



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Request for Direction of LPAT Appeals of Official Plan Amendment 231 on Employment Land Conversion and Forecasting Issues

Date: June 10, 2019

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. 231 (OPA 231) regarding Employment Areas in December 2013. OPA 231 is currently under appeal before the Local Planning Appeal Tribunal (LPAT or Tribunal).

The LPAT has scheduled September 16 to October 4, 2019 to hear the remaining appeals regarding OPA 231 employment lands forecasting and policies pertaining to the conversion of employment lands. This report requests direction from City Council for the LPAT hearing respecting conversion and forecasting issues.

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

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. In July 2014, the Minister approved the majority of OPA 231 with some modifications. The City's decision can be accessed at this link:

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

The Minister approved the majority of OPA 231 with some modifications in July 2014. The LPAT received a total of 178 appeals to OPA 231. The LPAT 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 under appeal and regarding particular uses that remain contested. LPAT Decisions can be accessed at this link:

<https://www.omb.gov.on.ca/ecs/CaseDetail.aspx?n=PL140860>

There are multiple appeals relating to the conversion of Employment Areas to non-employment uses and the City's methodology used to forecast the required supply of employment lands.

COMMENTS

The LPAT held the first Pre-hearing Conference (PHC) on OPA 231 in 2015 and directed appellants who filed city-wide appeals to scope their appeals to identify those parts of OPA 231 they were contesting. Upon reviewing appellant scoping letters, the City was able to propose a phased approach that was agreed to by the Tribunal and appellants, including dealing with all policy matters under appeal and seeking to resolve the two new employment designations during early phases of the hearing process.

To date the Tribunal has held 12 PHCs, four mediation sessions and five hearings. The Tribunal has reserved a PHC for July 2019 and has also reserved 15 hearing days in September and October 2019 for conversion and forecasting policies and nine hearing days in May 2020 for retail policies.

Parties to OPA 231 have appealed policies pertaining to the conversion of Employment Lands as well as certain sidebars, non-policy text and other related policies. They have also challenged the City's position on how much employment land is required to meet the demands of Toronto's economy now and in the future.

Policies 2.2.4.14 to 2.2.4.16 of OPA 231 require that the redesignation of lands from an Employment Area designation to any other designation, or the introduction of uses that are otherwise not permitted in an Employment Area, only be done by way of a City-initiated Municipal Comprehensive Review under Section 26 of the *Planning Act*. Policy 2.2.4.17 establishes criteria for evaluating requests to convert Employment Areas to other designations.

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

CONTACT

Kelly Matsumoto, Practice Lead, Planning and Administrative Tribunal Law, Tel. 416-392-8042, E-Mail: kelly.matsumoto@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