

**102 Berkeley Street- Zoning By-law Amendment - OLT  
Appeal - Request for Directions**

**Date:** April 27, 2023  
**To:** City Council  
**From:** City Solicitor  
**Wards:** Ward 13 - Toronto-Centre

**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 litigation.

**SUMMARY**

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On October 4, 2021, a Zoning By-law Amendment application was submitted to permit a 20-storey mixed-use building with 357 square metres of retail space on the ground floor and 181 residential dwelling units.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment (the "Appeal"), to the Ontario Land Tribunal (the "OLT") on January 24, 2022, citing City Council's failure to make a decision within the time period prescribed under the *Planning Act*. A Case Management Conference was held on June 6, 2022, and the OLT has scheduled a 10-day hearing commencing on May 31, 2023. On March 6, 2023, the applicant submitted with prejudice revised plans for a modified proposal.

Given the timing of the hearing, the City Solicitor requires further directions on this matter no later than the completion of the City Council meeting which starts on May 10, 2023. This matter is urgent and cannot be deferred.

**RECOMMENDATIONS**

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The City Solicitor recommends that:

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

2. If the City Solicitor's confidential recommendations are adopted by City Council, then City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 and Confidential Appendix 1.
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 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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A Preliminary Report on the application (January 24, 2022) from the Director, Community Planning, Toronto and East York District was considered by Toronto and East York Community Council on February 16, 2022. The Community Council decision and Preliminary Report can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.TE31.42>

A Request for Direction Report on the application was adopted by City Council on May 11, 2022 directing the City Solicitor and appropriate City staff to attend at the OLT hearing to oppose Zoning By-law Amendment application, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The Request for Direction Report can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.TE32.11>

## **COMMENTS**

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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.

## **CONTACT**

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102 Berkeley Street - Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Directions

## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Confidential Attachment 1 - Confidential Information
2. Confidential Appendix 1 - Confidential Information