

## **Official Plan Amendment 231 – Ontario Land Tribunal Hearing – Request for Directions**

**Date:** December 3, 2025

**To:** City Council

**From:** City Solicitor

**Wards:** All Wards

### **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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Following the Five-Year Official Plan and Municipal Comprehensive Review regarding employment lands, City Council adopted Official Plan Amendment 231 (OPA 231) on December 18, 2013. In July 2014, the Minister of Municipal Affairs and Housing approved the majority of OPA 231 with some modifications. The OLT received a total of 178 appeals to OPA 231.

OPA 231 includes City-wide policy and mapping regarding employment lands, land use designations and economic policies. OPA 231 introduced office policies to Chapter 3 of the Official Plan, including Policy 3.5.1.9 which requires office replacement in the Downtown and Central Waterfront, Centres, and within 500 metres of an existing or an approved and funded subway, light rapid transit or GO train station. In these areas, any development that includes residential units on a property with at least 1,000 square metres of existing non-residential gross floor area used for offices is required to increase the non-residential gross floor area used for office purposes.

Policy 3.5.1.9 was appealed by a number of appellants, has not been adjudicated by the Ontario Land Tribunal (OLT) and is not in effect. The Ontario Land Tribunal has not yet scheduled a hearing respecting this policy. However, similar policies have subsequently come into force through separate amendments to the Official Plan, but only in certain parts of Downtown and Midtown Toronto.

In May 2018, Toronto City Council adopted the Downtown Official Plan Amendment (OPA 406) pursuant to Section 26 of the *Planning Act*. In July 2018, Toronto City Council adopted the Midtown Official Plan Amendment (OPA 405), also pursuant to Section 26 of the *Planning Act*. OPAs 405 and 406 were submitted to the Ministry of Municipal Affairs and Housing for review and approval. The Minister issued a decision approving the OPAs with modifications in June 2019. The OPAs were not subject to appeal and are now in force.

The Downtown Plan contains numerous policies that emphasize the importance of Downtown as an economic driver for the city, region and province, with the protection and promotion of non-residential uses in the Financial District, the Health Sciences District, the King-Spadina and King-Parliament Secondary Plan Areas and the Bloor-Bay Office Corridor. The policies required 100 percent replacement for all office GFA, but allowed for replacement to be provided at another nearby site. The Yonge Eglinton Secondary Plan requires that in Mixed Use Areas A and B, tall buildings and large redevelopment sites capable of accommodating multiple buildings will provide 100 percent replacement of any existing office gross floor area located on the site. All or a portion of the office replacement may be transferred to a receiving site within the Yonge Eglinton Secondary Plan area, subject to certain requirements.

In 2023 and 2024, the City of Toronto's Planning and Housing Committee and Executive Committee, respectively, requested City Planning and Economic Development & Culture staff study the potential conversion of office space across the City into housing, consider what zoning and other regulatory or policy relief may be required to enable economically viable office conversions and evaluate the feasibility of requiring the provision of affordable housing in lieu of the replacement of office space.

The Office Space Needs Study was initiated in Q4 2023 to analyze current office market conditions, understand the benefits and risks of converting office space to alternative uses, and explore policy options that would balance office needs in the short-term and long-term, while ensuring the City's economic role remains competitive and resilient. The City retained a land economics and planning consultant ("Parcel Economics") to prepare an in-depth analysis and report respecting office needs to inform any revised policy proposal.

In June 2024, the Planning and Housing Committee endorsed a proposed policy direction through Item PH14.9, which asked staff to bring forward a new replacement policy that:

- directs staff to revisit the policy framework every four (4) years or until, in Council's opinion, the supply and availability of office in the City has returned to a healthy state, putting in place a temporary office replacement policy framework that is responsive to market conditions and Council priorities.
- varies on location within the city, with a focus on the geographies corresponding to existing replacement policies of Chapter 3 (3.5.1.9), Downtown Plan and Yonge-Eglinton Secondary Plan.
- reduces office replacement from 100 percent to a minimum of 25 percent of existing office space and that such replacement may be replaced with other identified alternative uses.
- allows the replacement of office space with any other non-residential use and a combination of affordable and/or supportive housing.

- is based on the above and includes wording that allows the temporary policy framework to prevail over existing Secondary Plans contained in Chapter Six of the Official Plan in the case of a conflict.

The consultant's background report was made public in July 2024 as part of PH14.9 and included analysis of market and economic trends, the policy framework, a jurisdictional scan and the results of stakeholder interviews. Staff conducted further consultation.

The consultant's final report was made public in November 2024 as part of a report to Planning and Housing Committee (PH17.13). Based on the findings of the consultant's report, staff recommended that any replacement policy apply only to four key areas of the Downtown Plan and Yonge-Eglinton Secondary Plan with in-force office replacement policies. The four key areas are: Financial District, Bay-Bloor Corridor, Health Sciences District; and Yonge-Eglinton Mixed Use Areas A & B.

The consultant's report acknowledged that the feasibility of new office development is challenging in the near term but noted that consideration should be given to balancing current development pressures that predominantly focus on residential uses with longer-term goals relating to growth in office and other forms of employment and recommended that any revised policy or policies be monitored in response to market conditions and other factors.

Based on the direction from Planning and Housing Committee through PH14.19 and PH17.9, City staff pursued implementation of the modified policy through the existing OPA 231 appeal process, including that the modified policy would delete office replacement requirements of Policy 3.5.1.9 outside of the Downtown and Midtown and override the in-force policies of the Downtown Plan and Yonge-Eglinton Secondary Plan, such that office replacement requirements, as amended, would be reduced for sites currently subject to the Downtown Plan and Yonge-Eglinton Secondary Plan, which currently require 100 percent replacement.

The City approached OPA 231 appellants who had identified Policy 3.5.1.9 in their notices of appeal to canvass interest in mediation. The City also issued public notice of its intent to consider modifications to the policy and wrote to owners of office buildings in Downtown and Yonge-Eglinton Secondary Plan Areas inviting them to express an interest in participating in further discussions regarding revised policies regardless of whether they were an appellant or party in OPA 231 litigation at the OLT. Approximately 26 parties engaged in mediation represented by over 15 legal counsel.

Three days of mediation were held in October 2025, with the expanded appellant group.

Through adoption of PH17.13, Planning and Housing Committee requested the City Solicitor to report back on implementation through OPA 231.

The City Solicitor requires further directions on the outcome of mediation.

## 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 the 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 and the entirety of Confidential Appendix "A" 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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At its meeting on December 16, 2013, City Council adopted OPA 231, following the City's first Municipal Comprehensive Review (MCR) to conform to the 2006 Provincial Growth Plan. The Minister of Municipal Affairs and Housing approved OPA 231 in 2014 with the exception of certain lands within the Lower Don Special Policy Area. OPA 231 is largely in effect although some policies remain before the Ontario Land Tribunal ("Tribunal"). The Tribunal has approved significant portions of OPA 231, including a number of Council adopted site specific settlements. The Tribunal has not yet considered appeals to office replacement policies. An April 2021 consolidation of OPA 231 is available at this link:

<https://www.toronto.ca/legdocs/refdocs/11463.pdf>

At its meeting on May 11, 2016, Planning and Growth Management Committee authorized City Planning, in consultation with Economic Development and Culture to consult with stakeholders and the public on incentives for the replacement/retention of existing office space near rapid transit. Incentives were proposed to be implemented through amendments to the Zoning By-laws and the Gold Star program and were part of the 2016 review of the Imagination, Manufacturing, Innovation, Technology (IMIT) Incentive Program.

<https://secure.toronto.ca/council/agenda-item.do?item=2016.PG12.5>

At its meeting on July 23, 2018, City Council adopted the Community Improvement Plan to Implement Changes to the IMIT Program. Among the changes included in the CIP was expanded eligibility for office buildings subject to any office replacement policies as

set out in the Official Plan. This eligibility was not subject to a minimum size requirement.

<https://secure.toronto.ca/council/agenda-item.do?item=2018.PG31.5>

At its meeting on July 23, 2018, City Council adopted the Midtown Official Plan Amendment (OPA 405) pursuant to Section 26 of the *Planning Act*.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG31.7>

At its meeting on May 22, 2018, City Council adopted the Downtown Official Plan Amendment (OPA 406) pursuant to Section 26 of the *Planning Act*.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG29.4>

OPAs 405 and 406 were submitted to the Ministry of Municipal Affairs and Housing on August 9, 2018 for Ministerial review and approval. The Minister issued its Decision approving the OPAs on June 5, 2019.

- Midtown - <https://www.toronto.ca/legdocs/refdocs/11188.pdf>
- Downtown - <https://www.toronto.ca/legdocs/refdocs/11189.pdf>

At its meeting on November 8, 2023, City Council requested City Planning and Economic Development and Culture to study the potential conversion of office space across the City into new housing, consider what zoning and other regulatory or policy relief may be required to enable economically viable office conversions and evaluate the feasibility of requiring the provision of affordable housing in lieu of the replacement of office space.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH7.9>

At its meeting on February 6, 2024, City Council requested City Planning and Economic Development and Culture to explore opportunities to provide financial incentives, policies and other options to support the conversion or adaptation of vacant office space into other non-residential employment uses, including the potential to utilize as a funding source for such efforts and savings from lower than forecast Tax Increment Equivalent Grants payments to office developments covered by an Imagination, Manufacturing, Innovation and Technology (IMIT) Program Financial Incentive Agreement experiencing high vacancy rates.

<https://secure.toronto.ca/council/agenda-item.do?item=2024.EX11.6>

At its meeting on July 11, 2024, Planning and Housing Committee endorsed proposed policy directions for office replacement, requested City Planning to conduct economic and sensitivity analysis that tests various replacement rates, and requested City Planning to consult on the merits of policy direction related to waiving office replacement for projects that are 100 percent purpose-built-rental and include 20 percent affordable units. The staff report includes the full review of preliminary findings and summary of public and stakeholder engagement.

<https://secure.toronto.ca/council/agenda-item.do?item=2024.PH14.9>

At its meeting on November 13, 2024, City Council considered a report to expand incentives for purpose built rental housing and recommended the establishment of a New Purpose-built Rental Homes Incentives Stream to support 20,000 rental homes through deferral of development charges and a property tax reduction. City Council

recommended that projects under the new stream provide a minimum of 20 percent of homes as affordable. City Council also recommended that the City provide additional benefits for 7,000 eligible rental homes, including 1,400 affordable rental homes.  
<https://secure.toronto.ca/council/agenda-item.do?item=2024.EX18.2>

At its meeting on December 5, 2024, Planning and Housing Committee considered a status report which responds to the PHC direction in PH14.9, by providing the additional analysis and engagement findings. The report also sets out next steps for bringing new office replacement policies into effect and concludes the Office Study. Planning and Housing Committee requested the City Solicitor report back on implementation through OPA 231. The full staff report and direction is found here:  
<https://secure.toronto.ca/council/agenda-item.do?item=2024.PH17.13>

## **COMMENTS**

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