



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

708-712 Kennedy Road – Ontario Land Tribunal Hearing – Request for Directions

Date: June 11, 2025

To: City Council

From: City Solicitor

Wards: Ward 20 - Scarborough Southwest

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 March 11, 2022, the Applicant submitted Zoning By-law Amendment, Site Plan Control, and Rental Housing Demolition applications to permit the redevelopment of 708-712 Kennedy Road (the "Site") with two buildings: a 12-storey mid-rise residential building with frontage on Kennedy Road and a 29-storey residential tower at the Site's southwestern corner. The Site is currently occupied by two four-storey apartment buildings comprising 98 rental dwelling units. All 98 rental dwelling units are proposed to be demolished (and replaced) as part of the redevelopment of the Site.

On March 22, 2024, the Applicant made a resubmission, which included two residential towers of 21 and 42 storeys, collectively containing 682 residential dwelling units (inclusive of the proposed rental replacements units).

On May 21, 2024, the Applicant appealed City Council's non-decision on the Zoning By-law Amendment application (the "Appeal") to the Ontario Land Tribunal (the "OLT").

On October 19 and 20, 2024, City Council adopted the recommendations in the Appeal Report from the Director, Community Planning, Scarborough District, dated September 3, 2024, wherein Community Planning recommended, among things, that the City Solicitor attend the OLT in opposition to the Appeal, and that the City Solicitor and appropriate City staff continue discussions with the Applicant to address outstanding issues.

On October 18, 2024, the OLT held the first Case Management Conference ("CMC") in respect of the Appeal. Hearing dates for the Appeal were set at the first CMC: a two-week hearing set to commence on July 21, 2025.

On February 4, 2025, the City and the Applicant participated in mediation in respect of the Appeal.

On May 27, 2025, the Applicant filed revised plans with the OLT (the "Revised Plans"). The Revised Plans feature, among other things: a lowered height for the tower at the rear of the Site (Tower B) from 42 storeys to 38 storeys, excluding the mechanical penthouse; confirmation that the tower floorplates of both towers do not exceed 750 square metres (gross construction area); the removal of the wrap-around balconies on both towers; the addition of a connection between the towers; a relocated lobby for Tower B; and updated landscape plans that increase the total soil volume for the Site to meet Toronto Green Standard soil volume requirements.

On June 9, 2025, the Applicant submitted a With Prejudice Settlement Offer to the City Solicitor from their lawyers, Goodmans LLP, which is attached as Public Attachment 1 (the "Settlement Offer"). The Settlement Offer will remain open until the end of the City Council meeting scheduled to commence on June 25, 2025.

The Settlement Offer proposes, as part of any settlement reached with the City, the provision of a minimum of 1,500 square feet of non-residential uses (in addition to the improvements already made to the development proposal in the Revised Plans), as well as a commitment to request that the OLT withhold its final order in this matter until a series of conditions are fulfilled.

The City Solicitor requires further directions for upcoming OLT hearing scheduled to commence on July 21, 2025. This matter is urgent and should not be deferred.

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 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 October 19 and 20, 2024, City Council adopted the recommendations in the Appeal Report from the Director, Community Planning, Scarborough District, dated September 3, 2024, wherein Community Planning recommended, among things, that the City Solicitor attend the OLT in opposition to the Appeal, and that the City Solicitor and appropriate City staff continue discussions with the Applicant to address outstanding issues:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.SC16.9>

COMMENTS

The Revised Plans filed with the OLT include the following built form and Site area changes:

- **Building Height:** has been reduced for Tower B at the rear of the Site from 42 storeys to 38 storeys (exclusive of the mechanical penthouse);
- **Gross Construction Area (GCA):** tower floorplates of both Towers A and B are confirmed to not exceed 750 square metres;
- **Removal of Wrap-Around Balconies:** the wrap-around balconies on Towers A and B have been removed;
- **Connection Between Towers:** Towers A and B will be connected to allow for pedestrian access between buildings and better wind conditions on the Site, specifically in the drop-off area and at the lobby entrance for Building B;
- **Tower B Lobby Relocation:** the Tower B lobby has been relocated to the northeast portion of the ground floor, with the principal entrance for the lobby to be from the north of the building, such that it is visible from Kennedy Road; and
- **Increased Soil Volume:** the landscape plans have been updated to address City comments, including increasing the total soil volume for the Site to a minimum of 1,855.5 square metres to entirely meet the Toronto Green Standard requirement for total soil volume and required minimum of 30 cubic metres of soil volume for each tree; similarly, the updated landscape plans depict no conflict between the proposed trees and both underground and above-ground utilities.

The Settlement Offer provides the following additional items, which the Applicant agrees to provide as part of any settlement reached with the City:

- **Non-Residential Uses:** the Applicant has offered to provide a minimum of 1,500 square feet of non-residential uses on the Site; and
- **Requested Conditions Prior to Final Order:** the Applicant has offered to request that the OLT withhold its final order in this matter until a series of conditions have been fulfilled, including conditions relating to, among other things, satisfactory servicing reports and the securing of any necessary upgrades arising therefrom; receipt of satisfactory Transportation, Arborist, and Housing reports; the registration of an agreement securing rental replacement obligations; and the provision of an acceptable Tenant Relocation and Assistance Plan.

The table below provides a comparison of the appealed proposal, the Revised Plans filed with the OLT, and the Settlement Offer.

Category	March 2024 Plans (Basis of City's September 3, 2024 Appeal Report)	Revised Plans (Filed with OLT on May 27, 2025)	Settlement Offer (June 9, 2025)
Building Height	21 storeys (Tower A) 42 storeys (Tower B)	21 storeys (Tower A) 38 storeys (Tower B)	Same as Revised Plans
Tower Floorplates	Unconfirmed	Confirmed to be under 750 square metres (Gross Construction Area)	Same as Revised Plans
Wrap-Around Balconies	Yes	Removed	Same as Revised Plans
Tower Connection	None	Yes: 3-storey connection above Level 2	Same as Revised Plans
Soil Volume	24 cubic metres	30 cubic metres per tree	Same as Revised Plans

Category	March 2024 Plans (Basis of City's September 3, 2024 Appeal Report)	Revised Plans (Filed with OLT on May 27, 2025)	Settlement Offer (June 9, 2025)
Wind Conditions	Unsafe at certain locations	No unsafe conditions; mitigation measures proposed with a commitment to implement same	No unsafe conditions; mitigation measures proposed with a commitment to implement same
Non-Residential Use Space	None	None	1,500 square feet (minimum)

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

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - With Prejudice Settlement Offer from Goodmans LLP, dated June 9, 2025
2. Confidential Attachment 1 - Confidential Information