



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

399-405 Yonge Street - Zoning By-law Amendment - Ontario Land Tribunal Hearing - Request for Directions Report

Date: March 13, 2023

To: City Council

From: City Solicitor

Wards: Ward 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

The purpose of this report is to request further instructions for the potential Ontario Land Tribunal ("**OLT**") hearing into this matter currently scheduled to commence on May 8, 2023, for 10 days. The applicant appealed the proposed Zoning By-law Amendment application for 399-405 Yonge Street to the OLT due to Council's neglect or failure to make a decision on the application within the prescribed time period under the *Planning Act*. The lands 399-405 Yonge Street and 20 Gerrard Street East are proposed to be included in the Official Plan Amendment application appealed by the applicant of 409-415 Yonge Street and 9 and 17 McGill Street to the OLT.

City Council previously directed City staff to engage with the applicant and Covenant House (owner of 20 Gerrard Street East) in an effort to resolve matters in dispute. The City Solicitor and City staff, along with the other parties to the appeals made by the applicant have engaged in Tribunal led mediation and discussions.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, Confidential Appendix "A", Confidential Appendix "B" and Confidential Appendix "C" to this report from the City Solicitor, if adopted by City Council, at the discretion of the City Solicitor.

3. City Council direct that all other information contained in Confidential Attachment 1 to this report 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

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

City Council Decisions

On January 29, 1990, City Council enacted by-law 80-90 to designate the property at 20 Gerrard Street East (Willard Hall) under the *Ontario Heritage Act*, now under section 29 of the *Ontario Heritage Act*. The designation by-law may be found here:

[https://www.toronto.ca/legdocs/pre1998bylaws/toronto percent20- percent20former percent20city percent20of/1990-0080.pdf](https://www.toronto.ca/legdocs/pre1998bylaws/toronto%20-%20former%20city%20of/1990-0080.pdf)

On June 18 and 19, 2019, City Council refused the Zoning By-law Amendment application for the reasons set out in the report from the Director, Community Planning, Toronto and East York District. A copy of the Refusal Report and decision of City Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE6.13>

On February 7-9, 2023, City Council adopted an Appeal Report dated January 6, 2023 from the Acting Director, Community Planning, Toronto and East York (Item TE2.14). A copy of the Appeal Report and the City Council Item can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE2.14>

OLT Process

The OLT has held several case management conferences on this matter, the last occurring on January 20, 2023. A 10 day hearing of the consolidated appeals is scheduled to commence on May 8, 2023.

COMMENTS

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

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Instructions to Staff and Confidential Information
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information
4. Confidential Appendix "C" - Confidential Information