

740 Eglinton Avenue West –Condominium– Final Report

Date:	August 7, 2013
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21 – St. Paul's
Reference Number:	08 164355 STE 21 CD

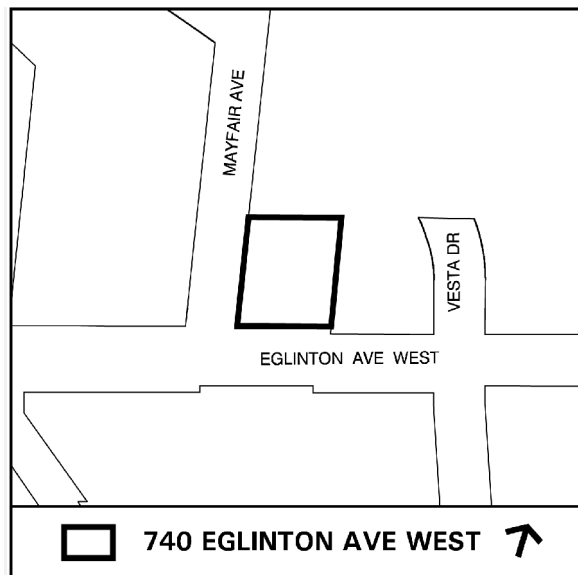
SUMMARY

This application involves the conversion of a 58-unit residential co-ownership building to condominium ownership at 740 Eglinton Avenue West. The draft plan of condominium application was first approved by City Council in October 2009, subject to certain conditions being satisfied. The initial time period to satisfy the conditions will lapse in early October prior to City Council's meeting. It is recommended that the draft condominium approval be re-issued to allow the proponent additional time to satisfy the conditions of approval and register the condominium.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council re-issue the Draft Plan of Condominium approval for 740 Eglinton Avenue West based on the conditions that were approved at City Council's meeting of September 30 and October 9, 2009, with specific amendments as set out in Attachment No.1 to the report (dated August 7, 2013) from the Director, Community Planning, Toronto and East York District, including the establishment of a new deadline which would allow the draft conditions to be satisfied by October 9, 2016; and other housekeeping matters referred to in the staff report dated August



7, 2013.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

An application was submitted in June 2008, to convert an existing 58-unit co-ownership residential building at 740 Eglinton Avenue West to condominium ownership. As several of the units had been used for rental purposes, City Council approval was required for the Draft Plan of Condominium Approval, an Official Plan Amendment, and Section 111 Approval for Rental Housing Conversion. At its meeting of September 30 and October 1, 2009, City Council adopted the report from the Director of Community Planning, Toronto and East York District, recommending approval of these applications. Following enactment of the necessary bills, the proponent was advised that the deadline for Draft Plan approval would expire on October 6, 2013.

COMMENTS

Registration of this condominium has not yet occurred and the applicant is requesting additional time to satisfy the remaining conditions of approval. Accordingly, it is recommended that draft plan approval be re-issued and a revised time limit be established which will require that the draft plan conditions be met by October 9, 2016. This will provide a further three years for the conditions to be satisfied.

In addition to the change in the expiry date, several revisions have been made to the original conditions at the request of proponent's solicitor. These involve housekeeping amendments to conditions 2 and 8 to provide more clarity on the process and timing requirements for information relating to the reserve fund study. Also, condition 12 has been added to ensure that tenants' rights relating to security of tenure and first refusal to buy their unit continue to be offered to affected tenants, despite any potential change to the Residential Tenancies Act.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Revised Conditions of Draft Plan of Condominium Approval

Attachment No. 1: CONDITIONS

City File No. : 08 164355 STE 21 CD

1. The plan of condominium (Declaration and Description) shall be registered by October 9, 2016, otherwise the approval shall lapse and be of no further force and effect.
2. The owner shall, prior to the registration of the plan of condominium (Declaration and Description), at its own expense not to be passed on to the tenants of the building, carry out and complete a comprehensive reserve fund study, as defined in s. 27 of O. Reg 48/01 made under the *Condominium Act, 1998* as a “comprehensive study”, including the matters required in condition 4 below, to the satisfaction of the Chief Planner and Executive Director. The table required pursuant to Condition 4(a) shall be contained in the disclosure statement pursuant to Section 72(3)(e) of the *Condominium Act*.
3. The physical analysis of the comprehensive study described in conditions 2 and 4 herein shall be conducted by a professional engineer registered as such and holding a certificate of authorization within the meaning of the *Professional Engineers Act*.
4. In addition to the requirements under the regulations made under the *Condominium Act, 1998*,
 - (a) the financial analysis component of the comprehensive study shall include a simple, easily read table setting out, by unit type, the recommended dollar amount of contributions to the reserve fund that will be required to be paid annually by each individual unit owner for each year covered by the study (not less than 30 years) based on the reserve fund required to be established by the owner in accordance with condition 6 below.
 - (b) the physical analysis component of the comprehensive study shall include in addition to the component inventory and assessment of each item within the component inventory, a detailed list of,
 - (i) the repairs and components to be replaced as a result of outstanding work orders issued by the City of Toronto,
 - (ii) the repairs and components to be replaced in order to bring the building into compliance with c. 629, Property Standards, of the City of Toronto Municipal Code, and
 - (iii) any other repairs and components to be replaced which in the opinion of the consultant(s) carrying out such study should be

completed by the owner prior to registration of the plan of condominium (Declaration and Description) against the lands; and

- (c) in addition to their signatures, the persons conducting the comprehensive study in respect of the property shall include the following statement in the study:

“Notwithstanding that our fee for this study will be paid by the Owner (or Condominium Corporation as the case may be) and that we have prepared this study for the Owner (or Condominium Corporation as the case may be), we acknowledge that the Condominium Corporation which will be created upon registration of the plan of condominium and the purchasers and prospective purchasers of units within the building are relying upon this study and the opinions and findings expressed herein, and consent and agree to such reliance.”

5. The owner shall, prior to registration of the plan of condominium (Declaration and Description), at its own expense, complete each of the repairs and replace each of the components set out on the lists compiled pursuant to conditions 4(b) (i), (ii) and (iii) above as detailed in the comprehensive study, and provide to the Chief Planner and Executive Director a certificate from the persons carrying out the study confirming all of the said repairs and replacements have been satisfactorily completed.
6. Prior to the registration of the plan of condominium (Declaration and Description), the owner shall provide to the satisfaction of the Chief Planner and Executive Director a letter from its solicitor confirming that the amount required to be contributed to the reserve fund is being held in trust, and that the solicitor has received instructions to contribute such funds to the reserve fund once it has been established.

The owner shall contribute to the reserve fund, once established, for the benefit of the condominium corporation to be created, an amount not less than the greater of,

- (a) the amount recommended in the comprehensive study required in conditions 2 and 4 above, and
- (b) the amount required pursuant to the *Condominium Act, 1998*.
7. In the event the owner of the Site has entered into one or more agreements to convey any of the proposed units, the owner shall, prior to the registration of the plan of condominium (Declaration and Description) provide its solicitor's confirmation that the disclosure statement required to be delivered to every person who purchases a unit or a proposed unit pursuant to Section 72 of the *Condominium Act, 1998*, did in addition to the matters specified in such Act,

- (a) include a copy of the table required to be prepared in condition 4(a) above as updated, pursuant to condition 8 below, and signed by the person who carried out the financial analysis component of the comprehensive study required in condition 2 above to reflect the amount to be contributed to the reserve fund and being held in trust pursuant to condition 6 above, and
 - (b) that such updated table include the statement required in condition 4(c) above, or alternatively, if the Owner has not entered into any agreement to convey one or more units, the owner shall provide its solicitors confirmation such is the case.
8. The Declaration shall contain wording satisfactory to the City Solicitor to ensure the following conditions:

- (a) The condominium corporation shall, at its expense update the table required pursuant to condition 4(a) above at the same time as the corporation is required to conduct a reserve fund study, so as to reflect the actual reserve fund maintained by the corporation, and shall send a copy of each updated table to each unit owner and to the corporation's auditor as part of the notice required pursuant to Section 94(9) of the *Condominium Act, 1998* as well as retaining a copy for its records.

Nothing herein shall be interpreted as requiring the original author of the table to author the subsequent tables required by this condition but the table shall be prepared by a person authorized by the regulations under the *Condominium Act, 1998* to carry out the financial analysis component of a reserve fund study and each updated table shall include the statement required in condition 4(a) above;

- (b) The condominium corporation shall attach to any status certificate a copy of the most current table pursuant to Condition 4(a) above.
- (c) On receipt of a request from a prospective purchaser of a unit, the condominium corporation shall, within 10 days of the request being made, provide a copy of the most recent reserve fund study.
- (d) Conditions 4(a), (b) and (c) above shall cease to apply on the date that is one year following the date the condominium corporation has,
 - (i) conducted its first comprehensive reserve fund study (a “comprehensive study”) and,
 - (ii) sent the required notice to the owners and copies to the auditor arising from such study in accordance with Section 94(9) of the *Condominium Act, 1998*.

9. The Declaration shall contain a clause stating that the provisions in the Declaration dealing with conditions 8(a) to (d) above, inclusive shall not be amended without the written consent of the approval authority, under the *Condominium Act, 1998*.
10. The owner of the Site shall provide a tax certificate which confirms that all municipal taxes have been paid in full.
11. The owner of the Site agrees not to pass on, in the form of rent increases to tenants of the building residing in units on or before the date of registration of the condominium, any costs associated with the renovations or alterations of the building to comply with the conditions herein and which are related to converting the buildings or readying the buildings for condominium, or any increase in property taxes due to a change in the assessed value of the property identified in this application which may occur due to the condominium registration.
12. The owner of the Site shall enter into a Condominium Agreement satisfactory to, and at the discretion of, the City Solicitor whereby the owner agrees to ensure that all tenants of the building residing in units on or before the date of registration of the condominium, are entitled to the right of security of tenure and the right of first refusal as referred to in section 51 of the *Residential Tenancies Act, 2006*, and that such rights will continue to be offered by the current owner and subsequent purchasers despite any changes to such Act.
13. Prior to the registration of the plan of condominium (Declaration and Description), the owner shall provide the Chief Planner and Executive Director written confirmation that written notice has been provided to all existing tenants that,
 - (a) Registration of the condominium is imminent;
 - (b) The owner has provided sitting tenants a copy of Condition 11 above; and
 - (c) That the owner has provided sitting tenants with a copy of the relevant provisions under the *Residential Tenancies Act, 2006* concerning their security of tenure and right of first refusal.
14. All parking spaces will be clearly delineated on the condominium plan to be registered and the Declaration shall contain a clause clearly specifying residential parking shall form part of the common elements and neither be used by or sold to unit owners or be considered part of the exclusive use portions of the common elements.