

**Bathurst Street - Queen Street West to Dupont Street  
(OPA 246) and Bathurst Bloor Character Area (OPA  
349) - Request for directions regarding Ontario Land  
Tribunal Appeal**

**Date:** June 6, 2022

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 11 - University-Rosedale

**REASON FOR CONFIDENTIAL INFORMATION**

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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**

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In August 2014, City Council adopted Official Plan Amendment 246, called Bathurst Street - Queen Street West to Dupont Street ("OPA 246"). The OPA was appealed by two parties, Torgan Management Inc. ("Torgan") in respect of its property at 844 Bathurst Street and University Health Network ("UHN") in respect of the Toronto Western Hospital property, located at 399 Bathurst Street

In December 2016, City Council adopted OPA 349, which came out of the Bathurst – Bloor Four Corners Study. The OPA modified section 9 of OPA 246 insofar as it applies to the four corners of the Bathurst Bloor intersection. OPA 349 was also appealed by Torgan, in respect of its property at 844 Bathurst Street.

The appeal by UHN was settled and an order issued by the OLT on May 28, 2021. At that time, OPA 246 (and OPA 349, nested within it) were brought into force on all the subject lands, save and except those owned by the second appellant, Torgan.

The purpose of this report is to seek instruction for the two outstanding OLT appeals by Torgan. No OLT hearing has been scheduled yet.

## RECOMMENDATIONS

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The City Solicitor recommends that:

1. Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. The recommendations contained in the Confidential Attachment 1 to this report and Confidential Appendix "A" be made public at such time as Council adopts the recommendations. All other information contained in the Confidential Attachment 1 is to remain confidential.

## 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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In July 2012, City Council directed staff to initiate a planning study focussing on built form and land use on both sides of Bathurst Street from Dupont to Queen Street, the Bathurst Street Built Form and Land Use Study:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE17.57>

In a report dated May 29, 2014 planning staff outlined its Official Plan Amendment direction, requested the initiation of the Bathurst/Bloor Area Study and a Heritage Conservation District Study for Mirvish Village, and brought forward zoning by-law amendments to limit the size of any one retail establishment in the study area. The report was adopted by Council at its meeting of July 8, 2014:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE33.7>

The final report recommending the adoption of OPA 246 was adopted by City Council at its meeting of August 25, 2014:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE34.8>

At its meeting of May 5, 2015 City Council endorsed a report titled "Bathurst-Bloor Four Corners Study Official Plan Amendment Principles Report" which included a set of principles which formed the basis for the OPA 349:

<http://www.toronto.ca/legdocs/mmis/2015/te/bgrd/backgroundfile-78545.pdf>

On December 13, 14 and 15, 2016, City Council adopted the recommendations in the Final Report - Bathurst - Bloor Four Corners Study - Official Plan Amendment and Zoning By-law Amendment, and enacted Official Plan Amendment 349 (OPA 349) and Zoning By-law 1283-2016, resulting in a planning framework to govern development within the lands located generally adjacent to the Bathurst Street and Bloor Street West Intersection. OPA 349 modified polices within the Bathurst Bloor Character Area at Policy 9 of OPA 246:

## **ISSUE BACKGROUND**

The intent of the Bathurst Street Built Form and Land Use Study, which resulted in OPAs 246 and 349, was to create a framework for development for the lands located on Bathurst Street between Queen Street West and Dupont Street that better defined the role of Bathurst Street as the western boundary of the "Downtown and Central Waterfront" in the Official Plan Urban Structure Map. The policies of OPA 246 were developed to ensure that new development fits appropriately in its context, transitions appropriately to adjacent areas of lower scale intensity, limits light, view, and privacy impacts on surrounding streets and properties, expands and enhances the public realm, and includes appropriately scaled retail spaces. OPA 349 was later nested into policy 9 of OPA 246 and created more refined policies for the Bathurst Bloor intersection.

Subsequent to their adoption by City Council, OPA 246 and OPA 349 were both appealed to the OLT by Torgan in respect of its properties at 844-852 Bathurst Street, as well as 1-9 London Street, which abut but were excluded from OPA 349. Torgan is the only outstanding appellant to both OPAs and has engaged in long ranging discussions with City Planning Staff regarding appropriate policies for this site. Further information has been received with respect to the Torgan site which has resulted in the need for direction from City Council.

## **COMMENTS**

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This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information and should be considered by Council in camera.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Confidential Advice Subject to Solicitor-Client Privilege

Confidential Appendix "A" - Confidential Information

Report for Action with Confidential Attachment on OPA 246 and OPA 349  
OLT Appeal