



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 34-70 Montgomery Avenue – Ontario Land Tribunal Hearing – Request for Directions

**Date:** May 7, 2024

**To:** City Council

**From:** City Solicitor

**Ward:** Ward 8 – Eglinton - Lawrence

**Planning Application Number:** 22 170531 NNY 08 OZ

Related Application: 22 170530 NNY 08 SA

#### 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 June 30, 2022, the City received applications to amend the Official Plan and Zoning By-law and for Site Plan approval to permit the construction of a 24 storey (75.3 metres excluding mechanical penthouse) mixed-use building with 306 residential dwelling units and 525 square metres of retail uses at grade. The applications were deemed complete on February 21, 2023 following a further submission of plans and reports.

The applicant appealed the Official Plan and Zoning By-law amendment applications to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the time frame specified in the *Planning Act* (the "Appeals") on June 23, 2023. The related Site Plan control application has not been appealed and is held in abeyance pending the outcome of the Appeals. A nine-day hearing of the Appeals has been scheduled to commence on June 17, 2024.

The City Solicitor requires further direction for the upcoming OLT hearing. This matter is urgent as it is the last opportunity to get instruction from City Council in advance of established procedural exchange dates.

#### RECOMMENDATIONS

---

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in 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 and Confidential Appendix "A" 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**

---

In June 2022 the City received zoning by-law amendment, official plan amendment and site plan applications to permit redevelopment of the Site.

An Appeal Report on the applications was adopted by City Council on December 13, 14 and 15, 2023, directing the City Solicitor and appropriate City staff to attend the OLT hearing in opposition to the proposal in its current form, and to continue discussions with the applicant to address the staff concerns as outlined in the report. The Request for Direction Report can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.NY9.8>

## **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**

---

Sarah O'Connor, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 397-5624; Email: [Sarah.OConnor@toronto.ca](mailto:Sarah.OConnor@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

1. Confidential Attachment 1 – Confidential Information
2. Confidential Appendix "A" – Confidential Information