



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

3100 Keele Street – Zoning By-law Amendment and Site Plan Control Appeals - Request for Directions Regarding OMB Hearing

Date:	July 9 , 2015
To:	City Council
From:	City Solicitor
Wards:	Ward 9 – York Centre
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions and this report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	13 241316 NNY 09 OZ

SUMMARY

At its meeting of June 10, 11 and 12, 2015, City Council rejected a without prejudice settlement offer for a revised development proposal. Council instructed staff to enter into mediation with the applicant, and following discussions between the applicant and City Staff, the applicant has provided the City with a new without prejudice settlement offer dated July 7, 2015. The City Solicitor requires further direction from City Council on the new without prejudice offer.

This matter is deemed urgent as the settlement offer expires 24 hours after the end of the July 7, 2015 Council meeting, and a pre-hearing/settlement hearing is scheduled at the Ontario Municipal Board on August 18, 2015.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the recommendations contained in the Confidential Attachment 1 to this report.

2. The recommendations contained in the Confidential Attachment 1, including Appendix "A" to this report, if adopted, be made public at the discretion of the City Solicitor. All other information contained in the Confidential Attachment 1 is to remain confidential.

Financial Impact

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

DECISION HISTORY

At its meeting of June 10, 11 and 12, 2015, City Council considered item NY5.38, a Request for Direction Report from the Director of Community Planning, North York District dated March 25, 2015, and a supplementary report from the City Solicitor dated June 9, 2015 with recommendations regarding a without prejudice settlement offer. Council rejected the settlement offer and instructed staff to enter into mediation with the applicant. Item NY5.38 is found at the below link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.NY5.38>

ISSUE BACKGROUND

On December 15, 2014 the applicant appealed their Zoning By-law amendment application to the Ontario Municipal Board, based on City Council's failure to make a decision on the application within 120 days of the City providing notice of a complete application.

On April 27, 2015 the City received a without prejudice settlement offer from the applicant for a revised development on the property. At its meeting on May 5, 6 and 7, 2015 City Council deferred Item No. NY5.38, a Request for Direction Report for the current development proposal from the Director, Community Planning, North York District dated March 25, 2015, to the June 10 and 11 meeting of Council so that the City Solicitor could report to Council and provide recommendations on the without prejudice settlement offer concurrently with Council's consideration of the Request for Direction Report. Council rejected the settlement offer and instructed Staff to enter into mediation with the applicant. While no formal mediation took place, after meetings with City Staff the applicant has submitted a without prejudice settlement offer to the City, dated July 7, 2015.

A second pre-hearing has been scheduled at the OMB on August 18, 2015. This pre-hearing will be converted into a settlement hearing if Council accepts the without prejudice offer to settle. If the matter does not settle a hearing has been scheduled at the OMB for November 23 to 27, 2015.

COMMENTS

This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information regarding the without prejudice settlement offer and should be considered by Council in camera.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1 - Confidential Information