

**124 and 136 Broadway Avenue – Ontario Land
Tribunal Hearing – Request for Directions**

Date: April 27, 2023
To: City Council
From: City Solicitor
Wards: 15 - Don Valley West

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 June 14, 2021, the City received a Zoning By-law Amendment application for 124 Broadway Avenue to permit the construction of a 38-storey residential building. A site plan control application was submitted on June 14, 2021.

On January 4, 2022, the City received a Zoning By-law Amendment application for 136 Broadway Avenue to permit a 12-storey residential building. A site plan control application was submitted on November 4, 2021.

The applicant appealed City Council's neglect or failure to make a decision on its two applications for the Zoning By-law Amendments to the Ontario Land Tribunal (the "OLT") on February 3, 2022 for 124 Broadway Avenue, and April 21, 2022 for 136 Broadway Avenue. The OLT has consolidated these two appeals into one (the "Appeal") for 124 Broadway Avenue and 136 Broadway Avenue (collectively the "Site").

Subsequent to appealing its Zoning By-law Amendment applications for both properties, the applicant revised its applications, including a height increase on 136 Broadway Avenue to permit a 35-storey residential building.

The City Solicitor requires further directions for the upcoming OLT hearing scheduled for August 8-23, 2023. Given imminent procedural filing dates set out in the Procedural Order, and other deadlines addressed in Confidential Attachment 1, this matter is urgent and cannot be deferred.

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, and Confidential Appendix A, 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

On June 14, 2021, the City received a Zoning By-law Amendment application to permit a 38-storey residential building at 124 Broadway Avenue. The Preliminary Report can be found at:

<https://www.toronto.ca/legdocs/mmis/2021/ny/bgrd/backgroundfile-170168.pdf>

On January 4, 2022, the City received a Zoning By-law Amendment application to permit a 12-storey residential building at 136 Broadway Avenue. The Preliminary Report can be found at:

<https://www.toronto.ca/legdocs/mmis/2022/ny/bgrd/backgroundfile-199200.pdf>

On February 3, 2022 and April 21, 2022, the applicant appealed City Council's neglect or failure to make decisions on the Zoning By-law Amendments for 124 Broadway Avenue and 136 Broadway Avenue, respectively, to the OLT. The OLT held the first Case Management Conference on July 22, 2022. The applicant subsequently revised its Zoning By-law Amendment applications for both properties. The OLT held the second Case Management Conference on February 21, 2023. A hearing is scheduled for August 8-23, 2023.

A Request for Direction Report on the application was adopted by City Council on December 14 and 15, 2022, directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Zoning By-law Amendment 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://www.toronto.ca/legdocs/mmis/2023/ny/bgrd/backgroundfile-230023.pdf>

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

Kasia Czajkowski, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 338-5725; Fax: (416) 397-5624; Email: Kasia.Czajkowski@toronto.ca

Michelle LaFortune, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 338-0642; Fax: (416) 397-5624; Email: Michelle.LaFortune@toronto.ca

Ultra Gautam, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 396-7986; Fax: (416) 397-5624; Email: Ultra.Gautam@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

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