

## **Request for Instructions Regarding the Settlement of a Dispute Regarding Park Levies for a Development at 2143 and 2147 Lake Shore Boulevard West**

**Date:** July 6, 2021

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 3 - Etobicoke-Lakeshore

### **REASON FOR CONFIDENTIAL INFORMATION**

---

This report is about litigation or potential litigation that affects the City of Toronto.

Confidential Attachment 1 to this report contains advice or communications that are subject to solicitor-client privilege.

### **SUMMARY**

---

This report provides information regarding a potential settlement of a law suit concerning the cash-in-lieu parkland payment for a three building development at a development site located at 2143-2147 Lake Shore Boulevard West. The law suit concerns a parkland dedication credit granted to a predecessor in title to the current owner of the development site in January 2004 by Order of the Ontario Municipal Board.

### **RECOMMENDATIONS**

---

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1, once adopted by City Council, at the discretion of the City Solicitor.

3. City Council direct that the remainder of Confidential Attachment 1 is to remain confidential in its entirety, at the discretion of the City Solicitor, as it relates to litigation involving the City and contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

---

The financial impact relating to these issues is set out in the Confidential Attachment.

## **DECISION HISTORY**

---

At its meeting of November 30, December 1, 2, 4 and 7, 2009, City Council adopted EY 31.4 "2143 and 2147 Lake Shore Boulevard West - Official Plan and Zoning Amendment Applications, and Lift of the Holding Provisions - Final Report". The City Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EY31.4>

At its meeting on August 25, 26 and 27, 2010, City Council adopted EY 39.21 "2143 and 2147 Lake Shore Boulevard West - Official Plan, Zoning By-law Amendment and Lifting of the 'H' Applications - Supplementary Report". The City Council decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EY39.21>

At its meeting on February 19 and 20, 2014 City Council adopted EY 30.3 "Final Report - Humber Bay Shores Precinct Plan Area - City Initiated Zoning By-law Amendment - Lifting of the Holding (H) Symbol". The City Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EY30.3>

## **COMMENTS**

---

### **Factual Background**

The owner of the lands municipally known as 2143-2147 Lake Shore Boulevard West (the "Development Site"), B-Major (Ontario) Inc. ("B-Major"), proposes and has partially constructed a development consisting of three buildings: a 16-storey mixed commercial residential building ("Building A"), a 56-storey residential building ("Building B") and a 5-storey commercial building ("Building C").

Relevant Official Plan and Zoning By-law amendments, as well as other relevant planning approvals, were applied for and approved by City Council in 2009, 2010 and 2014 as noted in the Decision History section of this report.

B-Major's proposed development is now partially constructed. On July 31, 2015 a conditional building permit was issued for the construction of above grade elements of Building A. In connection with the issuance of this building permit, B-Major made a

cash-in-lieu of parkland dedication payment in the amount of \$1,158,172.53; however, this payment was made under protest. B-Major asserted, amongst other things, that:

- The cash-in-lieu payment it was required to pay in respect of Building A did not reflect a parkland dedication credit granted to a predecessor in title to the Development Site by order of the Ontario Municipal Board ("OMB") dated January 26, 2004 (the "Parkland Credit");
- That the valuation of the Development Site underlying the cash-in-lieu payment it was required to pay was inaccurate.

Subsequently, on March 23, 2017 B-Major commenced a law suit against the City of Toronto seeking, amongst other things, damages in respect of the cash-in-lieu payment made by it for Building A and seeking declaratory relief as to how the Parkland Credit should be valued and applied for the purposes of any cash-in-lieu payments required in respect of Buildings B and C. The City defended the law suit.

B-Major also appealed the appraisal underlying the cash-in-lieu payment for Building A to the Ontario Municipal Board pursuant to subsection 42(10) of the Planning Act.

B-Major has moved ahead with preliminary and preparatory works for Buildings B and C. It is anticipated that B-Major will seek the issuance of conditional building permits for the construction of above grade elements of Buildings B and C in the coming months. Prior to issuance of such building permits B-Major will be required to make the applicable cash-in-lieu payments for Buildings B and C.

The attached confidential attachment contains information concerning a potential settlement with B-Major.

## **CONTACT**

---

Tim Carre, Solicitor, Legal Services, 416-392-8044, [timothy.carre@toronto.ca](mailto:timothy.carre@toronto.ca)

## **SIGNATURE**

---

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

Confidential Attachment 1 - Request for Instructions Regarding the Settlement of a Dispute Regarding Park Levies for a Development at 2143 and 2147 Lake Shore Boulevard West