



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Real Estate Expropriations – Toronto-York Spadina  
Subway Extension Project (South of Steeles):  
1170 Sheppard Avenue West**

<b>Date:</b>	July 27, 2010
<b>To:</b>	Government Management Committee
<b>From:</b>	Chief Corporate Officer
<b>Wards:</b>	Ward 8 – York West
<b>Reason for Confidential Information:</b>	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.
<b>Reference Number:</b>	P:\2010\Internal Services\ Re\ Gm10054re - (AFS 11814)

**SUMMARY**

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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 a portion of 1170 Sheppard Avenue West for the purposes of the Toronto-York Spadina Subway Extension Project (the “Project”) within the geographical boundaries of the City of Toronto.

**RECOMMENDATIONS**

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**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 a portion of the property known municipally as 1170 Sheppard Avenue West, for the purpose of constructing the subway tunnels, including an easement for support for and safe operation of the subsurface system, an emergency exit building, a

- temporary easement for construction and all works ancillary thereto, in connection with the construction of a portion of the Toronto-York Spadina Subway Extension for the reasons outlined herein and based on the recommendations of Gillian M. Burton Inquiry Officer.
2. City Council authorize payment of \$200.00 in costs for the Inquiry to Metropolitan Toronto Condominium Corporation No. 673, which requested and participated in an Inquiry on behalf of the unit owners at 1170 Sheppard Avenue West pursuant to the *Condominium Act*, in accordance with the provisions of the *Expropriations Act*.
  3. City Council grant leave for introduction of the necessary Bill in Council to give effect thereto.
  4. 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.
  5. 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 values for the property interests 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 property requirements at thirty-two properties for the purposes identified in that report, including subway tunnels and ancillary structures.

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. 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.

As authorized by City Council, Notices of Application for Approval to Expropriate were published and served on the registered owners of 1170 Sheppard Avenue West 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 Gillian M. Burton, Inquiry Officer, attached to this report as Appendix A.

## COMMENTS

The property details are as follow:

Municipal Address: 1170 Sheppard Avenue West

Legal Description: Parts of PINs 11673-0001(LT) to 11673-0056(LT)  
Part of the common elements of Metropolitan Toronto  
Condominium Plan No. 673 (North York) City of Toronto

Site Area: 27,344 m<sup>2</sup> (6.76 Acres)

Improvements: Three separate industrial retail buildings, including office uses,  
paved and improved with plaza

Official Plan: Employment Areas

Zoning: Industrial Commercial

Property Requirements: as identified in Appendix B

The common elements at the site are controlled, managed and administered by Metropolitan Toronto Condominium Corporation No. 673 (MTCC 673) on behalf of the unit owners of the condominium. Pursuant to the *Condominium Act*, the rights of the unit owners regarding the expropriation of common elements are transferred to the condominium corporation, and

it is MTCC 673 that requested the Inquiry. However, a number of the individual unit owners attended the Inquiry to voice their concerns.

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 A, and then approve or not approve the proposed expropriation and provide reasons for that decision.

In brief, the Inquiry Officer heard professional evidence on behalf of the City from Ms. Joanna Kervin, P. Eng., Deputy Chief Project Manager, Third Party, Planning and Property for the Toronto-York Spadina Subway Extension in support of the proposed expropriations. She explained the technical rationale for the preferred alignment of the subway tunnels, the fire regulations that governed the placement of emergency exit buildings and the construction staging and timing as it impacted the temporary requirements on the property. She presented a revised plan for the temporary requirements which would allow additional vehicle circulation on the site and in response to the unit owners' concerns, offered to undertake a parking review and traffic analysis to determine mitigating measures that could be implemented.

The condominium corporation presented evidence from Mr. Frank Venneri P.Eng., one of the unit owners. In his view, the alignment of the subway tunnels could be changed to reduce the impact on MTCC 673's property, and the emergency exit building should be relocated to another property. The property manager and a number of the unit owners voiced concerns about the construction impacts, the temporary easement and its impact on their operations as well as concerns about the impact of the support easement on certain operations and their property values.

After hearing all the evidence, the Inquiry Officer found that the proposed expropriation is fair, sound and reasonably necessary for the City's stated objectives.

The City has received an initial draft appraisal for the required property interests. Real Estate Services has reviewed the appraisal and is satisfied that it represents a fair estimate of the market values for the required property interests.

For the reasons stated in the Inquiry Officer's report and herein, it is recommended that City Council as the Approving Authority under the *Expropriations Act*, approve the expropriation of the property requirements identified in Appendix B from 1170 Sheppard Avenue West. This will allow for construction of the subway tunnels between the Wilson Yard Connection and proposed Sheppard West Station and an emergency exit building along with the necessary easement for construction and an easement for support to maintain the structural integrity of the tunnels, and all works ancillary thereto, in connection with the construction of a portion of the Toronto-York Spadina Subway Extension. This includes the reconfigured temporary easement area presented at the Inquiry.

It is further recommended that City staff take all necessary steps to complete the expropriation process, including service of the required Notices and payment of the required compensation pursuant to delegated authority.

## **CONTACT**

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## **SIGNATURE**

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Bruce Bowes, P.Eng.  
Chief Corporate Officer

## **ATTACHMENTS**

Confidential Attachment 1 – Confidential Information  
Appendix A – Report of Gillian M. Burton Inquiry Officer  
Appendix B – Property Requirements To Be Expropriated  
Appendix C– Draft Plan of Survey  
Appendix D– Location map.