

Downtown Priority Retail Streets - City-initiated Zoning By-law Amendment - Request for Directions

Date: June 6, 2022

To: City Council

From: City Solicitor

Wards: 10 - Spadina-Fort York; 11 - University-Rosedale; 13 - Toronto-Centre

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

On November 26 and 27, 2019, City Council enacted Zoning By-laws 1681-2019 and 1682-2019, which amended former City of Toronto Zoning By-law 438-86 and City-wide Zoning By-law 569-2013 for the Downtown Urban Growth Centre regarding zoning requirements for streets designated as Priority Retail Streets in the Downtown Secondary Plan. The Zoning By-laws were subsequently appealed to the Ontario Land Tribunal ("**OLT**") by 7 appellants. Six of the Seven Appellants remain and their appeals are site-specific in nature.

The purpose of this report is to request further instructions for an ongoing matter before the OLT.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (June 6, 2022) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 and Confidential Appendix "A" to the report (June 6, 2022) from the City Solicitor, if adopted by City Council.

3. City Council direct that all other information contained in Confidential Attachment 1 to the report (June 6, 2022) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

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

DECISION HISTORY

At its May 2018 meeting, City Council adopted Official Plan Amendment (OPA 406) the Downtown Plan pursuant to Section 26 of the Planning Act. The Bill was enacted at the July 24-26, 2018 Council meeting. At the same meeting, City Council directed the Chief Planner and Executive Director, City Planning to prepare necessary amendments to Zoning By-law 569-2013 and former City of Toronto Zoning By-law 438-86 as it relates to Retail Priority Streets and undertake public consultation on the draft amendments. City Council's decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG29.4>

OPA 406 was submitted to the Ministry of Municipal Affairs and Housing on August 9, 2018, for Ministerial review and approval. The Ministry issued its Decision approving the OPA on June 5, 2019 and the decision is now in full force and effect. The Decision can be found here: <https://www.toronto.ca/legdocs/refdocs/11189.pdf>

At its July 2019 meeting City Council received City Planning's report providing a summary and analysis of the Minister of Municipal Affairs and Housing's modifications and approval of OPA 406 (Downtown). City Council's decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.8>

On November 26 and 27, 2019, City Council enacted Zoning By-laws 1681-2019 and 1682-2019, which amended former City of Toronto Zoning By-law 438-86 and City-wide Zoning By-law 569-2013 for the Downtown Urban Growth Centre to implement the Priority Retail Streets in the Downtown Plan. City Council's decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH10.1>

Appeal to OLT

On January 19, 2021, the OLT held the first Case Management Conference for the appeals on Priority Retail Streets ("PRS") Zoning By-laws. There were seven appellants of the Priority Retail Streets Zoning By-laws. No additional interested persons were granted party status. Since January 19, 2021, one Appellant has withdrawn their appeal. All other appellants are site-specific. On July 30, 2021, the City filed a motion on consent of the Appellants to confirm that the PRS By-laws are in force on all lands, except for the specific lands of the Appellants. As of the date of this Report, the OLT has not yet issued a decision confirming the request on consent.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by City Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Confidential Appendix "A" - Confidential Information.