

Legal Implications that may arise from refusal of construction staging area permit

Date: August 21, 2020

To: Toronto and East York Community Council

From: City Solicitor

Wards: Wards 4, 9, 10, 11, 12, 13, 14, 19

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The City Solicitor has been requested to provide legal advice to members of the Toronto and East York Community Council regarding any legal implications that may arise from the refusal of a construction staging area permit in the municipal right of way for a private development.

RECOMMENDATIONS

The City Solicitor recommends that:

1. The confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There are no financial implications associated with adopting the recommendation in this report.

DECISION HISTORY

At its meeting of July 16, 2020, the Toronto and East York Community Council requested the City Solicitor to provide a confidential briefing, if necessary, or legal opinion to the members of the Toronto and East York Community Council at the September 15, 2020 meeting, regarding any legal implications that may arise from the refusal of a construction staging area permit in the municipal right of way for a private development.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE16.51>

At its meeting of January 29, 2020 City Council considered a report from the General Manager of Transportation Services regarding the logistical and legal implications of eliminating right of way occupancy permits for private construction permits and requested a further report to the Infrastructure and Environment Committee regarding the implementation of a new right-of-way occupancy permit policy that defaults to a denial of requests, except when no other options are available.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.IE11.8>

COMMENTS

The City of Toronto has the legislative authority under the City of Toronto Act, 2006 to pass a bylaw to issue permits to use public roads for a variety of purposes. There is no obligation to pass such a bylaw, but the City has chosen to exercise that authority in a bylaw found in Municipal Code Chapter 743 – Streets and Sidewalks, Use of (the "Bylaw").

Under the Bylaw any person seeking to temporarily occupy a street must submit an application requesting a temporary permit to do so. A permit may be issued when it is required on behalf of the owner of the lands abutting the street for the temporary storage of equipment or material that will be used for constructing, repairing or demolishing a building or structure on the lands.

The Bylaw sets out a process for making an application and provision of a permit. There is limited discretion to deny an application for a permit. Any decision to refuse an application for a permit must include the reason for refusal. The reasons a permit may be refused are set out in the Bylaw:

- A. The application is incomplete or has been submitted using false or misleading information;
- B. The applicant has not paid the required fees and securities;
- C. There has been non-payment of fees or other monies by the applicant to the City under a permit or agreement previously issued to the applicant under this Article;

D. There has been violations of any condition of a permit or agreement previously issued to the applicant, or any provisions of this Article applicable to a previously issued permit or agreement; and

E. The applicant has not obtained consent from the City as required by the Bylaw.

In order to obtain consent the applicant must pay all fees, submit all financial securities, show evidence of adequate insurance and enter into any agreements and remain in compliance with any agreements required by the City.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Information