



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Review of Ontario Municipal Board Decision – 39  
Bertrand Avenue**

<b>Date:</b>	March 22, 2016
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward 37 Scarborough Centre
<b>Reason for Confidential Information:</b>	This report contains advice or communications that are subject to solicitor-client privilege. This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
<b>Reference Number:</b>	

**SUMMARY**

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On February 18, 2016 the Ontario Municipal Board (the "OMB") heard the City's appeal of a minor variance application approved by the Committee of Adjustment for 39 Bertrand Avenue (File No. A066/15SC). The application was to allow an indoor recreation use (badminton courts) in an industrial building. On March 10, 2016 the OMB issued its written decision. The Board approved the minor variances on condition and dismissed the City of Toronto's appeal. This report seeks direction regarding the OMB's decision.

**RECOMMENDATIONS**

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The City Solicitor recommends that:

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 City Council and the balance of Confidential Attachment 1 is to remain confidential.

## **Financial Impact**

The financial implications are set out in Attachment 1.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

On July 16, 2015, the Scarborough Panel of the Committee of Adjustment approved on condition a minor variance application (File No. A066/15SC) regarding 39 Bertrand Avenue (the "Committee Decision").

On July 31, 2015, the City of Toronto appealed the Committee Decision to the Ontario Municipal Board (the "Committee Appeal") pursuant to the delegated authority of Item ED33.9 adopted by City Council at its meeting of August 25, 26, 27, and 28, 2014. This Item directs City Legal and appropriate City staff to appeal decisions of the Committee of Adjustment to the Ontario Municipal Board which do not conform with the Official Plan's Employment Area policies.

The hearing of the Committee Appeal was scheduled for two days on February 18 and 19, 2016 (OMB File No. PL150960). It concluded after one day on February 18, 2016. The OMB issued its written decision on the Committee Appeal on March 10, 2016 approving the minor variances on condition and dismissing the City of Toronto's appeal.

## **ISSUE BACKGROUND**

39 Bertrand Avenue is located in the South West Scarborough Employment Area. The subject property is designated *Employment Areas* under the City of Toronto Official Plan. It is designated as a *Core Employment Area* under OPA 231, which has been adopted by City Council and approved by the Province but is currently under appeal and not in force.

The subject property is zoned General Industrial (MG) in the Dorset Park Employment District Zoning By-law No. 24982, as amended. It is zoned Employment Industrial (E) under City of Toronto Zoning By-law No. 569-2013.

The applicant proposed to introduce a recreation use (badminton courts) into a converted industrial building. Recreation Uses are only permitted on major roads in *Employment Areas* under the Official Plan and in Employment Industrial zones under By-law No. 569-2013. Recreation Uses are permitted in General Industrial zones under By-law No. 24982. Recreation Uses are not permitted in *Core Employment Areas* under OPA 231.

## **COMMENTS**

The Confidential Attachment to this report provides further information.

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

Attachment 1: Confidential Information regarding the OMB decision for 39 Bertrand Avenue (OMB File No. PL150960)