

**320 McCowan Road – Ontario Land Tribunal Hearing –
Request for Directions**

Date: May 31, 2023

To: City Council

From: City Solicitor

Wards: Ward 20 - Scarborough 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 February 24, 2020, the City issued a Notice of Complete Application for a Zoning By-law Amendment application for 320 McCowan Road (the "Site") to demolish an existing 4-storey above-grade parking structure and to permit the construction of two new residential buildings comprised of a shared 6-storey podium above which a 27-storey tower (west) and a 31-storey tower (east) would be located. The west and east towers would have heights of and 102 metres and 88 metres respectively.

On August 24, 2021, the owner filed a site plan control application for the Site and the above-described development.

On April 7, 2022, the applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment to the Ontario Land Tribunal (the "OLT") and appealed the City's failure to approve the site plans or drawings within 30 days after the site plan control application was submitted (collectively, the "Appeals").

The City Solicitor requires further directions for an upcoming OLT hearing of the Appeals scheduled for 10 days commencing on September 18, 2023. Consideration of this matter is urgent and cannot be deferred given the hearing commences prior to the first City Council meeting in the Fall of 2023 and procedural deadlines for the preparation for the hearing begin in June of 2023.

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 Appendix "A" and Confidential Appendix "B" 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 February 24, 2020, the City received a Zoning By-law Amendment application to permit the development described above. The Preliminary Report can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC16.5>

On April 7, 2022, the applicant filed the Appeals. The OLT held the first Case Management Conference on September 15, 2022. A hearing is scheduled for 10 days to commence on September 18, 2023.

A Request for Direction Report on the application was adopted by City Council on July 19, 2022 directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Zoning By-law Amendment application. The Request for Direction Report can be found at: <https://secure.toronto.ca/council/agenda-item.do?item=2022.CC47.14>

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

Mark Piel, Deputy Director, Planning & Administrative Tribunal Law; Tel: (416) 392-2124; Fax: (416) 397-5624; Email: mark.piel@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

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