



MEMORANDUM

To: Mayor and Members of Council

From: Arvin Prasad, Commissioner of Development Services and Biju Karumachery,
Director of Planning and Urban Design

Prepared by: Aqsa Malik, Planner I, East District

Date: November 16, 2020

**Re: Deeming By-Law
Patrick O’Hanlon & David Hicks
37 & 41 Elm Street
File: 2020 107378 DEEM**

RECOMMENDATION:

1. That the memorandum titled “Deeming By-Law, Patrick O’Hanlon & David Hicks, 37 & 41 Elm Street, File No: 2020 107378 DEEM”, be received;
2. That the Deeming By-Law attached as Appendix A to this memorandum be approved and enacted without further notice; and
3. That Staff be authorized to do all things necessary to give effect to the resolution.

PURPOSE:

The purpose of this memorandum is to provide a brief description of the proposed Deeming By-Law and Staff’s recommendation that the Deeming By-law (attached as Appendix A) should be approved.

PROPOSAL:

37 and 41 Elm Street (the “subject properties”) are separately owned by David Hicks (37 Elm Street) and Patrick O’Hanlon (41 Elm Street) (See Figure 1 – Registered Plan). There are existing single detached dwellings on both properties that are constructed over two lots. Their legal descriptions on registered plan 4292 are:

- 37 Elm Street legally described as Part Lot 15 and Lot 16; and
- 41 Elm Street legally described as Lot 17 and Lot 18.

To facilitate the sale of a portion of 41 Elm Street (Lot 17) to 37 Elm Street, the landowners were required to follow a two-step process (Figure 2 – Proposal). First, a part lot control by-law to

permit the division of Lot 17 into two parcels and facilitate the conveyance of a portion of 41 Elm Street (Lot 17) to 37 Elm Street. Then a deeming by-law to merge the legal parcels, which establish the municipal properties.

The applicant has completed the first part of the process. The Part Lot Control By-Law was approved by Council on July 16, 2020. The landowners have also demonstrated that the part lots have been conveyed appropriately to the satisfaction of the City Solicitor. The updated legal descriptions of each respective property on Registered Plan 4292 are now:

- 41 Elm Street legally described as Part Lot 17 and Lot 18; and
- 37 Elm Street legally described as Part Lot 15, Lot 16 and Part Lot 17.

The landowners can now proceed with the second part of the process (deeming by-law) to merge the parcels to reflect the desired boundaries of the new properties.

As per Section 50(4) of the Planning Act, in order to implement a Deeming By-law, the plan of subdivision must have been registered not less than 8 years prior to the application for a Deeming By-law. This Plan of Subdivision (Plan 4292) was registered 67 years ago. Deeming by-laws also require Council approval. Once the by-law is approved and registered, the lots may be developed as one parcel of land.

Staff note that while the owner of 41 Elm Street has applied for minor variances, the variances will not come into effect until the Deeming By-Law has been approved and appeal period has passed. A condition has been added to the Staff Report of 41 Elm Street indicating the same. Should the owner of 37 Elm Street apply for variances, the same condition will apply.

CONCLUSION:

Staff recommend that the Deeming By-Law attached as “Appendix A” to this memo be approved.

ATTACHMENTS:

Appendix A – Deeming By-Law

Figure 1 – Registered Plan

Figure 2 – Proposal