



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Canadian National Railway and Toronto Terminals Railway Application for Consent Appeal Tribunal Decision

Date: December 7, 2020

To: City Council

From: City Solicitor

Wards: Ward 10 – Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

On October 16, 2020, the Local Planning Appeal Tribunal (the "Tribunal") issued a decision approving an application by Canadian National Railway ("CN") and Toronto Terminals Railway ("TTR") made pursuant to section 53 of the Planning Act for the property at 18D York Street subject to certain conditions. The Local Planning Appeal Tribunal Act provides that a decision of the Tribunal may be appealed to the Divisional Court, with leave of the Divisional Court, on a question of law.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1 to the report dated (December 7, 2020) from the City Solicitor.
2. City Council authorize the public release of the confidential instructions to staff in Confidential Attachment 1 to the report dated (December 7, 2020) from the City Solicitor at the discretion of the City Solicitor, if adopted.

3. City Council direct that the balance of Confidential Attachment 1 to the report dated (December 7, 2020) from the City Solicitor remain confidential at the discretion of the City Solicitor, as it contains advice and information that is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial implications are set out in Confidential Attachment 1.

DECISION HISTORY

On March 13, 2019, CN & TTR applied for consent to sever the property at 18D York Street into two properties with respect to air rights. The application was appealed for non-decision and consolidated with outstanding Local Planning Appeal Tribunal ("Tribunal") appeals by CRAFT Acquisitions Corporation and PITS Developments Inc. On October 16, 2020, the Tribunal issued its decision regarding the severance.

COMMENTS

The attached Confidential Attachment 1 from the City Solicitor provides legal advice and seeks direction from City Council with respect to the Tribunal decision.

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

Report for action with confidential attachment – Canadian National Railway and Toronto Terminals
Railway Application for Consent Appeal Decision