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Court blocks St. Clair streetcar lane

Angry residents argue that new plan is 'rapid transit'

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Residents of St. Clair Ave. W. who oppose a separate right of way for streetcars down the middle of their street won a legal battle today when a three-judge panel ruled in their favour at a judicial review of the city project.

The judges said they would later release their reasons for siding with opponents of the project to set aside city council's decision to go ahead with the \$65 million project.

With TTC workers ready to begin laying down track tomorrow, the judges' decision reads, in part:

“We are all of the view that this application should succeed and, accordingly, judgment is to issue granting this application and setting aside the decision of the City to proceed with the project.

"Our decision does not affect the rights of the respondents to proceed with work not specifically in pursuance of the project such as the repair or reconstruction of the present surface streetcar line on St. Clair Avenue West. We will address all remaining issues, including costs, in our formal reasons.”

The city and the TTC have 15 days to appeal.

"People should take heart. You can believe in something and you can fight for something you believe in and you can fight on principle," said Margaret Smith, the local resident who galvanized opposition and formed the Save Our St. Clair (SOS) campaign. "I really honestly believed there's a better solution and our community is at risk."

The decision represents a significant blow to the city's 2002 Official Plan - which has been passed by council, but not yet approved by the Ontario Municipal Board. The plan calls for surface transit improvements in many key roadways.

St. Clair was the first major transit project to be undertaken by the city, which outlines pedestrian traffic, cycling and public transit as priorities to be promoted and supported by council decision.

Opponents argued before a divisional court panel that the city of Toronto violated the provincial Planning Act by not amending its official plan to allow for “rapid transit” on St. Clair Ave. W.

Lawyers for the TTC and the city argued that the city didn't need to amend its official plan because the St. Clair project wasn't “rapid transit”, but “surface transit improvement”.

SOS lawyer Eric Gillespie argued that if the city got its way, St. Clair was going to end up with the same kind of “rapid transit” found on Spadina Ave., Queen's Quay and the Harbourfront.

He said city maps on the 1994 official plan that guided the former Metro government designate streetcar lines on Spadina, Queen's Quay and the Harbourfront as "rapid transit."

He also said the former Metro government amended its 1980 official plan to allow for these projects, complying with the Planning Act.

He argued the official plan passed by council in 2002 says rapid transit projects in "exclusive" rights of way require a more stringent process than the Environmental Assessment study St. Clair underwent from 2002 to 2005.

TTC lawyer Jim Harbell had argued that the St. Clair project was not "rapid transit", but "surface transit improvement." He said previous references to the Spadina and Queen's Quay streetcar lines as "rapid transit" were "quirks of history", although he admitted they presented the judges with a "conundrum."

Harbell said none of the streetcar routes in Toronto qualify as rapid transit - despite the '94 maps that suggest otherwise - because they don't attain high speeds, have their stops placed too closely together and don't carry enough passengers.

Therefore, he said, the part of the 2002 official plan that guided the St. Clair initiative was the part that dealt with "surface transit improvements" and was adequately dealt with in the Environmental Assessment process, which got final approval in June.

He also said the 1980 Metro Official Plan was onerous and required continual amendments; so councillors writing 1994 Metro Official Plan - which still is in effect today - and the 2002 Official Plan - which has not yet been approved by the Ontario Municipal Board - wrote with generalities so that amendments were not necessary.

Harbell said it wasn't proper for the judges to rule on the adequacy of the EA process without the Ministry of Environment being named as a respondent to the application.

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