



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Expropriation of the Right of Way Easement Interest in favour of 40 Avondale Avenue over Parts of 44 Avondale Avenue

Date: December 19, 2017

To: Government Management Committee

From: Director, Real Estate Services

Wards: 23 - Willowdale

REASON FOR CONFIDENTIAL INFORMATION

This report is about a proposed or pending land acquisition by the City or one of its agencies or corporations.

SUMMARY

This report seeks approval from City Council, as the approving authority under the Expropriations Act, to expropriate the 'Right of Way' Easement interest in favour of the property municipally known as 40 Avondale Avenue located over part of 44 Avondale Avenue, being City Owned Lands.

RECOMMENDATIONS

The Director, Real Estate Services recommends that:

1. City Council approve the expropriation of the 'Right of Way' Easement interest in favour of the property municipally known as 40 Avondale Avenue located over part of 44 Avondale Avenue, being City Owned Lands legally described in Appendix "A".
2. City Council authorize the Director, Real Estate Services, or his designate, to take all steps necessary to comply with the Expropriations Act, including but not limited to, the preparation and registration of an Expropriation Plan and service of the Notices of Expropriation, Notices of Election as to a Date for Compensation, and Notices of Possession for the Property.
3. City Council authorize the Director, Real Estate Services, or his designate, to sign the Notices of Expropriation, Notices of Possession, Offers of Compensation and any other ancillary documents on behalf of the City.

4. City Council further authorize City staff to obtain an appraisal report to value the Property, updated to the date of expropriation; and to prepare and serve an Offer of Compensation on the registered owner of the Property, at the appraised value, in accordance with the requirements of the Expropriations Act.

5. City Council authorize the public release of Confidential Attachment #1 once there has been a final determination and closing of the compensation payable for the Property by arbitration, appeal or settlement, or otherwise to the satisfaction of the City Solicitor.

FINANCIAL IMPACT

The Expropriation, expenditures for the market value of the Lands as well as disturbance costs (if any), interest, and land transfer tax, and all other associated costs stipulated under the Expropriations Act will be funded by Avongate Developments Holding Inc. (Avongate) as provided in Confidential Attachment No. 1.

There will be no costs to the City as funding has been obtained in advance.

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

DECISION HISTORY

On July 30, 2008, the Ontario Municipal Board approved an appeal of an application to amend former City of North York Zoning By-law 7625 to permit the development of a proposed condominium at 9 & 15 Bales Avenue by Avongate.

City Council on April 26, 27 and 28, 2017, adopted the following report initiating the expropriation of the right of way in favour of 40 Avondale.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM19.9>

COMMENTS

Within 90 days of the date of final approval of the zoning by-law amendment for the properties at 9 and 15 Bales Avenue, the property at 44 Avondale Avenue was to be transferred to the City of Toronto, free and clear of any structures, tenancies and encumbrances, by Avongate Developments Holding Inc. (Avongate) as part of a Section 37 Agreement requirement for future road purposes relating to the North York Centre Secondary Plan.

The property at 44 Avondale Avenue, has a four foot wide easement on the West part of the lot in favour of the neighbouring property at 40 Avondale Avenue for reciprocal access purposes, and the City requested the removal of the easement from title prior to the transfer of the lot to the City. Negotiations by Avongate with the owner of 44 Avondale Avenue to have the easement removed failed and Avongate agreed to pay to the City for any acquisition and/or expropriation costs to remove the easement from title. The Section 37 Agreement was amended to permit the transfer to the City with the easement on title, and the transfer occurred on December 18, 2015. Given that

Avongate was responsible for the clear transfer of title to the City, they agreed to pay for all costs associated with the expropriation, and the Section 37 Agreement was amended to include provisions obligating Avongate to provide the City with a certified cheque and a letter of credit in the amount shown in "Confidential Attachment 1" to cover the cost of the City initiated expropriation. Avongate has provided the City with the cheque and the letter of credit.

Real Estate Services have been asked by Transportation Services to aid in the negotiations with the owner of 40 Avondale Avenue. Negotiations have failed, and to proceeding with Expropriation of the easement right is the remaining method of action.

CONTACT

Tim Park, Manager of Acquisition and Expropriations, Tel.: (416) 392-5838;
Email: tpark@toronto.ca

SIGNATURE

David Jollimore,
Director, Real Estate Services

ATTACHMENTS

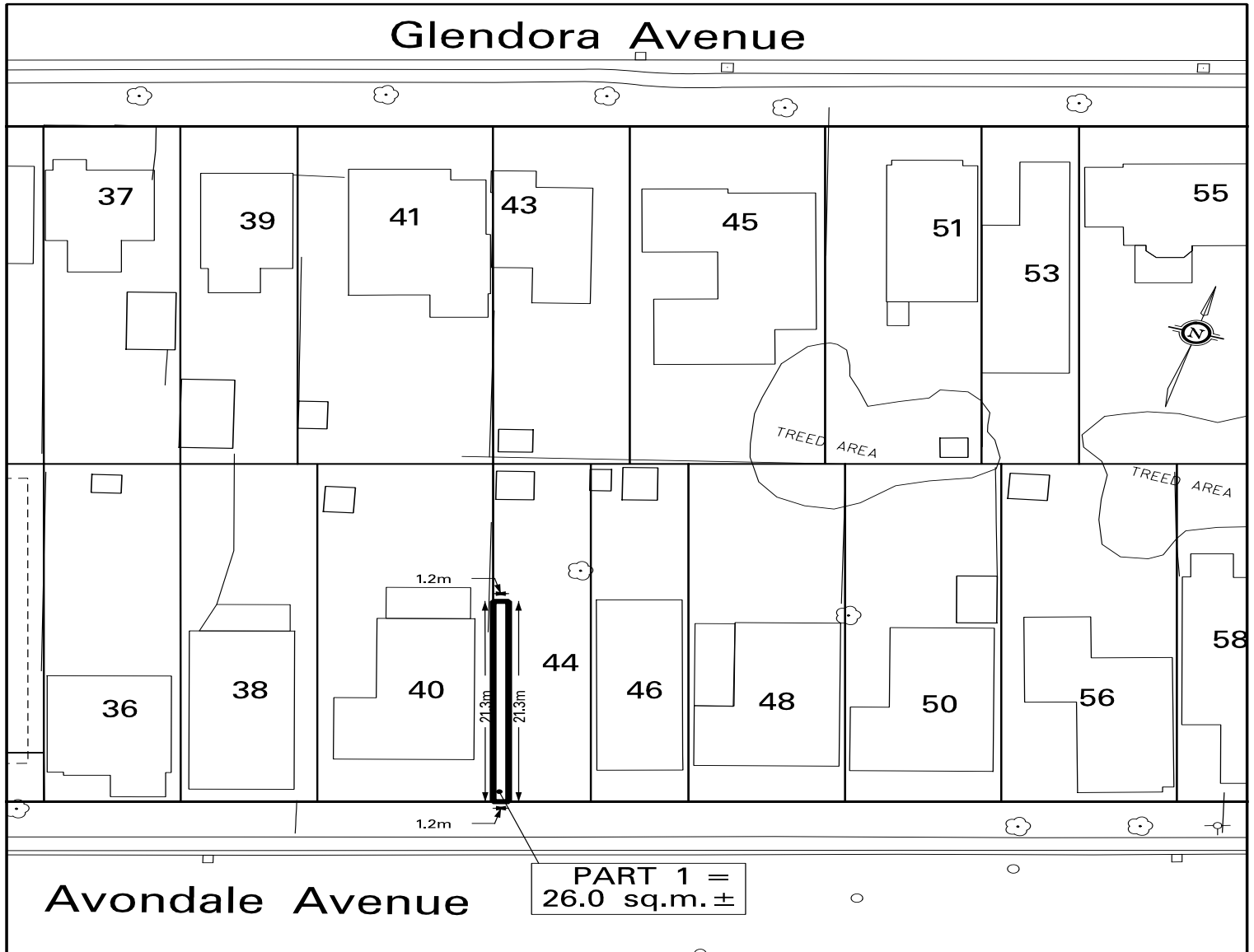
Confidential Attachment #. 1

Appendix "A" - Right of Way Easement Description
Appendix "B" - Survey Sketch of Right of Way Easement
Appendix "C" - Expropriation Plan
Appendix "D" - Location Map / Arial View

APPENDIX "A" LEGAL DESCRIPTION OF RIGHT OF WAY

The Right-Of-Way Easement described in Instrument Nos. TB223539 and TB960961 in the Toronto Land Registry Office (No.66) describing the Right-Of-Way Easement over the westerly four (4) feet of the southerly seventy (70) feet of Lot 1263 on Plan 1967 in favour of those lands legally described as Lot 1264 on Plan 1967, Township of York and part of Lot 1265 on Registered Plan 1967 as in instrument No. TB960961, being all of PIN 10104-0659 in the Toronto Land Registry Office (No.66) (formerly City of North York) City of Toronto, Province of Ontario, such right of way being over a Part of PIN 10104-0658 (LT) being Part of Lot 1263, Plan 1967, designated as Part 1 on Draft Plan 2017-04674.

APPENDIX "B" – SURVEY SKETCH OF RIGHT OF WAY EASEMENT



PROPERTY INFORMATION SHEET
CITY OWNED LAND
SKETCH SHOWING A PORTION OF
NO. 44 AVONDALE AVENUE

NOTE:
THIS SKETCH HAS BEEN
COMPILED FROM OFFICE
RECORDS. MEASUREMENTS
ARE APPROXIMATE

CHECK BY JOHN HOUSE
PREPARED BY: DWAYNE PITT

WARD 23 –
DATE: JANUARY 26, 2017

SKETCH No. PS-2017-006

APPENDIX "D" – LOCATION MAP / ARIAL VIEW

