



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Request for Direction of LPAT Appeals of Official Plan Amendment 320 - Healthy Neighbourhoods and Apartment Neighbourhoods Policies

Date: June 14, 2018

To: City Council

From: City Solicitor

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations and contains advice subject to Solicitor client privilege.

SUMMARY

City Council adopted Official Plan Amendment No. 320 (OPA 320) in December 2015 as part of the City's Five-Year Official Plan Review updating the Healthy Neighbourhoods, *Apartment Neighbourhoods* and *Neighbourhoods* policies. OPA 320 is under appeal before the Local Planning Appeal Tribunal (LPAT), formerly the Ontario Municipal Board (OMB). Since the proclamation of Bill 139 in force as of April 3, 2018, the OMB has been replaced by the LPAT. The OPA 320 hearing was commenced under and will be adjudicated under the former system, including legal tests and procedural rules.

The LPAT has scheduled September 24 to October 18, 2018 to hear city-wide appeals of OPA 320. This report requests direction from City Council for the LPAT hearing regarding issues related to the Healthy Neighbourhoods and *Apartment Neighbourhoods* policies in OPA 320.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations in Confidential Attachment 1.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of:

- a. the recommendations contained in Confidential Attachment 1, with the remainder of Confidential Attachment 1 to remain confidential, as it contains advice subject to solicitor-client privilege; and
- b. Confidential Attachment 2

FINANCIAL IMPACT

There is no financial impact arising from the above recommendations.

DECISION HISTORY

As part of the City's Official Plan Five Year Review, Council adopted OPA 320 in December 2015 to strengthen and refine the Healthy Neighbourhoods, *Apartment Neighbourhoods* and *Neighbourhoods* policies to support Council's goals to protect and enhance existing neighbourhoods, allow limited infill development on underutilized *Apartment Neighbourhood* sites and to implement the City's Tower Renewal Program. The City's decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PG8.5>

The Minister of Municipal Affairs modified and approved OPA 320 on July 4, 2016.

A total of 57 appeals were received to the Minister's decision to approve OPA 320.

COMMENTS

The LPAT has held four pre-hearing conferences on this matter, and a fifth pre-hearing conference is scheduled on August 15, 2018. In December 2017, the LPAT issued an Order to approve some OPA 320 policies that were no longer subject to appeals. The hearing of city-wide appeals of OPA 320 policies is scheduled from September 24 to October 18, 2018 inclusive.

A total of 48 parties remain in the OPA 320 hearing, including 32 city-wide OPA 320 appeals. The 16 remaining parties have site specific appeals that will be heard during a second phase that has yet to be scheduled by the LPAT.

City staff initiated private mediation of the OPA 320 appeals and invited all parties to attend in an effort to reduce the issues and the number of appellants. Mediation was organized into two streams based on appellants' issues and related OPA 320 policies. One stream focused on the Healthy Neighbourhoods and *Apartment Neighbourhoods* policies, and a second stream focused on the *Neighbourhoods* policies. All city-wide appellants or parties were invited to participate in one or both of the streams, and participating parties opted to attend the stream or streams of their interest. The private mediation was held between March 22 and May 14, including 7 full and 5 part days.

Mediation led by the LPAT followed and was held on May 29, June 11 and 12. A total of 19 parties participated in mediation with City staff.

The City Solicitor seeks further instructions.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Instructions to Staff and Confidential Advice
Subject to Solicitor-Client Privilege

Confidential Attachment 2 - Confidential Information