

**34-70 Montgomery Avenue – Ontario Land Tribunal
Hearing – Request for Consent to Review Tribunal
Decision**

Date: April 8, 2026

To: City Council

From: City Solicitor

Wards: Ward 8 – Eglinton - Lawrence

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 July 22, 2024, the Ontario Land Tribunal issued a decision in respect of a settlement of appeals filed by First Capital Realty Inc. (the "Applicant") from City Council's failure to make a decision on its applications for an Official Plan Amendment and a Zoning By-law Amendment (the "Appeals") for the lands municipally known as 34-70 Montgomery Avenue (the "Site"). The Ontario Land Tribunal withheld its final order on the Appeals pending the Applicant's satisfaction of various conditions. The Ontario Land Tribunal decision is attached as Public Attachment 2.

On March 30, 2026, the City Solicitor's office received a letter from the solicitor for the new owner of the Site, Graywood Montgomery Limited Partnership (the "Owner"), wherein the Owner seeks City Council's consent to file a review request of the Tribunal's July 22, 2024 decision to proceed with a revised proposal. The letter is attached as Public Attachment 1.

The City Solicitor requires further directions in respect of the Owner's request for consent to file a review request of the July 22, 2024 decision with the Tribunal.

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 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 May 22 and 23, 2024, the City accepted a settlement offer from First Capital Realty Inc. in respect of its Official Plan Amendment and Zoning By-law Amendment application that was appealed to the Ontario Land Tribunal. City Council's decision in respect of the Request for Directions Report (May 7, 2024) prepared by the City Solicitor can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.CC18.7>

On June 27, 2024, the Ontario Land Tribunal convened a written hearing in respect of the Appeals at which time the Tribunal considered a settlement proposal submitted by the parties. The Tribunal considered evidence filed on consent of the parties in support of the settlement offer, which requested that the Appeals be allowed and that the Tribunal approve, in principle, a draft zoning by-law amendment and draft official plan amendment which was presented in evidence at that time. The parties requested the Tribunal withhold issuing their final order on the Appeals pending the Applicant's satisfaction of various conditions in accordance with the settlement offer accepted by City Council.

On July 22, 2024, the Tribunal issued its decision, allowing the Appeals in part, on an interim basis, and approving in principle the draft zoning by-law amendment and draft official plan amendment. The Tribunal approved a 27-storey residential mixed-use building (84.9 metres in height excluding mechanical penthouse), comprised of 353 residential dwelling units and 550 square metres of non-residential gross floor area.

The Tribunal withheld its final order on the Appeals pending the Applicant's satisfaction of various conditions. A final order of the Tribunal has not been issued since that time.

COMMENTS

On February 17, 2026, the Tribunal issued new Rules of Practice and Procedure. New Rule 25.8 permits the Chair of the Tribunal to use their discretion and grant a request to review a decision if the Chair is satisfied that the request raises a convincing and compelling case that the Tribunal should amend the planning instrument of an earlier decision, approval, or order, where:

- the parties make a request on consent
- the amendment(s) constitute good planning, and
- the amendment(s) are substantially in accordance with the original approval.

On March 30, 2026, the City Solicitor's office received a letter from the solicitor for the Owner, wherein the Owner seeks City Council's consent to file a review request of the Tribunal's July 22, 2024 decision to proceed with a revised proposal that makes the following changes to the approval:

- Reduces the underground parking garage by one level (with visitor parking removed).
- Eliminates non-residential gross floor area of 550 square metres on the ground floor.
- Provides a leasing office on the ground floor ancillary to the residential uses.
- Intends to reduce the bicycle parking to 234 spaces, utilizing the City's Payment-in-Lieu of Bicycle Parking program.
- Modifies the tower outline from a parallelogram to a rectangle with a reduction in the west tower setback from 26.5 metres to 24.0 metres. Also eliminates projecting balconies.
- Increases the metric height of the podium from 21.3 metres to 21.6 metres.
- Increases the metric height of the tower from 85.5 metres to 87.0 metres.

The City Solicitor requires further instructions on this matter. This report 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 - Letter from Goodmans LLP, dated March 30, 2026 on behalf of Graywood Montgomery Limited Partnership
2. Public Attachment 2 - Ontario Land Tribunal Decision (OLT-23-000647), dated July 22, 2024
3. Confidential Attachment 1 - Confidential Information