

229 Queen Street East and 120-122 Sherbourne Street - Request for Directions Regarding OLT Hearing

Date: June 28, 2023

To: Toronto Preservation Board

From: City Solicitor

Wards: Ward 13 - Toronto Centre

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 November 16, 2021, Zoning By-law Amendment and Site Plan Control applications were submitted proposing a 31-storey mixed-use building with ground floor retail uses and 340 residential dwelling units at 225-229 Queen Street East and 120-134 Sherbourne Street. Alterations were proposed to the built heritage resources on the site.

On July 14, 2022, the applicant appealed the Zoning By-law Amendment and Site Plan Control applications to the Ontario Land Tribunal (the "OLT"), citing City Council's failure to make a decision on the application within the prescribed timelines of the *Planning Act*.

City Council stated its intention to designate the properties at 229 Queen Street East and 120-122 Sherbourne Street under Part IV of the *Ontario Heritage Act* at its meeting of August 15, 2022.

On February 7 and 8, 2023, City Council directed the City Solicitor to oppose the applications at the OLT.

On May 11, 2023, the applicant filed a revised Zoning By-law Amendment application proposing a 45-storey mixed-use building with ground floor retail uses, and 516 residential dwelling units.

The focus of this Report is on the requested alterations pursuant to Section 33 of the *Ontario Heritage Act*.

The City Solicitor requires further directions for the upcoming OLT hearing scheduled to commence on November 14, 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, Confidential Appendix "A", Confidential Appendix "B", and Confidential Appendix "C", 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 July 14, 2022, the applicant appealed the Zoning By-law Amendment and Site Plan Control applications to the OLT.

On August 15, 2022, City Council stated its Intention to Designate the properties at 229 Queen Street East and 120-122 Sherbourne Street.

[Agenda Item History - 2022.CC48.6 \(toronto.ca\)](#)

No objections to the Intention to Designate were made and on September 28, 2023, City Council passed By-law 1229-2022 designating the property at 120-122 Sherbourne Street under Part IV of the *Ontario Heritage Act*, and By-law 1230-2022 designating the property at 229 Queen Street East under Part IV of the *Ontario Heritage Act*.

[By-law 1229-2022 \(toronto.ca\)](#)

[By-law 1230-2022 \(toronto.ca\)](#)

An Appeal Report was adopted by City Council on February 7 and 8, 2023, directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Zoning By-law Amendment and Site Plan Control applications, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The Appeal Report can be found at:

[Agenda Item History - 2023.TE2.12 \(toronto.ca\)](#)

The OLT held the first Case Management Conference on November 8, 2022, and the second Case Management Conference on February 27, 2023. A hearing is scheduled to commence on November 14, 2023.

Area Context

The heritage properties at 229 Queen Street East and 120-122 Sherbourne Street are located within the Moss Park neighbourhood. The character of the area is defined by the late-19th century development of the neighbourhood with commercial/residential and industrial buildings and consistent urban street walls. The property at 229 Queen Street East anchors the southwest corner of Queen Street East and Sherbourne Street. The adjacent properties to the south at 120-122 Sherbourne Street are located at the northwest corner of Sherbourne and Britain Streets.

Heritage Properties

The properties at 229 Queen Street East and 120-122 Sherbourne Street are designated under Part IV, Section 29 of the *Ontario Heritage Act* and meet Ontario Regulation 9/06, the criteria prescribed for municipal designation, under all three categories of design, associative and contextual value.

The property at 229 Queen Street East contains a three-storey hotel building historically known as the Kormann House Hotel completed in 1897. Many residents may better know the property by its more recent name, Canada House Hotel or Tavern, which it maintained for nearly 80 years before finally closing its doors in the early 1990s.

The properties at 120-122 Sherbourne Street contain three-storey main street commercial row buildings that were completed in 1892. These Victorian-era brick buildings maintain the scale, form, massing and materiality of this section of Queen Street East.

Proposed Alterations

As part of its original Zoning By-law Amendment application, the applicant proposed alterations to the heritage properties at 229 Queen Street East and 120-122 Sherbourne Street involving the retention of the street-facing facades of the Kormann House Hotel (229 Queen Street East) and the commercial row buildings (120-122 Sherbourne Street). The retained facades were to be incorporated into the base building of a 31-storey plus mechanical penthouse mixed-use tower (which the applicant later revised to a 45-storey plus mechanical penthouse mixed-use tower). The tower had 5.5 metre stepbacks above the Kormann House Hotel façades. Above the commercial row buildings, the tower had a 5.5 metre stepback above the east façade and a 5.6 metre

stepback above the south façade. The proposed tower stepbacks were unencumbered by projections. The remainder of the base building was three storeys along Queen and Britain Streets and eight storeys along Sherbourne Street.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information
4. Confidential Appendix "C" - Confidential Information