



**STAFF REPORT  
ACTION REQUIRED**  
with Confidential Attachment

**740 Dupont Street – OMB Hearing – Settlement Offer**

<b>Date:</b>	November 3, 2015
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward 19 Trinity-Spadina
<b>Reason for Confidential Information:</b>	This report is about litigation that affects the City and contains advice or communications that are subject to solicitor-client privilege.
<b>Reference Number:</b>	

**SUMMARY**

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The owners of 740 Dupont Street have appealed their Official Plan Amendment and Zoning By-law Amendment applications to the Ontario Municipal Board (OMB) due to a lack of decision by the City within the statutory timeframe. A prehearing is scheduled for November 18, 2015. The owners of the subject lands, through their solicitor, have presented a “without prejudice” offer to settle to the City Solicitor who requires direction.

**RECOMMENDATIONS**

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The City Solicitor recommends that:

1. Council adopt the confidential instructions to staff in Attachment 1.
2. Council authorize the public release of the recommendations in Attachment 1 if adopted, with the remainder of Attachment 1 to remain confidential, at the discretion of the City Solicitor.

**Financial Impact**

The recommendations of this report will have no financial impact beyond what has been already approved in the current year's budget.

## DECISION HISTORY

At its meeting of December 16, 17 and 18, 2013, City Council adopted Official Plan Amendment 231 (OPA 231), which designated the northerly 30 metres of the subject lands *General Employment Area* and the remainder of the property as *Regeneration Areas*. OPA 231 also proposed an amendment to Site and Area Specific Policy 212 ("SASP 212") setting out policies to guide the revitalization of the portion of the property and others along the Dupont Street corridor designated as *Regeneration Areas*. The decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. On July 9, 2014, the Minister of Municipal Affairs and Housing issued a decision confirming Council's action to retain the property for employment purposes only. The applicant subsequently submitted an appeal to the Minister's decision of OPA 231. The OMB received 178 appeals to OPA 231. Multiple pre-hearing conferences have been held with hearings to begin in June 2015. The Minister's decision can be accessed at this link:

<http://www1.toronto.ca/City%20of%20Toronto/City%20Planning/SIPA/Files/pdf/O/ministers%20decision%20on%20opa%20231.pdf>

Guided by the proposed changes to SASP 212, the City undertook the Dupont Street Regeneration Area Study culminating in City Council's adoption of OPA 271 and Zoning By-law 1011-2014 at its meeting of August 2014. This established a framework for redevelopment in the area. A copy of City Council's Decision and the background materials can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.6>

## ISSUE BACKGROUND

On July 18, 2014 the Owner filed applications to amend the Official Plan and Zoning By-law in respect of the property. On July 7, 2015, the Owner appealed the applications to the Ontario Municipal Board due to Council's failure to make a decision on the applications within the time prescribed by the *Planning Act*. The appeal for these site specific applications is proceeding at the OMB and a prehearing conference is set for November 18, 2015.

The Owner of 740 Dupont Street has also appealed OPA 231, OPA 271 and Zoning By-law 1011-2014. The appeals have been consolidated into one matter before the OMB. If there is a settlement between the City and the Owner of its site specific appeals, the owner will ask the Board to consolidate all of its appeals into one proceeding to be dealt with at the November 18, 2015 prehearing conference.

## **COMMENTS**

A without prejudice offer to settle has been provided to the City and is appended to this report as Attachment 1. This report provides legal advice regarding that offer to settle and requests direction from City Council for the OMB hearing.

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

Attachment 1 - Confidential Information