

TORONTO STAFF REPORT

December 8, 2003

To: Administration Committee

From: Commissioner of Corporate Services

Subject: Expropriation of 121 and 123 Industry Street,
TTC Western Bus Garage Project
(Ward 12 - York South-Weston)

Purpose:

To seek approval for the expropriation of 121 and 123 Industry Street for the development of a western TTC bus garage.

Financial Implications and Impact Statement:

Funding has previously been approved by Council and is available in the 2003 budget, Capital Account CTT-109 relating to the New Bus Facility under TTC's Building and Structures category of projects. At this time, this report identifies no operating expenses associated with this project. The Chief Financial Officer and Treasurer has reviewed this report and concurs with the financial impact statement.

Recommendations:

It is recommended that:

- (1) City Council, as approving authority, consider the report of the Inquiry Officer as detailed herein;
- (2) City Council, as approving authority, approve the expropriation of 121 and 123 Industry Street for the construction of a TTC western bus facility for the reasons outlined herein and based on the recommendations of Victor L. Freidin, Inquiry Officer;
- (3) authority be granted to pay \$200 in costs to both Lee-Mar Developments Limited and Maple Leaf Firelog Products Company as recommended by the Inquiry Officer;
- (4) authority be granted 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

the service of Notices of Expropriation, Notices of Election as to a Date for Compensation and Notices of Possession;

- (5) the Director of Real Estate be authorized to sign the Notices of Expropriation and Notices of Possession on behalf of the City;
- (6) leave be granted for introduction of the necessary Bill in Council to give effect thereto; and
- (7) the appropriate City Officials be authorized and directed to take the necessary action to give effect hereto.

Background:

By approval of Clause No. 23 of Report No. 5 of the Administration Committee, City Council on June 24, 25 and 26, 2003, authorized staff to initiate the expropriation process to acquire all right, title and interest in the lands municipally known as 121 and 123 Industry Street (the "Property") for a future bus garage in the western part of the City. Following the service and publication of the Notices of Application for Approval to Expropriate the Property, both Lee-Mar Developments Limited (the owner) and Maple Leaf Firelog Products Company (the tenant) requested an Inquiry, pursuant to the *Expropriations Act*. The Inquiry was held on November 26, 2003 for the purpose of determining whether the proposed expropriation is fair, sound and reasonably necessary to achieve the City/TTC objectives. The outcome of the Inquiry is summarized in the Report of Victor L. Freidin, Q. C., Inquiry Officer, attached to this report as Schedule C.

Comments:

As authorized by City Council, Notices of Application for Approval to Expropriate the Property were served on all the registered owners and published in the newspaper.

The Property details are as follows:

- Property Location: 121 and 123 Industry Street fronts on the south side of Industry Street as shown in Schedule A and Schedule B.
- Registered Owner: Lee-Mar Developments Limited.
- Legal Description: Part of Lot 3, Concession 4 WYS, and Part of Block B, Plan 2562, City of Toronto.
- Lot Size: Approximately 16.3 acres.
- Lot Description: Rectangular in shape with approximately 800 feet of frontage and 888.5 feet of depth.

- Improvements: Four buildings are on the site totalling approximately 246,183 square feet.
- Tenant: Maple Leaf Firelog Products Company occupies two of the four buildings for the manufacturing and warehousing of firelogs and utilizes approximately two acres of the Property. The balance of the Property is intermittently leased on a month-to-month basis to the film industry.
- Official Plan: The Property has two Official Plan designations in force being “Industrial” for the north-eastern portion (former City of North York) and “Employment” for the south-western portion (former City of York). In the new Official Plan, the Property is designated “Employment District.”
- Zoning: The Property has two zoning designations being “M2- Industrial Zone 2” for the north-eastern portion (former City of North York) and “SI- Strategic Industrial Employment Zone” for the south-western portion (former City of York).
- Requirement: The entire site is required.

Under Section 8 of the *Expropriations Act*, City Council, acting as the Approving Authority, must consider the report of the Inquiry Officer, attached as Schedule C, and then approve or not approve the proposed expropriation and provide reasons.

In brief, the Inquiry Officer heard evidence from TTC staff outlining the critical timing to construct a new bus garage facility, explaining the search criteria and defending the decision to acquire this particular property based on those criteria. The site in question meets the majority of those criteria. It is a flat property of the appropriate size and shape, with appropriate zoning and servicing in place, in a location largely unserved by an existing TTC garage and does not require the acquisition of further properties. The focus of cross-examination by the owner and tenant’s representatives was that the City had not sufficiently investigated alternative locations and particularly suggesting that insufficient information was available as to the environmental condition of alternative sites.

The Inquiry Officer determined that an Expropriating Authority has wide discretion in terms of identifying its preferred alternative and that it is legitimate for that Authority to set guidelines regarding how to identify sites, including the weight to be given to various factors. He found that the TTC’s environmental investigations were defensible. As a result, the Inquiry Officer concluded that, based on all the evidence and argument, the proposed expropriation of the Property is fair, sound and reasonable having regard to the City/TTC objectives. He further recommended that both participants at the hearing be awarded costs of \$200 in accordance with the provisions in the *Expropriations Act*.

Approval to expropriate 121 and 123 Industry Street is required now to ensure that the current schedule for the new bus garage can be met.

Conclusions:

It is recommended that City Council, as Approving Authority under the provisions of the *Expropriations Act*, consider the Report of Victor L. Freidin, Q. C. Inquiry Officer and approve the expropriation of the Property based on his recommendation and for the reasons described herein.

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Doug Stewart
Director of Real Estate Services

M. Joan Anderton
Commissioner of Corporate Services

List of Attachments:

Schedule A: Location Map and Sketch of Property
Schedule B: Property Data map of 121 Industry Street
Schedule C: Report of Victor L. Freidin, Q. C. Inquiry Officer