



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Expropriation of 4080 Sheppard Avenue East – TTC
Sheppard East LRT Project – Grade Separation at
Agincourt GO Station**

Date:	February 22, 2010
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 39 Scarborough – Agincourt
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:\2010\Internal Services\Re\Gm10018Re - (AFS – 11685)

SUMMARY

This report provides City Council with a copy of the Inquiry Officer's report on the proposed expropriation and seeks approval from City Council as the approving authority under the Expropriations Act to expropriate 4080 Sheppard Avenue East for the purpose of constructing a grade separation on Sheppard Avenue at the Agincourt GO Station in connection with the Sheppard East LRT Project.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council, as approving authority under the *Expropriations Act*, consider the report of the Inquiry Officer as detailed herein and approve the expropriation of 4080 Sheppard Avenue East for the purpose of constructing a grade separation on Sheppard Avenue East at the Agincourt GO Station in connection with the Sheppard East LRT Project for the reasons outlined herein and based on the recommendations of David R. Vine Q.C., Inquiry Officer;

2. City Council authorize payment of \$200.00 in costs to PACIFIC Inc., the owner of 4080 Sheppard Avenue, in accordance with the provisions of the *Expropriations Act*;
3. City Council, as expropriating authority under the *Expropriations Act*, authorize all necessary steps to comply with the *Expropriations Act*, including but not limited to the preparation and registration of an Expropriation Plan, service of Notices of Expropriation, Notices of Election as to a Date for Compensation and Notices of Possession;
4. The Director of Real Estate be authorized to sign the Notices of Expropriation and Notices of Possession on behalf of the City;
5. Leave be granted to introduce the necessary Bill in Council to give effect thereto; and
6. 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 for the subject property by arbitration, appeal or settlement to the satisfaction of the City Solicitor.

Financial Impact

Funding for this project is available in the 2010 Approved Capital budget in project CTT135. On May 15, 2009 the Federal and Provincial governments announced joint funding of \$950 Million for the Sheppard East LRT Project.

On September 30 and October 1, 2009, City Council adopted Report No. EX34.11 of the Executive Committee to increase the 2009-2013 Capital Budget by \$134.5 million gross, to continue work on the priority Transit City Lines, with \$125.8 million to be funded by the Province through Metrolinx and the balance of \$8.7 million for environmental assessments for other Transit City lines to be funded through offsets within the TTC's 2009 Approved Capital Budget, and report back to the Budget Committee on the offsets.

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

DECISION HISTORY

At its meeting held August 5 and 6, 2009 City Council adopted the recommendations in Item CC 38.5 (previously GM24.24) authorizing City staff to negotiate to acquire this property, among others, and to initiate expropriation proceedings where necessary.

ISSUE BACKGROUND

As authorized by City Council, Notices of Application for Approval to Expropriate were published and served on the registered owners of 4080 Sheppard Avenue East in accordance with the *Expropriations Act*. The owner requested an inquiry as to whether

the proposed expropriation is fair, sound and reasonably necessary to achieve the City's objectives as provided in section 7 of the *Expropriations Act*. The outcome of the Inquiry is summarized in the Report of David R Vine, Inquiry Officer, attached to this report as Appendix 1.

COMMENTS

The property details are as follow:

Municipal Address: 4080 Sheppard Avenue East

Registered Owner: P.A.C.I.F.I.C. Inc.

Legal Description: PIN No. 061040243, being part of Lot 28 Concession 3
Scarborough, City of Toronto

Site Area: 1465 m² (15,769.13 ft²)

Improvements: Single storey commercial plaza

Official Plan: Mixed Use Areas

Zoning: Highway Commercial

Property Requirement: The entire site is required.

The site is owned by PACIFIC Inc., a corporate entity controlled by Dr. Bijan Pardis who operates a substance abuse treatment clinic at the property. Dr Pardis requested the inquiry as he is very concerned about his ability to find a replacement location for this clinic.

It should be noted that if City Council decides to proceed with the expropriation, the *Expropriations Act* provides for an owner to be compensated for not only the market value of the expropriated property, but also any disturbance damages including moving costs and business loss related to the expropriation. The City, with the assistance of independent valuation professionals, would work with Dr. Pardis to review potential costs and loss resulting from the expropriation and if a settlement cannot be reached, then the OMB will arbitrate the amount of compensation to be paid. There is no provision in the *Expropriations Act* for payment of compensation to be made in advance of an expropriation.

Under the *Expropriations Act*, where an Inquiry has been requested, before authorizing the actual expropriation, City Council acting as the Approving Authority must consider the report of the independent Inquiry Officer, attached as Appendix 1, and then approve or not approve the proposed expropriation and provide reasons for that decision.

In brief, the Inquiry Officer heard evidence from Gary Carr, Chief Engineer, Operations Planning at TTC explaining the nature of the Project and why this property is required in its entirety and from Dr. Pardis who explained the nature of his clinic, its unique nature and the difficulties he will have in relocating it. Dr. Pardis did not challenge the benefits of the transit project or the grade separation but suggested it was not sound to proceed if he could not relocate the clinic. The City solicitor argued that the ability to relocate the clinic was a question of compensation and should not interfere with approval of the expropriation. The Inquiry Officer agreed.

It was the City's evidence that due to the grades at this location, the entire subject property is required to provide access to the adjacent GO parking lot and it is not possible to provide direct street access to the subject property.

The Inquiry Officer found as a fact that the entire property is required and that the proposed expropriation is fair, sound and reasonably necessary to construct the Agincourt Grade Separation. He recommends that the City proceed with the expropriation. For the reasons stated in the Inquiry Officer's report and herein, it is recommended that City Council approve this expropriation.

CONTACT

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SIGNATURE

[Signature of division head]

Bruce Bowes, P.Eng.
Chief Corporate Officer

ATTACHMENTS:

Confidential Attachment – Expropriation of 4080 Sheppard Avenue East
Appendix A Report of David R. Vine, Q.C., Inquiry Officer, dated February 16, 2010
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