

NOTICE OF MOTION

Aligning the City's Response on Sites Under Active Litigation

Moved by: Councillor

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Seconded by: Councillor

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SUMMARY:

Across Toronto, there have been numerous instances in which illegal actions are undertaken on a site to clear obstacles for new construction, which may range from damage or destruction of heritage elements to the removal of protected trees without permission. In such instances, the City undertakes litigation to rectify the issue. There are a range of options available to Courts presiding on such matters if an offense is proven – including directing the restoration of the site to its previous legal condition.

Unfortunately, there is a disconnect between this process and the one by which Toronto Building issues building permits. Toronto Building operates in accordance with the Ontario Building Code, which requires the issuance of permits for development proposals provided there has not been a violation of applicable law on the site – a category which does not include a range of illegal activities that may clear the way for development. In practice, this means that Toronto Building must issue permits on certain sites where the City is in active litigation, and where the result of that litigation may be the restoration of the property to its original state.

This is a significant concern, as by issuing permits to allow development to go forward on sites whose legal status is in question, the City is tacitly accepting the condition of the land and precluding the Court's potential decision to restore it to its previous condition.

As the Province moves forward with its line-by-line review, this is a process conflict that warrants consideration. On sites where the City has initiated litigation, and where restoration of the land to its previous condition is being sought, there should be a process in place for the City to effectively freeze the development process until a final decision has been rendered by the Court.

RECOMMENDATIONS:

1. City Council request the Minister of Municipal Affairs and Housing to consider the addition of provisions in the Ontario Building Code addressing development on sites where municipalities have initiated legal action on matters material to the legal condition of the land and are seeking remediation of the land to its previous condition, so as not to fetter the court through the issuance of building permits prior to the conclusion of legal proceedings, as part of the Province's line-by-line review of the Ontario Building Code.

Date: July 16, 2026