where an Application to Consider is filed, the decision of the Sign Variance Committee is not final, and the application for a variance is required to be heard and considered by the respective Community Council for recommendation to City Council where the final decision on the application for a variance will be made in accordance with the criteria established by subsection 694-30A of Chapter 694.

COMMENTS

Subsection 694-30R(1) establishes that a decision of the the Sign Variance Committee to to refuse a variance application will be final and binding on the date of the decision. Subsection 694-30R(2) establishes that a decision of the the Sign Variance Committee to grant a variance or to grant a variance with conditions will be final and binding 21 days after the date the decision is issued unless an Application to Consider is filed by the Ward Councillor.

At its meeting of November 22, 2011, the Sign Variance Committee heard and considered several different applications for variances from Chapter 694. The Sign Variance Committee found that many of the applications met the mandatory criteria established by subsection 694-30A and accordingly decided to grant one or more variances, with or without conditions.

Subsection 694-30S of Chapter 694 provides a local Ward Councillor with the ability to elect to have an application for variance considered by City Council in accordance with the criteria established in Subsection 694-30A. Where an Application to Consider is filed, the decision of the Sign Variance Committee is not final, and the application for a variance is required to be heard and considered by the respective Community Council for recommendation to City Council.

Where a variance is refused, the Ward Councillor may not file an Application to Consider. As a result, only variances that have been previously determined by the Sign Variance Committee to have met the mandatory criteria are before Toronto and East York Community Council for consideration and recommendation to City Council. City Council will be responsible for making the final decision with respect to the application for a variance from Chapter 694.

In these circumstances, Chapter 694 requires the Toronto and East York Community Council and City Council to consider the sign variance application in accordance with the criteria established in subsection 694-30A. Subsection 694-30U provides that City Council may: 1) grant a variance; 2) grant a variance with conditions; or, 3) refuse to grant a variance. Any decision of City Council is final and binding on the date it is made.

Subsection 694-30V states that Council may grant a variance or variances from the provisions of this chapter where the proposed sign satisfies the criteria set out in Subsection 694-30A. Subsection 694-30A states that a variance from the provisions of Chapter 694 may only be granted where it is established that the proposed sign:

1. Is warranted based on physical circumstances applicable to the property or premises;
2. Is consistent with the architecture of the building or development of the property;
3. Is consistent with buildings and other features of properties or premises within 120 metres of the location of the proposed sign;

Staff report with confidential attachment on Consideration of Sign Variance Applications by City Council – Additional Information

4. Will not alter the essential character of the area;
5. Will not adversely affect adjacent properties;
6. Will not adversely affect public safety;
7. Is, in the opinion of the decision maker, not contrary to the public interest;
8. Is of a sign class or a sign type that is permitted in the sign district where the premises is located; and
9. Is not expressly prohibited by Subsection 694-15B.

As Applications to Consider have been filed in connection with twenty-one different variance applications for premises located within its geographical area, the Toronto and East York Community Council is now required to hear and consider each of the matters for recommendation to City Council for final decision in accordance with the criteria established by Chapter 694.

Further legal advice is contained within Confidential Attachment 1.

CONTACT

Ian A.G. Duke
Solicitor, Legal Services
Tel: (416) 338-2305
Fax: (416) 397-5624
Email: iduke@toronto.ca

Naomi Brown
Solicitor, Legal Services
Tel: (416) 392-0121
Fax: (416) 392-1199
Email: nbrown@toronto.ca

SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Confidential Attachment 1 – Confidential Information