

## **260 Gamble Avenue - Request for Directions Regarding OMB Hearing**

**Date:** March 1, 2017

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 37 - Scarborough Centre

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

### **SUMMARY**

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The purpose of this report is to request direction from City Council regarding an appeal of a decision of the Toronto and East York Committee of Adjustment (the "Committee") by the owner of 260 Gamble Avenue, Akelius Canada Ltd. (the "Owner"). The Ontario Municipal Board (the "OMB") hearing has been scheduled for March 21, 2017.

### **RECOMMENDATIONS**

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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 to this report be made public at such time as Council adopts the recommendations. All other information contained in the Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor.

## **FINANCIAL IMPACT**

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

## **DECISION HISTORY**

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On September 13, 2016, the Committee refused a minor variance application for the lands municipally known as 260 Gamble Avenue (the "Committee Decision"). The Owner had applied to alter the existing three-storey multi-unit residential apartment building by converting the basement area into two new dwelling units. The Owner requested variances to both City-wide Zoning By-law 569-2013 ("569-2013") and East York By-law 6752 ("6752") to permit a total of 13 parking spaces. By-law 6752 requires a minimum of 26 spaces, and 569-2013 requires a minimum of 30 spaces (25 for tenants and 5 for visitors).

On September 30, 2016, the Owner appealed the Committee Decision to the OMB.

At its meeting on October 5, 6 and 7, 2016, City Council adopted the recommendations in Item No. MM21.35, directing the City Solicitor to attempt to negotiate a settlement of the appeal, and, in the event a settlement could not be reached, directing the City Solicitor to attend the OMB to oppose the appeal and retain outside consultants, if necessary. Item No. MM21.35 can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.MM21.35>

An OMB hearing has been scheduled for March 21, 2017.

Further information has been received which has resulted in the need for directions from City Council prior to the March 21, 2017 OMB hearing. A with prejudice settlement offer (the "Offer") was made to the City Solicitor on February 28, 2017. A copy of the letter containing the Offer is attached as Appendix "A" to this report.

## **COMMENTS**

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This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

## **CONTACT**

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Cigdem Iltan, Solicitor, Planning & Administrative Law;  
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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Appendix "A" to the public portion of this report - With Prejudice Settlement Offer letter from Aird & Berlis, dated February 28, 2017

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

## Appendix "A"

Figure 1 - Three page With Prejudice Settlement Offer Letter from Aird & Berlis, dated February 28, 2017

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### AIRD & BERLIS LLP

Tradesters and Solicitors

Laura Dean  
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February 28, 2017

Our File #134652

BY EMAIL

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City of Toronto, Legal Services  
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Toronto, ON M5V 3C6

WITH PREJUDICE

Dear Ms. Iltan:

**Re: 260 Gamble Ave. – OMB File No. PL161107  
With Prejudice Settlement Offer**

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Aird & Berlis LLP acts on behalf of Akelius Canada Ltd., the owner of the lands municipally known as 260 Gamble Avenue (the "property") in the City of Toronto, located on the North Side of Gamble Avenue, west of Donlands Avenue.

The property contains a multi-unit residential rental apartment building. The building was constructed in 1956 and currently contains 24 units. Our client proposes to renovate the building by converting a lower floor storage area into two (2) new dwelling units, a bachelor unit and a one-bedroom unit (the "proposed renovation").

On December 14, 2015, our client's agent submitted a minor variance application to the Committee of Adjustment, Toronto and East York Panel, to facilitate the proposed renovation. The proposed renovation requires one variance to City of Toronto Zoning By-law 569-2013 and one variance to East York Zoning By-law 6752.

At its meeting on September 13, 2016, the Committee of Adjustment refused the application, with one member dissenting.

On September 30, 2016, our client appealed the Committee of Adjustment's refusal to the Ontario Municipal Board ("OMB").

The purpose of this letter is to provide a with prejudice settlement offer to City Council in advance of the OMB hearing which is scheduled for March 2<sup>nd</sup>, 2017.

Requested Variances to the Parking Requirement

The following variances to parking are requested:

The proposal will have 13 parking spaces for tenants of the dwelling units, and 3 for visitors of the dwelling units whereas the City of Toronto Zoning By-law 569-2013 requires 30 parking spaces; 25 for tenants of the dwelling units, and 5 for visitors of the dwelling units and the East York Zoning By-law 6752 requires 26 parking spaces.

The existing building was constructed in 1956 and predates both of the above by-laws. The property currently has 13 on-site parking spaces. The proposed renovation would not remove any existing parking

Settlement Offer

Our client retained the services of traffic and parking consultant LMM Engineering Inc., to conduct a parking study for the property and the surrounding streets, specifically Gamble Avenue between Donlands Avenue and Todmorden Lane and Donlands Avenue between Cosburn Avenue and Torrens Avenue (the "study area"). The purpose of this study was to review the adequacy of on-site residents-only permit parking and on-street parking in order to determine the potential impact of the construction of two (2) additional dwelling units at 260 Gamble Avenue on the current parking supply.

This parking study found that at the peak hours, the on-site residents-only permit parking lot currently has two (2) vacant parking spots. With respect to on-street parking, the parking study found that just 27 out of an estimated 50 available parking spots within the study area are occupied. It is LMM Engineering's opinion that the existing 13 on-site residents-only parking spaces would adequately meet the parking demand if two additional units were to be constructed at the property. Furthermore, even with the construction of two additional units, there will continue to be adequate on-street parking in the vicinity of the property. The report is in the process of being finalized and will be provided under separate cover.

The following are the terms of our client's proposed with prejudice settlement. Akelius Canada Ltd. will agree to the following conditions to the approval of the minor variances:

- prior to the issuance of the building permit, Akelius Canada Ltd. shall provide a construction management plan to the satisfaction of the General Manager, Engineering and Construction Services, the goal of which is to minimize construction impacts on the residents of 260 Gamble Avenue; and
- the provision of four (4) ring and post bicycle parking spaces at the rear of the property, to the satisfaction of the City, in addition to the four (4) spaces in the existing shed on-site, for a total of 8 on-site bicycle parking spaces.

Should City Council accept this settlement offer, we will proceed to the OMB hearing to provide evidence in support of the requested variances. We would ask the City to attend to advise the Board that it consents to the approval of the minor variances.



**ARND & BERLETS LLP**  
ATTORNEYS AT LAW

February 28, 2017  
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Should you require any further information, please do not hesitate to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



Laura Dean

LD/EC/cw

c. Client

Encl.

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AIRD & BERLIS LLP  
ATTORNEYS AT LAW