

Memo

To: Mayor and Members of Council
From: Doug Carr, Town Solicitor and Dennis Perlin, Assistant Town Solicitor
Date: February 12, 2018
Subject: Item 9, Planning and Development Council Meeting: Legal Context for Town Process and Decision on ClubLink's Application for Demolition and Removal under section 34 of the *Ontario Heritage Act* - 1313 and 1333 Dorval Drive

The purpose of this Memorandum is to make a recommendation to Council based on the recommendation to the Legal Department from Gowlings, who are representing the Town in the current legal proceedings respecting ClubLink's purported Section 34 application. That recommendation is that should Council be prepared to receive the Legal report this evening, that a second recommendation be added to confirm Council's understanding of the nature of its consideration of Clublink's purported Section 34 application under the *Ontario Heritage Act* at this time in the face of the current Court proceedings to determine if ClubLink's application is even a valid application.

If the recommendation of outside Legal counsel is acceptable to Town Council, we recommend the following recommendations be passed:

- 1. That the Legal report, Legal Context for Town Process and Decision on ClubLink's Application for Demolition and Removal under section 34 of the Ontario Heritage Act – 1313 and 1333 Dorval Drive, dated January 29, 2018, be received.**
- 2. That Town Council confirms:**
 - a. its decision on this application is subject to court order and pending court proceedings, and, further, under the court order, any appeal to the Ontario Municipal Board from the Town's decision will not proceed until after the final determination of the court proceedings, and only if the property owner is successful at court.**
 - b. Town Council's consideration of and response to this application under section 34 of the Ontario Heritage Act concerns its heritage and planning merits, and are without prejudice to the Town's position that the application is not a valid section 34 application, as described in pending court proceedings, scheduled to be heard by the court in July 2018.**

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