



STAFF REPORT ACTION REQUIRED

The Protection of Heritage Trees afforded by the Private Tree By-law

Date:	October 27, 2015
To:	City Council
From:	General Manager, Parks, Forestry and Recreation Division
Wards:	All
Reference Number:	P:\2015\Cluster A\PFR\CC10-110315-AFS#22133

SUMMARY

City of Toronto, Municipal Code, *Chapter 813, Trees, Article III, Private Tree Protection*, protects trees on private property having a diameter of 30 cm or greater. This by-law is commonly referred to as the Private Tree By-law. This report will outline the protection the by-law affords to heritage trees.

A "Heritage Tree" is defined in the Private Tree By-law as "A tree designated under Part IV of the Ontario Heritage Act or trees recognized as heritage trees by the Ontario Heritage Tree Program of Trees Ontario". In February 2014, Trees Ontario changed their name to Forests Ontario; this has had no effect on the program or implications for tree protection under the by-law.

The by-law requires that permits for heritage trees are refused. City staff do not have the authority to issue injury or destruction permits for heritage trees. Where a permit application is submitted for a heritage tree, Urban Forestry would deny the request. The applicant can appeal the decision of Urban Forestry to City Council through Community Council by way of the Private Tree By-law appeal process.

RECOMMENDATIONS

The General Manager of Parks, Forestry and Recreation recommends that:

1. City Council receive this report for information.

Financial Impact

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

DECISION HISTORY

At its meeting on May 5, 6 and 7, 2015, City Council considered the Motion to request to protect a 250 year old red oak tree, thought to be the largest and oldest red oak in Toronto.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM6.6>

In that meeting, Council waived referral of the Motion and subsequently deferred it to its June 10, 11 and 12, 2015, and July 7, 8 and 9, 2015 meetings.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM7.1>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM8.1>

At its meeting of September 30, October 1 and 2, 2015, City Council further deferred consideration of the Motion until the November 3 and 4, 2015, City Council meeting and requested the General Manager, Parks, Forestry and Recreation to report directly to City Council on the protection afforded by the Private Tree By-law to heritage trees, including the red oak tree at 76 Coral Gable Drive.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM9.1>

ISSUE BACKGROUND

The Private Tree By-law defines a heritage tree as "*a tree designated under Part IV of the Ontario Heritage Act or trees recognized as heritage trees by the Ontario Heritage Tree Program of Trees Ontario*". The by-law includes a specific provision for the added protection of heritage trees identified either through designation or recognition. This provision reads as follows;

City of Toronto, Municipal Code, Chapter 813, Trees, Article III, Private Tree Protection, Section 813-17 – Permit Refusal

The General Manager shall not issue a permit for the injury or destruction of trees where:

G: The tree is a heritage tree, or should in the opinion of the General Manager be recommended for designation as a heritage tree.

COMMENTS

The Private Tree By-law requires that permits for heritage trees are refused. City staff do not have the authority to issue injury or destruction permits for heritage trees. Where a permit application is submitted for a heritage tree, Urban Forestry would deny the request. The applicant can appeal the decision of Urban Forestry to City Council through Community Council by way of the Private Tree By-law appeal process.

Should a tree permit application be received for a heritage tree, staff will make the applicant aware of the significance of the tree and the protection heritage trees are provided for under the Private Tree By-law. While such permits will be denied, staff will however offer to work with the applicant to provide options and alternatives to the proposed construction in order to protect the tree.

It should be noted that the Private Tree By-law does not regulate tree maintenance such as pruning. Property owners are not required to obtain a permit from Urban Forestry to prune trees in accordance with good arboricultural practices.

In any event, decisions regarding the issuance of permits to injure or destroy privately-owned heritage trees in Toronto are made by City Council through the Private Tree By-law appeal process. Through this process, staff provide Council with a detailed description of the application, anticipated impact to the tree or trees in question, and a recommended course of action. The decision of City Council on any Private Tree By-law permit application is final and cannot be appealed to the Ontario Municipal Board.

CONTACT

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SIGNATURE

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