



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### Request for Direction of LPAT Appeals of Official Plan Amendment 320 - Neighbourhoods Policies

**Date:** July 11, 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 to update the Healthy Neighbourhoods, *Apartment Neighbourhoods* and *Neighbourhoods* policies as part of the City's Five-Year Official Plan Review. OPA 320 is under appeal before the Local Planning Appeal Tribunal (LPAT), formerly the Ontario Municipal Board (OMB). The OPA 320 hearing was commenced under and will be adjudicated under the former system, including the relevant legal tests in the *Planning Act*.

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 that relate to the *Neighbourhoods* policies within 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 clarify 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 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. In total, 57 appeals were received to the Minister's decision to approve OPA 320.

In December 2017, the LPAT issued an Order to approve some OPA 320 policies no longer subject to appeals.

At its meeting of June 26, 27 and 28, 2018, Council adopted the City Solicitor's recommendation to accept an offer to settle OPA 320 appeals regarding the Healthy Neighbourhoods and *Apartment Neighbourhoods* policies from the Building Industry and Land Development Association and Minto Properties Inc. The City Solicitor and other Staff were directed to support the settlement at the LPAT. The City's decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC43.15>

## COMMENTS

---

The LPAT has held four (4) pre-hearing conferences on this matter, and a fifth (5) pre-hearing conference is scheduled on August 15, 2018. The hearing of city-wide appeals of OPA 320 policies is scheduled from September 24 to October 18, 2018.

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

City staff initiated private mediation of the OPA 320 appeals in an effort to reduce the breadth and scope of the issues and the number of appellants. All parties were invited to attend and 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 addressed the *Neighbourhoods* policies. All city-wide appellants or parties were invited to participate in

one or both of the streams, and participating parties chose to attend the stream or streams of their interest.

Private mediation included 7 full and 5 part days between March 22 and May 14. LPAT mediation was held on May 29, June 11 and 12. A total of 19 parties participated with City staff in mediation. Mediation of the Healthy Neighbourhoods and *Apartment Neighbourhoods* policies produced the settlement offer considered by City Council in June as described above in Decision History.

The City Solicitor seeks further instructions regarding the *Neighbourhoods* policies of OPA 320.

## **CONTACT**

---

Brian Haley, Director, Planning and Administrative Tribunal Law, Tel. 416-392-6757, E-Mail: [Brian.Haley@toronto.ca](mailto:Brian.Haley@toronto.ca)

Nathan Muscat, Solicitor, Planning and Administrative Tribunal Law, Tel, 416-397-5475, E-mail: [Nathan.Muscat@toronto.ca](mailto:Nathan.Muscat@toronto.ca)

## **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