



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# 175-185 King Street East – Zoning By-law Amendment Application – Appeal Report

**Date:** March 4, 2024

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 13 - Toronto Centre

### REASON FOR CONFIDENTIAL INFORMATION

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

### SUMMARY

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On August 18, 2022, a Zoning By-law Amendment application for 179-185 King Street East was submitted to permit a 33-storey mixed-use building with 7,600 square metres of non-residential gross floor area and 190 dwelling units above. Portions of the facades of the existing designated heritage buildings were proposed to be integrated into the development.

On March 24, 2023, the applicant appealed the application to the Ontario Land Tribunal (the "OLT") due to Council's failure to make a decision within the timeframe identified in the *Planning Act*.

On August 14, 2023, following the appeal, the applicant acquired 175 King Street East and submitted a revised Zoning By-law Amendment application. The revised application for the enlarged site was for a 35-storey mixed-use building with 500 square metres of non-residential gross floor area and 394 dwelling units above.

On January 20, 2024, and following several days of Tribunal-led mediation, the applicant provided a with prejudice settlement offer. The details of this offer are set out in this report, Public Attachment 1, and Public Attachment 2. The City Solicitor requires further directions for upcoming OLT proceedings relating to the zoning by-law amendment appeal.

This report should be considered along with Item PB14.3 of the Toronto Preservation Board and the associated confidential report from the City Solicitor dated January 31, 2024, which discusses the heritage conservation strategy of the Settlement Offer and

has been forwarded to City Council for consideration at its meeting of March 20-22, 2024.

See: <https://secure.toronto.ca/council/agenda-item.do?item=2024.PB14.3>

## **RECOMMENDATIONS**

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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 Confidential Attachment 1 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**

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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**

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On October 11, 2023 City Council considered an Appeal Report from Community Planning in which it was recommended that City Council authorize staff to attend the OLT in opposition to the applications as filed. Those recommendations also included direction that no heritage permits be issued until a satisfactory Conservation Plan had been provided and that the owner had entered into a Heritage Easement Agreement with the City. The recommendations were adopted by Council and the decision can be found at the following link:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE7.15>

## COMMENTS

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The following table summarizes the relevant development statistics for the original proposal, which was appealed on August 18, 2022, and the Settlement Offer dated January 20, 2024:

Category	Original Proposal August 18, 2022	Revised Proposal August 14, 2023	Settlement Offer January 20, 2024
Maximum Total GFA (square metres)	19,500	26,000	approximately 29,000
Non-Residential GFA (square metres)	7,578 (hotel)	Maximum 500 (retail)	Minimum 400 (retail)
Building Height (metres) (excluding mechanical penthouse)	116.12 (33 storeys)	116.07 (35 storeys)	149.9 (46 storeys)
Northern Tower Setback above the Heritage Buildings (metres)	10 at Level 3; 8.75 at Level 4; 7.5 at Level 5 and above	10 at Levels 3 to 5; 7.5 at Level 6 and above	10 at Levels 3 to 5; 8 at Level 6; 7 at Level 7 and above
Eastern Tower Setback above the Heritage Building (metres)	3 at Level 3; 2.3 at Level 4; 1.6 at Level 5; 0.9 at Level 6 and above	3 at Levels 3 to 5; 0.9 at Level 6 and above	3 at Levels 3 to 5; 1 at Level 6 and above
Western Tower Setback (metres)	0	0	5.5 - 10
Southern Tower Setback (metres)	10 at Level 4 and above	5.5 at Levels 3 to 5; 10 at Level 6 and above	5.5 at Levels 3 to 5; 10 at Level 6 and above

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**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Attachment 1 - With Prejudice Settlement Offer from Aird & Berlis LLP dated January 20, 2024
2. Public Attachment 2 - Architectural plans prepared by IBI Group Architects (Canada) Inc. dated December 19, 2023
3. Confidential Attachment 1 - Confidential Information