

# TORONTO STAFF REPORT

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June 14, 2006

To: Administration Committee

From: Chief Corporate Officer and  
General Manager, Shelter, Support and Housing Administration

Subject: Approval to Expropriate 194 Dowling Avenue (also known as 1495 Queen Street West) for the Purpose of Developing Affordable Housing on a Derelict Housing Site  
(Ward 14 – Parkdale)

Purpose:

To seek approval to expropriate 194 Dowling Avenue (also known as 1495 Queen Street West) for the purpose of developing affordable housing on a derelict housing site.

Financial Implications and Impact Statement:

The Inquiry Officer has recommended an immediate payment of \$200 to the owner to cover the costs of attending the inquiry. An initial appraisal of the property estimates its value at \$420,000. Costs for both sides and other expenses required to be paid pursuant to the Expropriations Act will also be required.

Funds are available for this expropriation in Development Charges Reserve Fund XR2107 and it is estimated that all aforementioned costs can be paid for through this reserve account. Once the actual acquisition and other costs are known, the appropriate City's Capital Program Budget will be amended by the addition of a project "194 Dowling Avenue Acquisition" in the amount sufficient to pay for all acquisition and other costs, with an offsetting recovery from the Development Charges Reserve Fund XR2017.

Due to the upcoming municipal election and limited number of Council meetings, which is further compounded by the statutory requirements under the *Expropriations Act*, the City Manager will require authority to make the statutory offer of compensation and pay associated costs.

The Deputy City Manager and Chief Financial Officer has reviewed this report and concurs with the financial impact statement.

Recommendations:

It is recommended that:

- (1) City Council, as approving authority, consider the report of the Inquiry Officer as detailed herein;
- (2) City Council, as approving authority, approve the expropriation of 194 Dowling Avenue (also known as 1495 Queen Street West) for the development of affordable housing on a derelict housing site for the reasons outlined herein and based on the recommendations of Victor L. Freidin, Inquiry Officer;
- (3) authority be granted to pay \$200 in costs to Copper Crow Property Management Ltd. as recommended by the Inquiry Officer;
- (4) authority be granted to take all steps necessary to comply with the Expropriations Act, including but not limited to, the preparation and registration of an Expropriation Plan and the service of Notices of Expropriation, Notices of Election as to a Date for Compensation and Notices of Possession;
- (5) the Director of Real Estate be authorized to sign the Notices of Expropriation and Notices of Possession on behalf of the City;
- (6) authority be granted to amend the appropriate City's Capital Program Budget by the addition of a project "194 Dowling Avenue Acquisition" in the amount sufficient to pay for all acquisition and other costs, with an offsetting recovery from the Development Charges Reserve Fund XR2017;
- (7) staff be authorized to obtain an updated appraisal report and serve an offer of compensation in accordance with the Expropriations Act and pay the appraised value, which as of March 2005 was estimated to be \$420,000, for the property and other costs pursuant to the Expropriations Act, whether or not the payment to be made is within the City Manager's current delegated financial authority;
- (8) leave be granted for introduction of the necessary Bill in Council to give effect thereto; and
- (9) the appropriate City Officials be authorized and directed to take the necessary action to give effect hereto.

Background:

The subject property is located on the south-west corner of Queen Street West at Dowling Avenue. The three-storey building was initially constructed as an apartment building in the 1920's. It was operated as a privately owned 51 bed rooming house until a fire caused major

structural damage in the mid 1990s. The property has remained vacant since the fire. The boarded-up exterior façade is now showing significant signs of deterioration and is a blight on the neighbourhood. As it stands, the property is a potential nuisance.

At its meeting held February 1, 2 and 3, 2005, City Council approved Clause No.1 of Report No. 2 of the Policy and Finance Committee recommending a strategy to assist homeless persons find permanent housing. As part of that strategy, City Councillors were asked to identify unused or derelict public or privately owned buildings and land suitable for development or conversion to supportive, transitional and affordable housing use in their wards. The subject property has been identified by the Councillor for Ward 14 as a suitable candidate.

By approval of Clause 19 of Report No. 6 of the Administration Committee on July 19, 20, 21 and 26, 2005, City Council authorized staff to initiate the expropriation process to acquire all right, title and interest in the lands municipally known as 194 Dowling Avenue, also known as 1495 Queen Street West, (“the Property”) for the purpose of developing affordable housing on a derelict housing site. Following the service and publication of the Notices of Application for Approval to Expropriate the Property, the owner, Copper Crow Property Management Ltd. requested an Inquiry, pursuant to the *Expropriations Act*. The Inquiry was held on March 27, 2006 for the purpose of determining whether the proposed expropriation is fair, sound and reasonably necessary to achieve the City’s objectives. The outcome of the Inquiry is summarized in the Report of Victor L. Freidin, Q. C., Inquiry Officer, attached to this report as Schedule C.

Comments:

As authorized by City Council, Notices of Application for Approval to Expropriate the Property were served on all registered owners as defined in the *Expropriations Act* and published in the newspaper.

The Property details are as follows:

Property Location:	South-west corner of Dowling Avenue and Queen Street West
Assessment Roll Number:	02-1-220-03700
Registered Owner:	Copper Crow Property Management Ltd.
Legal Description:	Lots 4 & 5 and Part lot 6, Plan 1231, together with a ROW over Part 3.
Site Area:	5,398.75 sq.ft.
Description of Building:	3 Storey building about 12,534 square feet constructed in 1920. Damaged by fire in 1998 the building is uninhabitable. It is boarded up and structurally stable. The roof is burnt out and open

to the elements in sections and there are signs of significant deterioration.

Lot Dimension: Dowling Avenue 51.75 feet.  
Queen Street West 95.0 feet.

Zoning: MCR T 2.5 C1.0 R2.0

Existing Official Plan: Low-Density, Mixed Commercial Residential.

New Official Plan: Mixed Use Areas.

Requirement: The entire site is required.

Under Section 8 of the *Expropriations Act*, City Council, acting as the Approving Authority, must consider the report of the Inquiry Officer, attached as Schedule C, and then approve or not approve the proposed expropriation and provide reasons.

In brief, the Inquiry Officer heard evidence from City staff from Municipal Licensing and Standards and Buildings describing the physical condition of the property. The Inquiry Officer accepted their evidence that the building is derelict. He also heard evidence from the Acting Manager, Shelter, Support and Housing outlining the City's policy objective to produce an annual target of 1,000 new affordable housing units, including identification of derelict properties such as this for development or conversion to such use. Evidence was also provided with respect to City staff's dealings with the property owner's representative over the years and attempts by the property owner to obtain financial assistance to redevelop the property since 1998. Those proposals have been unsuccessful.

The property owner was represented by its president, Rocco Cornacchia. His primary objection was that he is prepared to renovate the building and continue its use as a rooming house, thereby providing affordable housing without the necessity of an expropriation. He recently supplied City staff with a proposal to rehabilitate the building and gave evidence that he now has the financial resources to do so. City staff reviewed the proposal and believe that Mr. Cornacchia has underestimated the costs necessary to rehabilitate the building. The Inquiry Officer preferred the City's evidence in this regard and was unconvinced that Mr. Cornacchia could do so.

The Inquiry Officer determined that there does come a point in time where it is reasonable for an Expropriating Authority to conclude that it can no longer rely on the property owner to redevelop a derelict property for financial or practical reasons. As a result, the Inquiry Officer concluded that, based on all the evidence and argument, the proposed expropriation of the Property is fair, sound and reasonably necessary having regard to the City's affordable housing objectives. He further recommended that Copper Crow Property Management Ltd. be awarded costs of \$200 in accordance with the provisions in the *Expropriations Act*.

Pursuant to Clause No. 1 of Corporate Services Committee Report No. 11, as adopted by City Council at its meeting held on July 29, 30 and 31, 1998, City Council delegated to the Chief Administrative Officer authority to approve statutory offers of compensation, where the payment falls within the City Manager's current delegated financial authority. The appraisal of the

subject property that was prepared in March, 2005 indicates that the fair market value of the property was \$420,000 at that time. The appraisal will have to be updated before the statutory offer of compensation is served and it is possible that the fair market value may exceed the City Manager's current delegated financial authority.

Given the time lines that must be followed for the preparation and service of offers of compensation under the Expropriations Act and the Council schedule for the remainder of the year, if the recommended offer of compensation exceeds the City Manager's current delegated financial authority, it may not be possible to report back to Council for approval of the offer of compensation within the time required under the Expropriations Act. It is recommended, therefore, that City Council delegate authority to the City Manager to approve the offer of compensation in this particular case, whether it is above or below the City Manager's current delegated financial authority.

Conclusions:

It is recommended that City Council, as Approving Authority under the provisions of the *Expropriations Act*, consider the Report of Victor L. Freidin, Q. C. Inquiry Officer and approve the expropriation of the Property based on his recommendation and for the reasons described herein.

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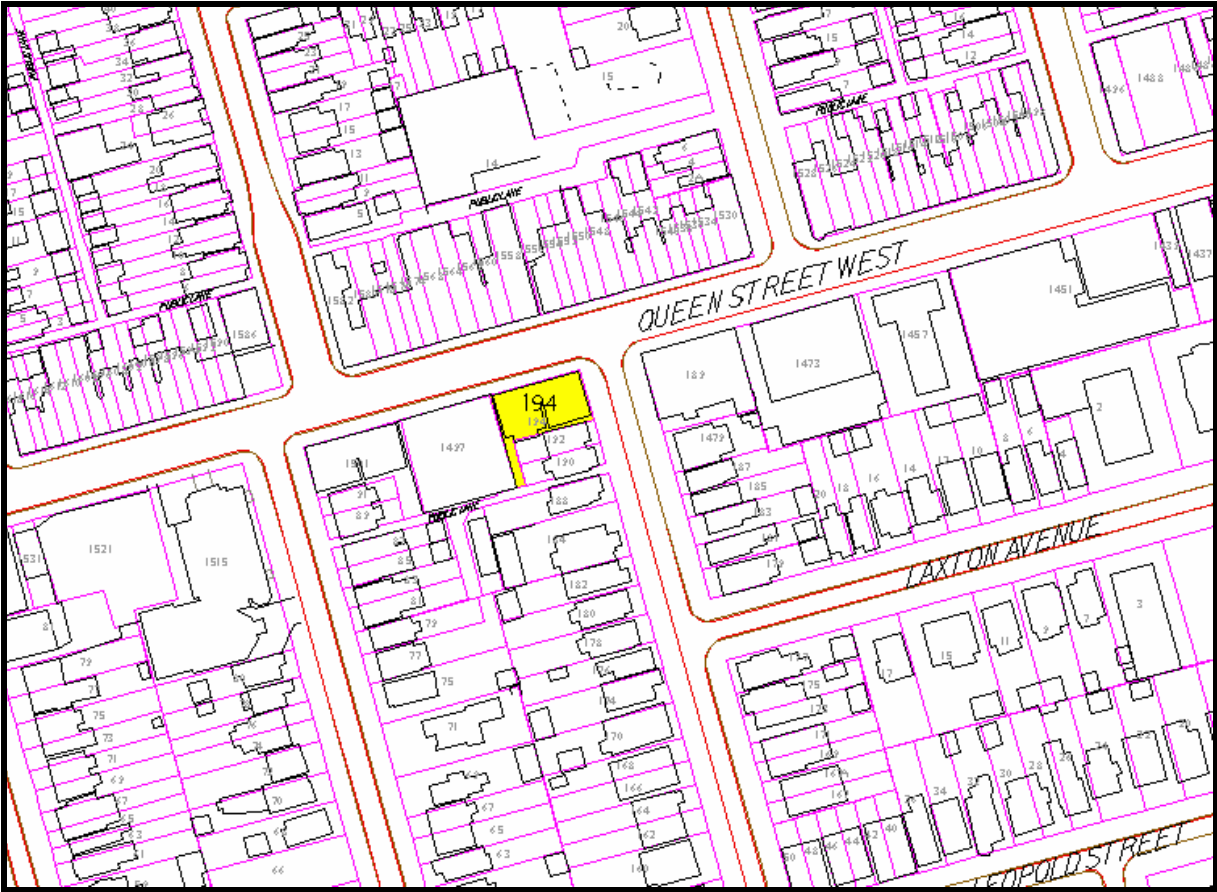
List of Attachments:

Schedule A: Location Map and Sketch of Property  
Schedule B: Property Data Map of 194 Dowling Avenue  
Schedule C: Report of Victor L. Freidin, Q. C. Inquiry Officer

SCHEDULE "A"



**SCHEDULE "B"**



**REPORT OF VICTOR L. FREIDIN, Q.C.**  
**INQUIRY OFFICER**

**IN THE MATTER OF THE proposed expropriation of land by**The City of Toronto for approval to expropriate land described as PIN 21342-0221 (LT), being Lots 4 and 5, Plan 1231 City West, together with a right of way over Lot 3, Plan 1231 City West, as in Instrument No. CT486048, in the City of Toronto, in the Province of Ontario for the purpose of affordable housing including all works and uses ancillary thereto. The said land is municipally known as 194 Dowling Avenue (also known as 1495 Queen Street West).

**Monday, March 27, 2006**



## **REPORT OF VICTOR L. FREIDIN, Q.C. INQUIRY OFFICER**

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The Hearing of Necessity regarding the above-noted matter was held on Monday, March 27, 2006 at 111 Richmond Street West, Suite 505, Toronto, Ontario. The City of Toronto was represented by counsel, Patricia Simpson. The landowner did not have legal counsel.

The subject property is located in downtown Toronto at the south west corner of Queen Street West and Dowling Avenue. The building has three stories and was used as a rooming house from the early 1970s until the summer of 1998. It contained 51 rooms and was described by one of the City's witnesses as the second largest rooming house in the City of Toronto.

A fire occurred in the building in the summer of 1998, and the property has been vacant since that time. Prior to the fire, the building complied with the City of Toronto by-laws regarding building standards, and requests since the fire regarding debris and similar concerns by the City have been responded to promptly by the owner. However, since the fire, the building envelope has deteriorated, and there are safety concerns regarding the condition of the building generally.

Mr. Joe Luzi gave evidence on behalf of the City. He is presently Acting District Manager, Investigations Municipal Leasing and Standards. Most importantly, he was a building standards officer and inspector in the Parkdale area for 17 years and was personally familiar with the property in question. I accept his evidence that the building is derelict.

The City of Toronto has a policy to produce an annual target of 1,000 new affordable housing units in the City of Toronto. The policy contemplates the General Manager, Shelter Housing and Support identifying unused or derelict publicly and privately owned buildings and land suitable for development or conversion to such use. (Exhibit 5, Tab 15)

### **Landowner's Position**

The landowner's primary objection to the proposed expropriation was that he was prepared to renovate the building and continue its use as a rooming house. In such circumstances, he submitted that the City did not need his property to assist in achieving the affordable housing objectives i.e. he would assist in achievement of that objective without an expropriation.

There have been numerous discussions between the landowner and the City about the possibility of the landowner renovating the building as described. Those discussions have spanned most of the years since the fire in 1998.

The landowner has applied for public funding in the past to assist in renovating the fire damaged building. His application was unsuccessful. At the hearing, the landowner submitted that the application had been rejected improperly. The City responded that certain preconditions for a complete application had not been met. I accept the evidence of the City in this regard.

The most recent proposal from the landowner was made in January 2006, months after the Notice of Expropriation. The landowner submitted an estimate of the work he believed was required to have the building use resumed together with an estimate of the cost of doing the work. His estimate was \$350,000.00. His proposal has not been accepted by the City. The City's response has been that more work than proposed by the landowner is required, that the plans that were submitted were lacking in detail, and that an engineering report regarding the building, and in particular the roof, was required.

Mr. Rose, Acting Manager Shelter, Support and Housing gave evidence on behalf of the City of Toronto. He is responsible for funding and the promotion of rehabilitation of existing stock in the City of Toronto to meet objectives such as the City policy described above. He has considerable experience in the inspection and repair of existing buildings and developing the specification for the work to be performed. I accept his evidence over that of the landowner regarding the condition of the building and type of work necessary to return it to its former use as a rooming house.

The landowner took the position that the City was going overboard regarding the type and amount of information it required for a renovation to proceed. Mr. Baron, Sr. Building Inspector, South District Building Division, testified that an important factor affecting the type and amount of information required by the City (which the landowner said was excessive) was the length of time the building has been sitting vacant and open to the elements. There was no evidence upon which I could reasonably reject that evidence.

The landowner testified that he was able to finance the entire renovation without public funding and was prepared to proceed on that basis. I am uncertain whether convincing evidence in that regard would have caused me to accept the landowner's position. However, his evidence regarding his ability to do so was not convincing, and certainly did not meet the burden of proof I would have expected on such an issue.

### **Commentary & Recommendation**

If the landowner had renovated the building and obtained all necessary municipal approvals prior to August 19, 2005 an expropriation would not have been necessary. Indeed, in her submissions, counsel for the City stated that the City would have been happy with the landowner coming up with an acceptable proposal that would not have required an expropriation.

It is my opinion, however, that at some point in time, it is reasonable for an Expropriating Authority to conclude that having the land developed privately is no longer realistic for financial and/or practical reasons. That point in time has come regarding the present property, and for that reason it is my recommendation that the proposed expropriation is fair, sound, and reasonably necessary in the achievement of the objectives of the Expropriating Authority.

Pursuant to section 7(10) of the *Expropriations Act*, I recommend that the approving authority pay the landowner's costs in the amount of \$200.00.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**



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**VICTOR L. FREIDIN, Q.C.  
INQUIRY OFFICER**

## EXHIBITS

- Exhibit 1 - Affidavit of Lorna Lennox sworn January 16, 2006
- Exhibit 2 - Notice of Grounds dated January 17, 2006
- Exhibit 3 - Affidavit of Service of Nina Patel sworn January 18, 2006
- Exhibit 4 - Sketch showing 194 Dowling Avenue, City of Toronto - January 17, 2005
- Exhibit 5 - City of Toronto documents
- Exhibit 6 - Five (5) photographs of interior of building
- Exhibit 7 - Letter from Rocco Cornacchia to Patricia H. Simpson dated January 18, 2006 with attachments