



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Acquisition of 15 Kenaston Gardens

Date:	September 14, 2009
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 24 – Willowdale
Reason for Confidential Information:	This report is about a proposed or pending land acquisition by the City or one of its agencies, boards, and commissions.
Reference Number:	P:\2009\Internal Services\F&re\Gm09069F&re – (AFS 10494)

SUMMARY

To seek approval to acquire the property municipally known as 15 Kenaston Gardens.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. Authority be granted to enter into an Agreement of Purchase and Sale with the owner of the property municipally known as 15 Kenaston Gardens (the “Property”), substantially on the terms outlined in Appendix “B” and Attachment 1 Confidential Information, and on such other terms and conditions as may be acceptable to the Chief Corporate Officer, and in a form satisfactory to the City Solicitor.

2. Each of the Chief Corporate Officer or the Director of Real Estate Services be authorized severally to execute the Agreement of Purchase and Sale on the City's behalf.
3. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she may from time to time consider reasonable.
4. Council adopt the confidential instructions to staff in Attachment 1 of this report.
5. The confidential information in Attachment 1 remain confidential excepting the purchase price of the Property which shall be available for public release upon the completion of all terms of the purchase and sale agreement to the satisfaction of the City Solicitor.

Financial Impact

The total cost of this acquisition will be funded from the Land Acquisition Reserve Fund ("LARF").

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

DECISION HISTORY

There is no decision history.

ISSUE BACKGROUND

A Staff Report requesting direction on an application by Daniels HR Corporation ("Daniels") for amendment to the Official Plan and Zoning By-law to allow for the redevelopment of lands municipally known as 17, 19, 21 and 23 Kenaston Gardens, for the purpose of creating an 8-storey condominium building, was considered by North York Community Council at its meeting of May 14, 2009. An electronic copy of the report can be found at:

<http://www.toronto.ca/legdocs/mmis/2009/ny/bgrd/backgroundfile-20794.pdf>

North York Community Council made recommendations which were adopted by City Council at its meeting of May 25, 26 and 27, 2009 which included a recommendation that City Council request Daniels to meet with the City Solicitor and Staff to negotiate a settlement and to report back to the North York Community Council at its meeting on June 23, 2009, if agreement was reached, which agreement was to address certain issues, one of which was the acquisition by Daniels of the Property at fair market value with City staff authorized to assist as necessary.

The Property is shown as part of an east-west public street connection between Kenaston Gardens and Barberrry Place on a Context Plan which was adopted by City Council in March 2001. The Context Plan is not part of the Official Plan or the Secondary Plan; however the Secondary Plan includes an implementation policy that provides for the use of context plans for key development areas to provide a context for co-ordinated incremental development. Although the Context Plan does not require the east-west public street connection, it does illustrate a potential location should there be a demonstrated need and justification for such a connection.

When the preliminary report respecting Daniels' application for Official Plan amendment and rezoning was first brought before North York Community Council on May 6, 2008, Community Council directed that Daniels make every effort to purchase the Property, and if unable to enter into an agreement of purchase, work with the appropriate City Divisions, including the Transportation and Real Estate Divisions to expropriate the Property with all costs being borne by Daniels.

Daniels did enter into negotiations with the owner of the Property in 2008, however, those negotiations were unsuccessful and, currently, Daniels has advised that it is not interested in acquiring the Property.

Transportation staff have indicated that there is no present need for road improvements to support the Daniels' development and that the potential use of the Property for public road purposes will be evaluated when development application(s) are filed for the remaining properties on Kenaston Gardens and/or Barberrry Place.

However, Real Estate Staff have approached the owner of the Property who is prepared to sell the Property to the City should the City decide that it would be appropriate to acquire the Property at this time.

It should be noted 15 Kenaston has a frontage of 58 feet (17.8 metres). A typical road Right of Way width is 66 feet (20 metres). Transportation Services has advised they can accommodate a road within a 58 foot (17.9 metre) Right of Way at this location to facilitate a potential future public access to the proposed development at 17 – 23 Kenaston Gardens. In the event of redevelopment of other properties in the area, Transportation Services may acquire the residual Right of Way lands if desired through the development review process.

COMMENTS

As continuing development in this area will advance a need for an east-west connection between Kenaston Gardens and Barberry Place and the owner of the Property is now willing to sell the Property, Real Estate Staff are recommending acquisition of the Property at this time.

CONTACT

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SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Attachment 1 – Confidential Attachment
Appendix “A” – Site Map
Appendix “B” – Terms and Conditions

Appendix "B"

Terms and Conditions of Purchase:

Location:	15 Kenaston Gardens
Legal Description:	Lot 11, Plan 4397, Township of York, City of Toronto (formerly North York)
Approximate Lot Size:	8,094 sq. ft. or 752 m ²
Due Diligence:	120 days following execution of the Agreement of Purchase and Sale by the parties
Closing Date:	60 days following the expiry or waiver of the Due Diligence Condition
Deposit:	\$10.00