



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

45 The Esplanade – Ontario Land Tribunal Appeal – Request for Directions

Date: April 27, 2023

To: City Council

From: City Solicitor

Wards: Ward 10 – Spadina–Fort York

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

On December 30, 2021, the City received Official Plan and Zoning By-law Amendment applications for 45 The Esplanade (the "Site") to permit the construction of a 36- and 35- storey mixed-use development containing 682 units, 8,042 square metres of hotel use, and 585 square metres of retail at-grade.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Official Plan and Zoning By-law Amendment (the "Appeal"), to the Ontario Land Tribunal (the "OLT") on August 3, 2022.

The City Solicitor requires further directions for an upcoming OLT hearing event scheduled for June 21, 2023 for reasons contained in Confidential Attachment 1.

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 the Confidential Attachment 1 to this report from the City Solicitor and the entirety of Confidential Attachment 2, 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

On December 29, 2021, the City received Official Plan Amendment and Zoning By-law Amendment applications (the "Applications") to permit the construction of a 36- and 35-storey mixed-use development containing 682 units, 8,042 square metres of hotel use, and 585 square metres of retail at-grade. The Preliminary Report can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.TE32.26>

On August 3, 2022, the applicant appealed City Council's neglect or failure to make a decision on the Applications to the OLT. The OLT held a first Case Management Conference on November 25, 2022 and a second Case Management Conference on March 7, 2023. A third Case Management Conference is scheduled for June 21, 2023.

A Request for Direction Report on the Applications was adopted by City Council on February 7, 2023 directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Applications, 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=2023.TE2.5>

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.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

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