



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Proposed Settlement of Litigation Related to the Humber River Hospital's property at 200-208 Church Street

Date:	October 27, 2015
To:	City Council
From:	City Solicitor
Wards:	Ward 11, York South-Weston
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege and pertains to litigation or potential litigation that affects the City.
Reference Number:	

SUMMARY

This report seeks instructions regarding a proposed settlement of an application commenced by the Humber River Hospital with the City named as a respondent to obtain a declaration from the Ontario Superior Court of Justice that a clause in a 1948 Deed that gives the City a right of first purchase for certain lands is of no force or effect. The details of the proposed settlement are discussed in Confidential Attachment 1.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report; and,
2. City Council direct that Confidential Attachment 1 remain confidential as it contains advice and information that is subject to solicitor-client privilege and pertains to litigation or potential litigation. City Council authorize the public release of all or a portion of the confidential instructions once adopted by City Council at the discretion of the City Solicitor.

Financial Impact

The financial impacts resulting from the recommendations made in this report are disclosed in Confidential Attachment 1.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial information disclosed in Confidential Attachment 1.

DECISION HISTORY

There is no prior decision history in respect of this litigation.

ISSUE BACKGROUND

By way of a Deed/Indenture registered on June 15, 1948 as Instrument No. TW11595, The Corporation of the Town of Weston, now the City of Toronto, transferred title to a parcel of land approximately 1.2 acres in area (the "City Parcel") to Humber Memorial Hospital Association, now Humber River Hospital (the "Hospital"). The 1948 Deed contained the following language (referred to throughout as the "Disputed Clause"):

"The Grantee [the hospital] for itself, its successors and assigns hereby covenants with the Grantor [the municipality] that in the event that the lands herein described are not required for hospital purposes, the Grantee will not dispose of the said lands without first giving the Grantor the option to purchase the lands for an amount not exceeding the sum of Eight Hundred and Thirty-Five Dollars (\$835.00)."

The City Parcel, together with adjoining property, was subsequently developed as a hospital site and has been used for that purpose up to the present date. The entire hospital site is approximately 12 acres in area. However, the Hospital is currently in the process of relocating its operations to a new facility, near Keele St. and the 401, and intends to dispose of the 200 – 208 Church St. site following such relocation.

The Application

On July 22, 2015 the Hospital had a court application issued in the Ontario Superior Court of Justice (the "Application"). In the Application, the Hospital has taken the position that the Disputed Clause is unenforceable and of no force or effect. More specifically, the Application seeks the following orders:

- A declaration that the Disputed Clause is unenforceable and of no force or effect;
- A declaration that the City has no interest in, or any rights to, the Land in Dispute;
- A declaration that a sale of the Land to a third party does not trigger the Disputed Clause; and,

- Costs of the Application.

To date, the City has taken the position that the Disputed Clause entitles the City to purchase the City Parcel for \$835.00 if the land is not required for hospital purposes (ie. the Hospital is relocated and the Hospital wants to sell the Land in Dispute to a developer).

If it proceeds, the Application will be heard by a single judge of the Ontario Superior Court of Justice who will be trier of fact and law. With such an application, the evidence is presented primarily through written affidavits that are sworn or affirmed to by the people with knowledge of the matters in dispute. Opposing parties have the right to cross examine the respective affiants.

City staff have been in contact with representatives of the Hospital and the local Councillor. The Hospital and the City staff have discussed a framework for resolving the Application. Details of the proposed terms of settlement are discussed in Confidential Attachment 1.

COMMENTS

Confidential Attachment 1 sets out and discusses the proposed settlement in respect of the Hospital's Application.

CONTACT

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SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1 - Confidential Information