



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

409-415 Yonge Street and 9 and 17 McGill Street - Official Plan Amendment and Zoning By-law Amendment - Ontario Land Tribunal Hearing - Request for Directions Report

Date: March 9, 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 Official Plan Amendment and Zoning By-law Amendment applications for 409-415 Yonge Street and 9 and 17 McGill Street to the OLT from Council's refusal of the applications pursuant to the *Planning Act*.

City Council previously directed City staff to engage with the applicant 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" and Confidential Appendix "B" to this report from the City Solicitor, if adopted by City Council.
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

At its meeting of February 26, 2019, City Council considered a Request for Interim Directions Report dated January 18, 2019 from the Director of Community Planning, Toronto and East York District (Item TE3.7). City Council directed City staff to continue to review the application and resolve any outstanding issues detailed in the report. A copy of the Interim Directions Report and the decision of City Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE3.7>

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 December 14, 2022, City Council considered a Request for Directions Report dated December 6, 2022 from the City Solicitor (Item CC2.12). A copy of the Request for Directions Report and the decision of City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC2.12>

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) regarding 399-405 Yonge Street. 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>

On February 7-9, 2023, City Council adopted a Request for Directions Report dated January 26, 2023 from the City Solicitor (Item CC3.7). A copy of the Request for Directions Report and the City Council Item can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC3.7>

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