



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**170 and 194 Evans Avenue – Ontario Municipal Board
Appeal - Further Request for Direction**

Date:	January 28, 2016
To:	City Council
From:	City Solicitor
Wards:	Ward 6 – Etobicoke Lakeshore
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:	P:\2016\Cluster B\PLN\PGMC\PG16005

SUMMARY

In June 2015, the Etobicoke York Panel of the Committee of Adjustment (the "Committee") approved an application to permit private school, day nursery and outdoor play area uses within the existing building on the site. The property is located within a designated *Employment Area* under the City's Official Plan. The City Solicitor appealed the Committee's decision under the authority of Item ED33.9 adopted by City Council on August 25, 26, 27 and 28, 2014. A hearing has not yet been scheduled at the Ontario Municipal Board.

At its meeting on September 30, October 1 and 2, 2015, City Council referred Item EY8.76 (a recommendation to Council for the City Solicitor to withdraw the City's appeal) to the Chief Planner and Executive Director, City Planning and directed the Chief Planner to report to the January 20, 2016 meeting of Planning and Growth Management Committee on this matter.

Recommendations were made by the Planning and Growth Management Committee in Item No. PG9.3 to have the City Solicitor continue the appeal of the Committee decision and have the City Solicitor and Staff enter into mediation with the private school to try to

settle the appeal. Subsequent to the Planning and Growth Management Committee meeting on January 20, 2016 the City Solicitor requires further direction from City Council.

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 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

On June 4, 2015, the Etobicoke York Committee of Adjustment panel approved Minor Variance application A228/15EYK for the lands municipally known as 170 and 194 Evans Avenue to permit private school, day nursery, and outdoor play area uses and a reduced parking setback for a period of twenty years, expiring on June 25, 2035.

Under the standing direction through Council's adoption of the Deputy Mayor's Manufacturing Roundtable Summary Report, Item ED33.9 adopted by Council on August 25, 26, 27 and 28, 2014, the City Solicitor appealed the Committee's decision to the Ontario Municipal Board on the grounds that the approved Minor Variances did not conform with the Official Plan's Employment Area policies. Item ED33.9 can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.ED33.9>

At its meeting on September 8, 2015, Etobicoke York Community Council in Item No. EY8.76 recommended that City Council direct the City Solicitor to withdraw the City's appeal of the Committee of Adjustment decision. At its meeting on September 30, October 1 and 2, 2015, City Council referred Item No. EY8.76 to the Chief Planner and Executive Director, City Planning and directed the Chief Planner to report to the January 20, 2016, meeting of Planning and Growth Management Committee on this matter. The decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EY8.76>

At its meeting on January 20, 2016, the Planning and Growth Management Committee in Item No. PG9.3 recommended that Council direct the City Solicitor to continue the appeal of the Committee decision and to have the City Solicitor and Staff enter into mediation with the private school to resolve the appeal.

ISSUE BACKGROUND

Subsequent to the January 20, 2016 meeting of the Planning and Growth Management Committee the City Solicitor requires further direction from Council in relation to the appeal at the Ontario Municipal Board.

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

Mark Crawford, Solicitor
Planning & Administrative Tribunal Law
Tel: (416) 392-8864; Fax: (416) 397-5624; E-mail: mcrawfol@toronto.ca

SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1 - Confidential Information