



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachment

Review of OMB Decision – 91 Sheppard Avenue East

Date:	June 9, 2014
To:	City Council
From:	City Solicitor
Wards:	Ward 23 Willowdale
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege. This report contains advice or communications about pending litigation.
Reference Number:	

SUMMARY

On May 15, 2014 the Ontario Municipal Board (OMB) released its decision regarding a site plan matter for 91 Sheppard Avenue East. At issue in the hearing was the OMB's jurisdiction to make a determination as to whether or not an application to convert a single family home to a commercial school at 91 Sheppard Avenue East would trigger the requirements of Section 114 of the *City of Toronto Act* (COTA) for site plan control. The City's Chief Building Official (CBO) considered the owner's application for a building permit for the conversion and determined that the application triggered the requirement for site plan control and informed the owner of this decision. Upon being advised of the City's determination that site plan control was triggered by the proposed conversion, the owner did not apply for site plan control and instead sought directions from the OMB as to whether site plan control applied.

RECOMMENDATIONS

1. City Council adopt the confidential recommendations in Attachment 1; and
2. City Council authorize the public release of confidential recommendation 1 in Attachment 1 if adopted by Council.

Financial Impact

The financial implications are set out in Attachment 1.

DECISION HISTORY

The Chief Building Official made a determination in the summer of 2013 that the owner's application for a conversion from a single family home to a commercial school required the owner to apply for site plan control. The owner instead chose to bring a Motion for Directions before the OMB which was heard by the Board on August 19, 2013. On May 15, 2014, the OMB released its decision on the Motion.

COMMENTS

The hearing of this site plan issue took place in August of 2013 by way of Motions before the Board. The owner's lawyers brought a motion for direction to the Board to determine whether the application for a building permit substantially increases the usability of the site and whether site plan control applies to the interior alterations proposed by the owner. The City brought its own motion before the Board for a finding that the Board lacked the jurisdiction to overturn the decision of the CBO regarding the requirement for site plan control and for a further finding that in the absence of an application from the owner for site plan control, the Board had no jurisdiction to exempt an owner from the requirement pursuant to Section 114(7) of COTA. In its decision of May 15, 2014, the Board agreed with the City's submission that the OMB has no jurisdiction to make a determination as to whether or not the CBO was correct to refuse the building permit pending the owner's compliance with site plan control. However, the Board goes on to find that it does have the jurisdiction to make a finding that site plan control does not apply in this case.

The Confidential Attachment to this report provides further information.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1: Confidential Information regarding the OMB decision for 91 Sheppard Avenue East.