

Ontario Toronto New Deal Agreement - Supplementary Report

Date: December 7, 2023

To: City Council

From: Wendy Walberg, City Solicitor

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

This report responds to Council's request that the City Solicitor to report on the possibility of intervening in the Province of Ontario's (the "Province") Impact Assessment Act applications in Federal Court.

Confidential Attachment 1 contains legal advice from the City Solicitor regarding the litigation.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council receive this report and Confidential Attachment 1 to this report from the City Solicitor for information.
2. City Council direct that all 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 or communications that are subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial implications are discussed in Confidential Attachment 1.

DECISION HISTORY

On November 8, 2023, City Council adopted CC12.14 - Response to MM11.39 - Protecting the Process for Tree Removal at Ontario Place, which directed the City Solicitor to report on the possibility of intervening in the Province's Impact Assessment Act applications in Federal Court, and authorised the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning, to take any necessary steps to preserve the City's rights in these proceedings.

On October 11, 2023, City Council adopted MM11.39 - Protecting the Process for Tree Removal at Ontario Place, which directed staff to report on the requirements applicable to the removal of trees within Ontario Place, and directed the City Solicitor to report on the City's associated legal options.

COMMENTS

On September 17, 2023, an organization called Ontario Place for All requested the designation of aspects of the Ontario Place redevelopment project under subsection 9(1) of the Impact Assessment Act ("IAA").

On October 13, 2023, the Supreme Court of Canada released its decision in Reference re: Impact Assessment Act. In this decision, the Supreme Court majority stated that portions of the IAA were unconstitutional.

On October 24, 2023, the Attorney General of Ontario commenced a Federal Court application seeking a declaration that portions of the IAA are of no force and effect, and seeking to prohibit the federal government from taking regulatory action under the IAA with respect to the Ontario Place underground parking garage.

On December 1, 2023, the federal Minister of the Environment announced that designating the Ontario Place redevelopment pursuant to the IAA was in his view not warranted.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Information