



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Update Regarding the Ferncastle Arbitration Concerning Outstanding Sony Centre Redevelopment Issues

Date: December 5, 2022

To: Board of Directors of TO Live

From: President and Chief Executive Officer & the City Solicitor

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege or which are the subject matter of litigation or contemplated litigation.

SUMMARY

The purpose of this report is to provide the Board with an update and request instructions with respect to the arbitration commenced by Ferncastle (Front Street) Inc. and Fernbrook (Front Street) Inc. under the October 2, 2009 Amended and Restated Umbrella Agreement respecting the construction of the L Tower and related works at Meridian Hall.

RECOMMENDATIONS

The President and Chief Executive Officer and the City Solicitor recommends that the Board of Directors of TO Live:

1. Adopt the confidential instructions to staff in Confidential Attachment 1.
2. Direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice or communications that are subject to solicitor-client privilege or which are the subject matter of litigation or contemplated litigation.

FINANCIAL IMPACT

The financial impacts are identified in the confidential attachment.

DECISION HISTORY

At its meeting on November 19, 2019, the Board of Directors of TO Live considered item CT7.12 Update on Certain Outstanding Sony Centre Redevelopment Issues
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CT7.12>

At its meeting of March 22, 2018 the Board of Directors of TO Live considered Item CT26.8 Resolution of Certain Outstanding Sony Centre Redevelopment Issues
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CT26.8>

At its meeting of April 8, 2016, the Board considered Item HB10.3, Sony Centre for the Performing Arts - Outstanding Redevelopment Issues.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.HB10.3>

COMMENTS

Ferncastle (Front Street) Inc. and Fernbrook (Front Street) Inc. commenced a claim in arbitration under the 2009 Umbrella Agreement pertaining to the construction of the L Tower and related works at Meridian Hall for a total amount of \$9,718,862.50 plus HST.

The parties have recently engaged in without prejudice discussions regarding the arbitration. The attached confidential attachment provides an update and requests instructions in respect of these negotiations.

CONTACT

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SIGNATURE

Clyde Wagner
President and CEO, TO Live

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Instructions to Staff