

From: E. Bruce Solomon
Sent: Tuesday, July 16, 2024 4:05 PM
To: Councillor, Karen Rea - Markham; Yuen, Fatima
Cc: Pettit, Martha, Mayor Scarpitti, Francis Lapointe
Subject: RE: 13.6 - Bylaw 2024-145

Karen

Responses in Red.

If I am not permitted to speak tomorrow, THEN this email should be added to the Record together with my previous email of today should be regarded as my written Submission.

Fatima works in our clerks department and needs to follow our policy on deputations.

I take no issue with this. Fatima has been most courteous and helpful.

In her email of today she invited me to make a written submission and I did so .

I want the Record at tomorrow's Council meeting to be clear for the OLT Appeal that I asked to speak at the Council for my allotted 5 minutes meeting and was refused.

If you want to speak at the Council meeting as well as today's meeting, then you will need to have the support of 2/3 of Council to speak a second time, which we did grant previously.

Will They do so again? Who will bring this up for me?

If so, I need to coordinate with my appearance before Justice McEwen at an all-day Mediation tomorrow. Around 1 to 1:30 pm could work well for me as this may be the lunch break.

If not, I will reference this refusal in the OLT appeal.

Mr. Lapointe also wants to address Council tomorrow to clarify certain issues including the applicable By-Law being on hold. He has requested information from the City as to how to remove this hold on the By-law. The webpage which he sent to you indicates that it appears to be much more involved than represented at today's meeting.

If not, he is not allowed to speak-I will reference this refusal in the OLT appeal.

As it stands- **I have indicated that I want to speak so that the Record is complete and correct and I again request the ability to do so.** As clearly indicated at today's meeting there is a "dispute" between the professional that needs to be addressed.

In regard to an onsite meeting with staff, Raydav initially had NO issue whatsoever with this meeting until Raydav received Mr. Manning's email stating that no evidence Raydav

presented would change staff's position about Designation of the subject Property and that Mr. Manning would **only** use the onsite visit to refine staff's materials.

Two further similar emails from Mr. Manning followed. I do **not** believe Mr. Manning disputes the contents of these emails or the position he has taken in this regard.

Rather, he has taken the ludicrous position that he was just trying to save Raydav money. His job was to listen to all the evidence and write a meaningful fulsome report to Council and his actions made this impossible ensuring an acrimonious OLT appeal.

With all due respect, this strong-arm tactic has contributed to and greatly escalated this dispute. All Raydav wanted was for staff to consider its' position with an open mind and try and find a mutually acceptable solution to the dispute.

The 3 emails from Mr. Manning will be referenced in Raydav's OLT materials.

Other individuals who have consulted with me in regard to the City's conduct in recent attempts to designate their properties also complain about staff's handling of Designation matters. The "accept staff's position" or be faced with an OLT appeal is a poor way to negotiate in good faith.

In response to Frank's questions about the calculation of the 120- day period:

1. The HTA in Section 67(3) expressly provides that any document served by mail is effective 5 days after the document is served. This extends the commencement date of any notice including the 120-day period. So, the end date is **not** September 5 as indicated by staff.
2. The City did **not** send any notice to Raydav by registered mail.
3. Section 67(1)1.1 of the HTA provides that service by email is effective from the date of sending. The email notice of the NOITD Mr. Manning sent to Raydav after my request for the same on **May 16, 2024** (Raydav had **not** then received notice by mail). So, again the September 5 end date is **not** correct.
4. There is no provision for service by posting on the City's website. This purported notice does **not** allow the public notice of the proceeding as required by the HTA.
5. Section 270 of the Municipal Act does **not** apply to the HTA.
6. Further:
 - a. in response to any application for a Demolition Permit Raydav has no present intention of applying for a demolition permit and to staff's knowledge has recently invested in repairs to the Building.
 - b. A copy of the survey of the Subject Property is attached.
 - c. The frontage of the Property is **91.437** feet together with an approximate 15-foot easement front to back easement over the neighboring Property which by the way is now for sale.

- d. They may be a NEW road realignment proposal from the Region that will impact on Kennedy Rd.
- e. Designation does adversely affect the marketability and value of a small development Property. You need only to look at the Ninth Line property considerations to see the contributions in staff's position in this regard.
- f. I reiterate that properties up for designation in Markam are **not** all having the same criteria applied to them. This inconsistency is most unfair and contravenes the applicable legislation.

Hope that helps clarify our procedures.

Thank you for your clarification.

I also want to thank all Councillors and the Mayor who asked questions in regard to the subject Property.

Regards

1. Thank you for your prompt response.
2. As I understand your below email, you are denying my request to address Council on July 17.
3. Please clearly confirm this position to me- as I want it clearly on the Record for purposes of the inevitable OLT appeal.
4. Raydav's position is set out in the material filed.
5. Hopefully, all committee members and Councillors read the detailed materials that I provided and gave them due consideration.
6. We wanted to give all members of council an opportunity to ask us questions in regard to this material.
7. I repeat and rely on this material for Raydav an Owner of the subject Property.
8. Only 2 Members of Council took advantage of my Offer to attend for a onsite visit.
9. Strangely, not a single councillor called me with any questions on my materials.
10. In fact, all but councillor Lee and Councillor Rea did not even respond to my emails.
11. Being ignored is not a respectful response and is most telling.
12. The Mayor did attend for a site visit prior to our invitation to members of Council, but nothing further transpired as a result of our discussions.
13. Staff repeatedly indicated to me in 3 emails that no evidence that we presented would change their view in regard to Designation of the subject Property. They bluntly stated that staff would only attend at the subject Property to refine their stated position.
14. Such close mindedness is contrary to a fair and open process and calculated to cause acrimony.
15. Further, it is not in compliance with the Official Plan and the City's process and contrary to the laws of natural justice .
16. The strict provisions of the Heritage Act have not been complied with and in fact have been breached.
17. As a result any Bylaw passed Designating the subject property will not survive OLT appeal .

18. The actions of staff in not fully reviewing and disregarding the evidence submitted are improper.
19. Our questions as to why the subject Property has been treated differently than other properties, in particular the Ninth line property is most troubling and requires further investigation.
20. Council has a duty to independently review staff recommendations and not just rubber stamp staff recommendations .
21. Our research indicates that Council has accepted staff recommendations in 100 per cent of all designation matters submitted to Council
22. Thank you.

E. Bruce Solomon, B.C.L., LL.B.
Barrister & Solicitor
7507 Kennedy Road
Markham, ON., L3R 0L8
Tel: 905 479 1900
Fax: 905 479 9793