



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

18 Portland Street, 1-9 Niagara Street - Official Plan Amendment, Zoning By-law Amendment and Demolition of a Designated Property - Ontario Land Tribunal Hearing - Request for Directions Report

Date: June 1, 2023

To: City Council

From: City Solicitor

Wards: Ward 10 - Spadina-Fork 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

The purpose of this report is to request further instructions for the Ontario Land Tribunal ("OLT") hearing into this matter scheduled to commence on July 24, 2024, for 10 days. The applicant appealed the proposed Official Plan Amendment and Zoning By-law Amendment applications for 18 Portland Street and 1-9 Niagara Street (the "Development Site") to the OLT from Council's failure to make a decision on the applications within the prescribed time periods pursuant to the *Planning Act*.

The OLT hearing is scheduled to commence on July 24, 2023 for 10 days. Given this timing, this item is urgent and cannot be deferred.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff contained in the Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential instructions to staff 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 Instructions to Staff beyond what has already been approved in the current year's budget.

DECISION HISTORY

City Council Decisions

A Preliminary Report was received by Toronto and East York Community Council on February 16, 2022 to acknowledge the community consultation meeting conducted by staff on February 15, 2022. The decision of the Toronto and East York Community Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.TE31.32>

On September 28, 2022, City Council indicated its intention to designate 18 Portland Street under Part IV, Section 29 of the *Ontario Heritage Act*.

On December 14, 2022, City Council affirmed its decision to designate 18 Portland Street. A letter of objection was received from the landowner's legal counsel. City Council's decision to designate the property under the *Ontario Heritage Act* can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.CC50.10>

On December 14, 2022, City Council considered the owner's objection to the Notice of Intention to Designate. Council enacted the designation by-law and designated the property under Section 29 of the *Ontario Heritage Act*. City Council's decision may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC2.20>

By-law 69-2023 enacted on December 14, 2022, designating 18 Portland Street under Part IV, Section 29 of the *Ontario Heritage Act* may be found here:

<https://www.toronto.ca/legdocs/bylaws/2023/law0069.pdf>

On February 7 and 8, 2023, City Council adopted an Appeal Report dated January 3, 2023 from the Acting Director, Community Planning, Toronto and East York (Item TE2.14) regarding 18 Portland Street and 1-9 Niagara 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.TE2.16>

On February 7 and 8, 2023, City Council adopted a report from Senior Manager, Heritage Planning, Urban Design, City Planning regarding the demolition of the property at 18 Portland Street and a copy of the report and City Council Item can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2023.TE2.17>

The advice of the Toronto Preservation Board respecting the application to demolish a designated property at 18 Portland Street may be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2023.PB2.4>

OLT Process

The OLT has held several case management conferences on this matter, the last occurring on April 6, 2023. A 10 day hearing of the appeals is scheduled to commence on July 24, 2023.

The owner appealed Designation By-law 69-2023. That appeal was withdrawn on April 3, 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.

CONTACT

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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