



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 40 and 42 Tuxedo Court - Zoning Amendment Application - Request for Direction Report

**Date:** March 15, 2023

**To:** City Council

**From:** City Solicitor

**Wards:** 24 - Scarborough-Guildwood

#### **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 May 28, 2021, the City received a Zoning By-law Amendment application for 40 - 42 Tuxedo Court (the "Site") to permit the construction of a mixed-use building with two towers.

The applicant appealed City Council's neglect or failure to make a decision on its application (the "Appeal") to the Ontario Land Tribunal (the "OLT") on January 21, 2022.

The City Solicitor requires further directions for the upcoming OLT hearing scheduled for July 10, 2023.

#### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 this report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1, Confidential Appendix "A" and Confidential Appendix "B" to this report from the City Solicitor, if the confidential recommendations are adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to this report from the City Solicitor remain confidential at the discretion of the City Solicitor, as it contains advice and information which is subject to solicitor-client privilege.

## FINANCIAL IMPACT

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There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

## DECISION HISTORY

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On May 28, 2021, a Zoning By-law Amendment Application (the "Application") was submitted to permit a mixed-use building with two towers, one with a height of 29-storeys and the other with a height of 26-storeys. The Application proposed a density of 4.35 times the area of the lot, and comprised of 644 dwelling units (146 studio units, 258 one-bedroom units, 161 two-bedroom units and 79 three-bedroom units) along with a 667 square metre child care centre. The existing 15-storey apartment building on-site would be retained.

A Preliminary Report was adopted by Scarborough Community Council on September 17, 2021, authorizing staff to conduct a community consultation meeting with an expanded notification area. The decision of Scarborough Community Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.SC26.7>

On January 21, 2022, the applicant appealed to the Ontario Land Tribunal (the "OLT") due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

On June 15 and 16, 2022, City Council adopted a Request for Direction report from the Director, Community Planning, Scarborough District, and directed the City Solicitor together with appropriate City staff to attend the OLT to oppose the Zoning By-law Amendment application in its current form and to continue discussions with the applicant to resolve issues outlined in the report. The Decision of City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.SC32.1>

The OLT conducted a first case management conference on July 10, 2022, during which it scheduled mediation for fall 2022. A ten-day hearing is scheduled to commence on July 10, 2023.

## COMMENTS

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The City Solicitor requires further instructions on this matter. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Confidential Attachment 1 - Confidential Information
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information