



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

OMB Appeal of Official Plan Amendment 231 - Request for Directions

Date: February 5, 2018

To: Planning and Growth Management Committee

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. 231 (OPA 231) following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding the City's employment lands. Mondelez Canada Inc. (Mondelez) appealed OPA 231 to the Ontario Municipal Board (OMB) on a city-wide basis, including permissions for hotels within *Employment Areas*. The City Solicitor seeks instructions regarding this appeal.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff 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

At its meeting on December 16, 17 and 18, 2013, City Council adopted OPA 231 with respect to the economic health policies and the policies, designations and mapping for *Employment Areas* following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding employment lands. On July 2014, the Minister approved with modifications the majority of OPA 231. The City's and Minister's decisions can be accessed at these links respectively:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

<http://www1.toronto.ca/City%20of%20Toronto/City%20Planning/SIPA/Files/pdf/O/ministers%20decision%20on%20opa%20231.pdf>

A total of 178 appeals were received to the Minister's decision to approve OPA 231, including a city-wide appeal by Mondelez regarding a number of issues, including permissions for hotels in *Core Employment Areas* and *General Employment Areas*.

COMMENTS

The OMB held the first Pre-hearing Conference (PHC) on OPA 231 on March 12 and 13, 2015, where the Board directed all appellants who filed city-wide appeals to scope their appeals by identifying which parts of OPA 231 they were contesting. Upon receiving the scoping letters, the City was able to propose a phased approach to deal with all policy matters under appeal. At a subsequent PHC, the Board and appellants agreed to the phased approach, which sought to bring resolution to the two new employment designations in the early phases of the hearing process.

To date the Board has held a total of 9 PHCs, 3 motion hearings, 11 days of mediation and 3 hearing days. The Board has also scheduled the following hearing dates in 2018, a PHC on February 13 and a total of 27 hearing days to occur between March and July.

The OMB has issued two Orders partially approving OPA 231. The December 2016 Order brought into force the *Core Employment Areas* and *General Employment Areas* designations, except for sites subject to appeals and certain use permissions that remain contested including hotels, fitness centres, ice arenas, parks and other uses.

Appeal No. 128 relates to a number of city-wide policy matters in OPA 231 appealed by Mondelez. Among the matters Mondelez took issue with is the fact that OPA 231 provides hotel permissions in all *Employment Areas*. Mondelez has expressed concerns that the existence of hotels in *Employment Areas* may impact negatively on the ability of industrial operations to operate without complaints from hotel patrons.

On November 17, 2017, the Economic Development Committee adopted without amendment a staff report from the General Manager, Economic Development and Culture on Ensuring a Robust Hotel Supply to Strengthen Tourism, Item ED25.5. Council had asked staff to analyze hotel capacity and potential impacts of hotel redevelopment projects that convert hotels to residential uses and effect hotel room

inventory. A number of hotels have been redeveloped into residential condominiums in recent years in the Downtown and removed hotel supply from the market at about the same rate as new hotels have been developed.

Council on December 5, 6, 7 and 8, 2017 postponed consideration of Item ED25.5 to the January 31, February 1 and 2, 2018 Council meeting. The Committee recommended that Council request the General Manager, EDC, the Chief Planner and other appropriate Divisions to review the potential for the implementation of a hotel accommodation replacement policy and/or strategy to protect the existing amount of hotel space in areas where the Official Plan permits both residential and hotel uses, the *Mixed Use Areas* and *Regeneration Areas* designations.

At its meeting of January 31 and February 1, 2018, Council adopted ED25.5 with amendments.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.ED25.5>

This report requests direction from City Council for the ongoing OMB hearing respecting OPA 231.

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

Attachment 2 - Confidential Information