



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Real Estate Expropriations – Toronto-York Spadina
Subway Extension Project (South of Steeles)**

Date:	October 21, 2009
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 8 – York West
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 and deals with litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
Reference Number:	P:\2009\Internal Services\F&re\Gm09095F&re – (AFS 10682)

SUMMARY

In January 2009, City Council authorized City staff to negotiate to acquire and to initiate expropriation proceedings, if necessary, for thirty two properties required for the construction of a portion of the Toronto-York Spadina Subway Extension Project (the “Project”) within the geographical boundaries of the City of Toronto (“City”). For two of those properties, all the necessary steps required under the *Expropriations Act* have been taken and this report recommends that City Council, as approving authority under the *Expropriations Act*, approve the expropriation of a portion of 3975 Keele Street and 1150 Finch Avenue West.

TTC have subsequently identified additional property requirements for the Project from these two properties. This report seeks authority to negotiate to acquire these additional property requirements and to initiate expropriation proceedings, if necessary.

As a result of ongoing design work, TTC have also identified further property requirements for the Project. This report seeks authority to negotiate to acquire these new property requirements and to initiate expropriation proceedings where necessary.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council, as the Approving Authority, approve the expropriation of the property interests identified in Appendix A from 3975 Keele Street West and 1150 Finch Avenue West, in connection with the construction of a portion of the Toronto-York Spadina Subway Extension.
2. City Council grant leave for introduction of the necessary Bill in Council to give effect thereto.
3. City Council direct City staff to take all necessary steps 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, for the properties identified in Appendix A.
4. City Council further direct City staff to obtain appraisal reports to value the property interests identified in Appendix A, updated to the date of expropriation; and to prepare and serve offers of compensation on all registered owners, at the appraised values, all in accordance with the requirements in the *Expropriations Act*.
5. City Council authorize the Director of Real Estate or the Executive Director of Facilities and Real Estate to sign the Notices of Expropriation, Notices of Possession and the Offers of Compensation on behalf of the City for the properties identified in Appendix A.
6. City Council authorize the Director of Real Estate to negotiate to acquire the property interests listed in Appendix B, including revised property requirements for certain of the properties previously approved by Council at its meeting held January 27 and 28, 2009, and to initiate expropriation proceedings, where necessary.
7. City Council authorize the Director of Real Estate to serve and publish Notices of Application for Approval to Expropriate the property interests listed in Appendix B, to forward any requests for hearing that are received to the Chief Inquiry Officer, to attend the hearings in order to present the City's position, and to report the Chief Inquiry Officer's recommendations back to City Council for its consideration.
8. City Council authorize the public release of the confidential information contained in Attachment 1 once there has been a final determination of the compensation payable to the Owners by arbitration, appeal or settlement to the satisfaction of the City Solicitor.

Financial Impact

Total estimated property acquisition costs for the Project were estimated preliminarily at \$100 million (expressed in 2006 dollars, or \$125 million in nominal dollars), with 59.96% of the cost, attributable to the City and the remainder to York Region. A further refinement to this preliminary estimate is currently under development.

Confidential Attachment 1 to this report identifies the initial appraised values for the property interests recommended for expropriation from 3975 Keele Street and 1150 Finch Ave. W.

All Project initiatives are included in the 2009 Approved Capital Budget, 2009-2013 Approved Capital Plan and 2014-2018 Approved Capital Forecast.

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

DECISION HISTORY

On January 27 and 28, 2009, City Council adopted Item GM20.4 thereby authorizing the Director of Real Estate to commence negotiations to acquire the identified property requirements from thirty two property owners, including the initiation of expropriation proceedings where necessary, for the purposes identified in that report, in connection with the construction of a portion of the Project within the geographical boundaries of Toronto. The report can be found at:

<http://www.toronto.ca/legdocs/mmis/2009/cc/decisions/2009-01-27-cc30-dd.pdf>

ISSUE BACKGROUND

The \$2.6 billion Project involves an 8.6 km, 6 station, extension of the TTC Spadina Subway system from the existing Downsview station to the Vaughan Corporate Centre at Highway 7 in York Region. Each municipality will be responsible for acquiring properties within its own geographical boundaries, and for resolving all related claims for compensation.

The City portion of the Project is 6.2 km in length, and includes four stations: Sheppard West; Finch West; York University; and Steeles West (this station crosses the municipal boundary). As the design progresses, TTC identifies its property requirements to the City for acquisition either by negotiation or expropriation to ensure City ownership in sufficient time for the commencement of construction.

COMMENTS

As authorized by City Council, negotiators have approached the various property owners identified in the January, 2009 report. Negotiations are still underway with certain owners but for others, where construction time lines are tight, notices of application for approval to expropriate were published and served.

The owners of 3975 Keele Street and 1150 Finch Avenue West have not requested a hearing and the time limitation set out in the *Expropriations Act* for the receipt of such requests has expired. Therefore, this report seeks approval from City Council, as the Approving Authority under the *Expropriations Act*, to expropriate the required property interests, outlined under Appendix A, from 3975 Keele Street and 1150 Finch Avenue West to ensure that ownership can be secured as expeditiously as possible to meet construction time lines.

Once an expropriation plan is registered and the property interests are expropriated, the *Expropriations Act* requires the City to serve an offer of compensation based on an appraisal report valuing the expropriated property as of the date of expropriation. Interest at the statutory rate and costs may also be payable. The City has already received initial draft appraisals for the property interests identified in Appendix A. Real Estate Services has reviewed the appraisals and is satisfied they represent a fair estimate of the market value of the required property interests.

In the event a negotiated acquisition cannot be achieved and it becomes necessary to expropriate from one or both of these properties, this report also seeks direction to have the appraisals updated to the date of expropriation and served on the property owners along with an Offer of Compensation for the appraised value, plus interest and costs as required by the *Expropriations Act*.

In the meantime, TTC staff have identified additional property requirements from these two properties, identified in Appendix B, as a result of further refinement of the Project design in this area. In the event the property owners will not consent to the inclusion of these additional requirements in the expropriation, this report seeks authority to initiate the formal process again for the additional property requirements identified in Appendix B.

Also as a result of the design progression, TTC staff have identified further property requirements also outlined in Appendix B. Some are new requirements and others are further refinements on the interests previously approved by Council. This report seeks authority to negotiate and to initiate expropriation proceedings where necessary to acquire these additional property requirements outlined in Appendix B.

It is always preferred that the purchase of the property can be reached by mutual agreement. However, in order to protect construction schedules, authority to initiate expropriation proceedings for the necessary property requirements is being sought in the event that initial negotiations are not successful.

CONTACT

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SIGNATURE

Bruce Bowes, P.Eng.
Chief Corporate Officer

ATTACHMENTS

Confidential Attachment 1 – Confidential Information
Appendix A - Property Requirements To Be Expropriated
Appendix B - Additional Property Requirements
Appendix C1 - Draft Reference Plan re 3975 Keele Street
Appendix C2 - Draft Reference Plan re 1150 Finch Ave. W.
Appendices C3-C7 - Site Maps