



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachment

**Real Estate Expropriations – Toronto-York Spadina
Subway Extension Project (South of Steeles):
Additional Interest from 3695 Keele Street**

Date:	August 13, 2010
To:	City Council
From:	City Solicitor
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:	

SUMMARY

This report seeks approval to expropriate a permanent subsurface easement in a portion of 3695 Keele Street, as set out in Appendix "A", in addition to those interests previously approved for expropriation by City Council, for the purposes of the Toronto-York Spadina Subway Extension Project (the "Project").

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council, as Approving Authority under the *Expropriations Act*, approve the expropriation of a permanent subsurface easement in a portion of 3695 Keele Street, as set out in Appendix "A", in connection with the construction 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 authorize 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.
4. 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 property acquisition costs for the Project were estimated preliminarily at \$125 million (in as spent dollars). Funding for property acquisition is shared by the Move Ontario Trust (includes \$870 million set aside for the purposes of Project funding), and by the City and the Regional Municipality of York. Of the municipal portion of Project funding, 59.96% is attributable to the City and the remainder to York Region. Confidential Attachment 1 to this report identifies the initial appraised value for the additional permanent easement area identified for expropriation. Funding is available in the Council Approved 2010 Capital Budget and 2011-2019 Capital Plan within the Toronto-York Spadina Subway Extension Capital Project.

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 Services to negotiate to acquire and initiate expropriation proceedings, if necessary, with respect to subsurface property at 3695 Keele Street, among other property requirements, for the purpose of the subway tunnel alignment. The report can be found at:

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

On August 5 and 6, 2009, City Council adopted Item CC38.4, thereby amending the portion of the property in respect of which the Director of Real Estate Services was authorized to negotiate to acquire and initiate expropriation proceedings, if necessary, for the purpose of the subway tunnel alignment. The report can be found at:

<http://www.toronto.ca/legdocs/mmis/2009/cc/decisions/2009-08-05-cc38-dd.htm>

At its meeting on November 30, December 1, 2, 4 and 7, 2009, City Council adopted Item GM26.31, thereby authorizing the Director of Real Estate Services to negotiate or initiate expropriation proceedings, where necessary, to acquire additional property

requirements at 3695 Keele Street, for an emergency exit building and a temporary requirement for construction purposes. The report can be found at:

<http://www.toronto.ca/legdocs/mmis/2009/cc/decisions/2009-11-30-cc42-dd.htm>

On July 6, 7, and 8, 2010, City Council adopted Item GM32.11, thereby approving the expropriation of a fee simple interest for the subway tunnels, a permanent easement for support and safety of the subway tunnels, a permanent easement for an emergency exit building stairwell, and a temporary easement for construction purposes at 3695 Keele Street.

<http://www.toronto.ca/legdocs/mmis/2010/cc/decisions/2010-07-06-cc51-dd.htm>

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. The City of Toronto and York Region are each 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 and submits them to the City for acquisition by negotiation or expropriation.

COMMENTS

As can be seen from the decision history, there have been numerous revisions and refinements to the property requirements at 3695 Keele Street for the Project.

In the initial reports to Council, the property required for the subway infrastructure was identified as fee simple. Subsequently it was determined to be more appropriate to split the same areas into a subsurface stratified fee simple taking for the subsurface tunnels, a permanent easement above it for support and safety to maintain the structural integrity of the tunnels and otherwise ensure their safety, and a permanent easement for the construction, operation and maintenance of a stairwell connecting the tunnels to an emergency exit building which is to be built on an adjacent property.

An Application for Approval to Expropriate and Notices were advertised and served on the property owners in respect of the property requirements at 3695 Keele Street. However, due to a surveying error, the draft reference plan identified in the Application and Notices did not show the full extent of the required permanent easement for the emergency exit building stairwell. Therefore, in strict compliance with the *Expropriations Act*, the portion of the property that was not shown on the survey plan was omitted from the report to City Council recommending expropriation of the other

interests as approved on July 6, 7 and 8, 2010. A supplementary Application was prepared and the required Notice has been published and served in respect of that portion of the required easement omitted from the original survey plan. A revised version of the draft survey plan included with the supplementary Notice is attached as Appendix "B", due to a correction in area calculations which does not affect the extent of the part of the property addressed in that Notice and this report. The owners have not requested an Inquiry and the time limitation set out in the *Expropriations Act* for the receipt of such requests expired on August 5, 2010. The City has received an initial draft appraisal for the additional portion of the required easement. Real Estate Services has reviewed the appraisal and is satisfied that it represents a fair estimate of the market value.

Therefore, this report seeks approval from City Council, as the Approving Authority under the *Expropriations Act*, to expropriate the remaining portion of the subsurface easement to meet construction time lines. It directs the Director of Real Estate Services to serve the required Notices. All necessary steps to complete the expropriation process including payment of the required compensation will be undertaken by City staff pursuant to delegated authority as applicable.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Confidential Attachment 1 – Confidential Information
Appendix A – Property Requirements Table
Appendix B – Draft Plan of Survey
Appendix C – Location Map