

## **31R Parliament Street, 370 Cherry Street and 370R Cherry Street Official Plan and Zoning By-law Amendment - Request for Directions**

**Date:** January 25, 2021

**To:** City Council

**From:** City Solicitor

**Wards:** 10 - Spadina-Fort York

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

### **SUMMARY**

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On March 28, 2017, City Council adopted item CC27.2, directing the City Solicitor to attend the Local Planning Appeal Tribunal ("LPAT") in support of a joint settlement in principle of the Official Plan and Zoning By-law amendment applications for 31R Parliament Street, 370 Cherry Street and 370R Cherry Street ("31R Parliament Street") and the Official Plan and Zoning By-law amendment application at 60 Mill Street.

On July 6, 2017, the LPAT issued its decision approving the joint settlement but withheld its final Order until the satisfaction of a number of conditions (the "2017 Settlement").

Following the 2017 Settlement the lands at 60 Mill Street have gone through changes of ownership and are now owned by 2575867 Ontario Inc. On December 24, 2019, the current owner of 60 Mill Street submitted a new Zoning By-law Amendment application to build a 31-storey hotel building (the "60 Mill Street New Application"). At this time, the current owner of 60 Mill Street is pursuing the 60 Mill Street New Application and is not taking any steps to finalize the 2017 Settlement.

The owner of 31R Parliament Street submitted a letter to the City on January 20, 2021 requesting the City's consent to finalize the 2017 Settlement as it relates 31R

Parliament Street, independent of finalizing the Official Plan and Zoning By-law appeals for 60 Mill Street, so they can proceed with the development as previously approved. The details of this request are attached to this report as Public Attachment 1.

The purpose of this report is to seek instructions from City Council regarding the request from the owner of 31R Parliament Street to finalize the LPAT final Order for 31R Parliament Street in advance and independent of the final Order for 60 Mill Street. City Planning staff have been involved in the preparation of this report.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. If the confidential recommendations in Confidential Attachment 1 are adopted by City Council, City Council authorize the public release of:
  - a. the confidential recommendations in Confidential Attachment 1, but that the remainder of Confidential Attachment 1 remain confidential as it contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

## **DECISION HISTORY**

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On March 28, 2017, City Council adopted item CC27.2, directing the City Solicitor to advise the LPAT to support a combined settlement in principle of the Official Plan and Zoning By-law amendment application at 31R Parliament Street and the Official Plan and Zoning By-law amendment application at 60 Mill Street. Staff considered the combined settlement on the two applications due to the sites' geographic proximity and because both sites were under one ownership. A set of conditions, including the provision of a combined Section 37 community benefits package, was to be secured prior to the LPAT issuing its final Order. Council's decision document can be accessed here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC27.2>

On July 6, 2017, the LPAT issued its decision approving the 2017 Settlement. The LPAT withheld its final Order authorizing the final versions of the Official Plan and

Zoning By-law amendments until the satisfaction of a number of conditions. The LPAT decision can be accessed at this link:

<https://www.omb.gov.on.ca/e-decisions/pl151116-Jul-06-2017.pdf>

Following the 2017 Settlement, 60 Mill Street has gone through changes of ownership and is now owned by 2575867 Ontario Inc. ("Easton\Gupta Group"). On December 24, 2019, Easton\Gupta Group submitted a new Zoning By-law Amendment application for a 31-storey hotel at 60 Mill Street.

On February 5, 2020, Toronto and East York Community Council considered a preliminary report on the 60 Mill Street New Application. Community Council's decision can be found at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE13.22>

On May 5, 2020, the LPAT held a status hearing on the 2017 Settlement. Legal counsel for the owner of 31R Parliament Street advised the Tribunal that the owner of 31R Parliament Street intends to seek a final Order for the Official Plan and Zoning By-law amendment applications for their site and has been working with the City to satisfy the conditions for the 2017 Settlement. Legal counsel for Easton\Gupta Group advised the Tribunal that Easton\Gupta has taken no steps to satisfy the conditions which were set by the Tribunal for the 2017 Settlement. However, Easton\Gupta requested that the 2017 Settlement for 60 Mill Street be held in abeyance until further notice. The LPAT directed that the Parties make arrangements for conducting discussions amongst themselves and provide the LPAT with recommendations as to how the LPAT should proceed for the purpose of administering the 2017 Settlement. The LPAT's decision can be found at this link:

<https://www.omb.gov.on.ca/e-decisions/pl151116-May-11-2020.pdf>

On October 27, 2020, City Council considered a request for directions report on the 60 Mill Street New Application. City Council instructed the City Solicitor, together with City Planning staff and other appropriate staff, to attend the LPAT in opposition to the appeal. City Council also instructed that City staff continue discussions with the applicant on a revised proposal. Council's decision can be found at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE19.9>

The 60 Mill Street New Application has been appealed to the LPAT (Tribunal file no. PL200325). A 10-day hearing of the appeal is scheduled to commence on July 12, 2021.

## **ISSUE BACKGROUND**

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Goodmans LLP, as legal counsel for the owner of 31R Parliament Street, submitted the letter attached to this report as Public Attachment 1. In the letter, the owner of 31R Parliament Street requests the City's consent for the LPAT's final Order for the 31R Parliament Street to be finalized in advance and independent of finalizing the LPAT's Order for the appeals for 60 Mill Street. Reasons for this request are outlined in the letter.

The purpose of this report is to present to City Council recommendations regarding the request submitted by the owner of 31R Parliament Street as outlined in Public Attachment 1.

## **COMMENTS**

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This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential information.

## **CONTACT**

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Matthew Longo, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-8109  
Fax: (416) 397-5624; Email: [Matthew.Longo@toronto.ca](mailto:Matthew.Longo@toronto.ca)

Sara Amini, Solicitor, Planning & Administrative Law, Tel: 416-392-2723, Fax: 416-397-5624, E-mail: [Sara.Amini@toronto.ca](mailto:Sara.Amini@toronto.ca)

## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Attachment 1 - Letter from Goodmans LLP dated January 20, 2021
2. Confidential Attachment 1 - Confidential Recommendations and Confidential Information