

TORONTO STAFF REPORT

April 10, 2006

To: Administration Committee

From: Chief Corporate Officer

Subject: Termination of Lease of Lands Adjacent to 26 Ernest Avenue
(Ward 18 - Davenport)

Purpose:

To secure authority to terminate the Lease with M & S Waste and Salvage Limited, and to authorize the Chief Corporate Officer or his designate to execute and deliver a Notice of Termination.

Financial Implications and Impact Statement:

The termination of the Lease will result in net loss of rental income for Facilities and Real Estate in the amount of \$9,250.00.

The funding for development of a pathway forming part of the City's bicycle/trail network in the amount of \$619,000.00 is available in the 2006 Capital Budget for Parks, Forestry & Recreation.

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

Recommendations:

It is recommended that:

- (1) authority be granted for termination of the lease with M & S Waste and Salvage Limited (the "Tenant") for the lands described as Part of Lot 34, Concession 2 From the Bay, shown as Part 7 on Plan 64R-16975, Part 1 and Part of Part 2 on Plan 64R-16972, City of Toronto and adjacent to 26 Ernest Avenue, as more particularly shown on Sketch "A" attached (the "Property") ("the Lease");
- (2) the Chief Corporate Officer or his designate be authorized to execute and deliver the Notice of Termination; and

- (3) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The Property forms part of an abandoned Canadian Pacific Rail Corridor Spur Line, identified as the "PS LEAD". The former City Council, by the adoption of Clause No. 36 of the Executive Committee Report No. 18, at its meeting on July 14, 1997, approved the purchase of these lands in principle for the purpose of a pedestrian/bicycle pathway. The PS LEAD extends southerly from Cariboo Avenue to Dundas Street West. Pursuant to the authority contained in Clause No. 32 of Policy and Finance Report No. 10 adopted by City Council on August 1, 2, 3 and 4, 2002, the City acquired the PS LEAD in July 2003 for future use as a pathway forming part of the City's bicycle/trail network.

Among other permitted encumbrances, the PS LEAD was subject to the Lease between the Tenant and Canadian Pacific Limited, which was assigned to the City on July 11, 2003. The Parks, Forestry and Recreation Division has now obtained Capital Funding for development of the pathway and expects to begin phased construction in the Fall of 2006. Parks has accordingly indicated that it requires possession of the Property for development of the pathway in September 2006.

The Tenant operates a scrap metal business and is the holder of a licence to operate a salvage yard issued by the City. In 1996, to address community concerns regarding truck traffic backing up and blocking Ernest Avenue and Perth Avenue, the Tenant leased the Property to use as a driveway access. The Toronto Licensing Tribunal ("TLT") required M & S Waste and Salvage Limited to maintain the Lease as a condition of its licence. The Tenant has leased the Property for such purpose since 1996.

Comments:

The Lease provides that it may be terminated at any time by either party on 90 days' written notice without liability to the other party for damages or compensation because of the termination. The Tenant shall return the premises vacant and in a neat, clean and level condition, free and clear of all waste material, debris and rubbish to the satisfaction of the City, unless the City requires otherwise notifies. The Tenant shall return the premises free of any environmental contamination from the Tenant's use.

In 1998, Planning staff advised that the lands could not accommodate both the City plans for the property as well as the truck use. Subsequent studies by Parks planners have confirmed this and have also confirmed that the pathway cannot be detoured around the Property via local streets.

TLT has no jurisdiction over parks planning, traffic planning, or the disposition of City lands. The obligation imposed by TLT on the Tenant to maintain the Lease is a restriction on the conduct of M & S Waste and Salvage Limited, and in no way affects the rights of the City as lessor. The City may legally terminate the lease in accordance with its terms.

Conclusions:

In order to allow the City to proceed with developing the Property for the pedestrian/bicycle pathway for which it was acquired, it is considered appropriate to terminate the Lease with M & S Waste and Salvage Limited, and to authorize the Chief Corporate Officer or his designate, to execute and deliver a Notice of Termination.

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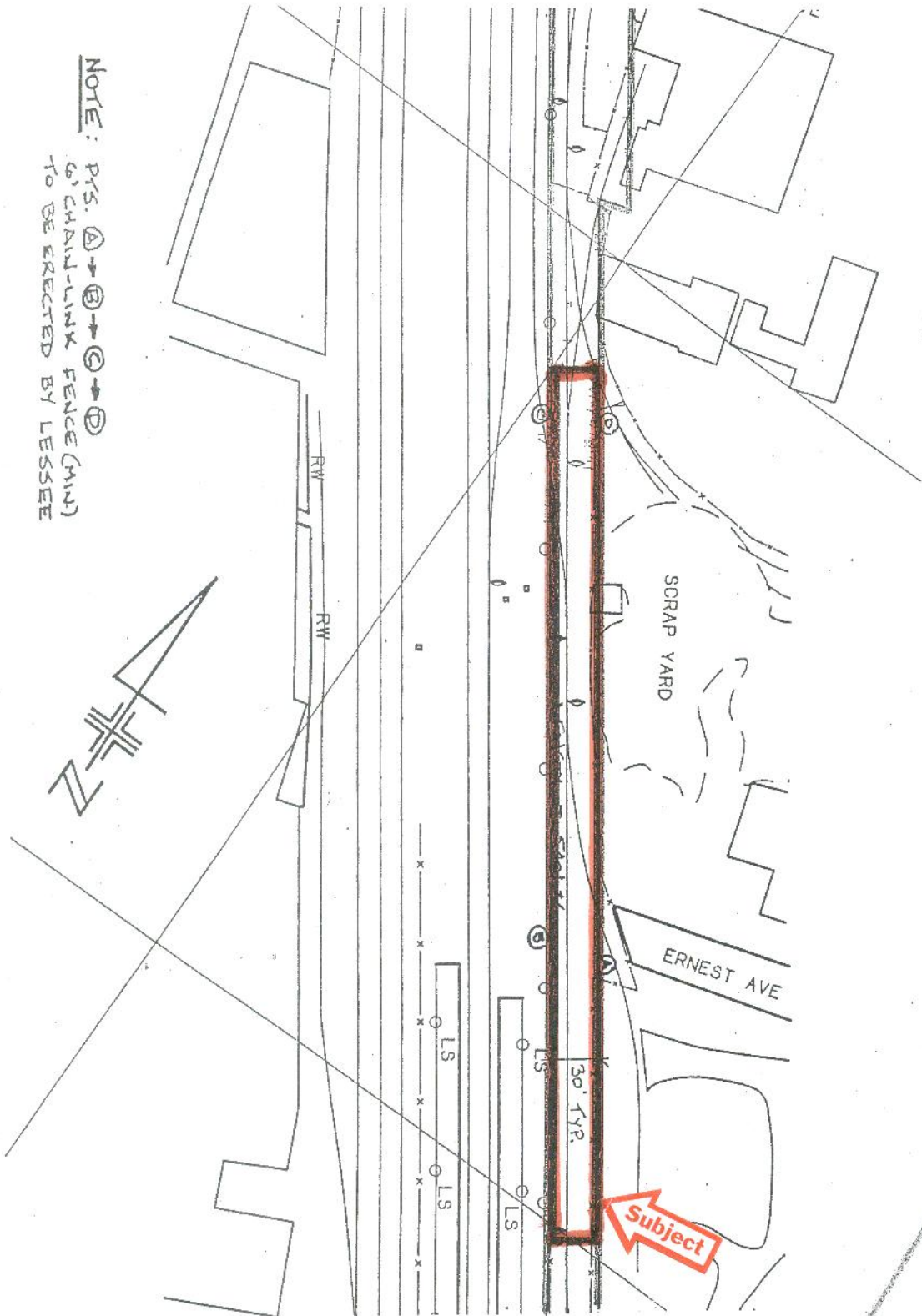
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List of Attachments:

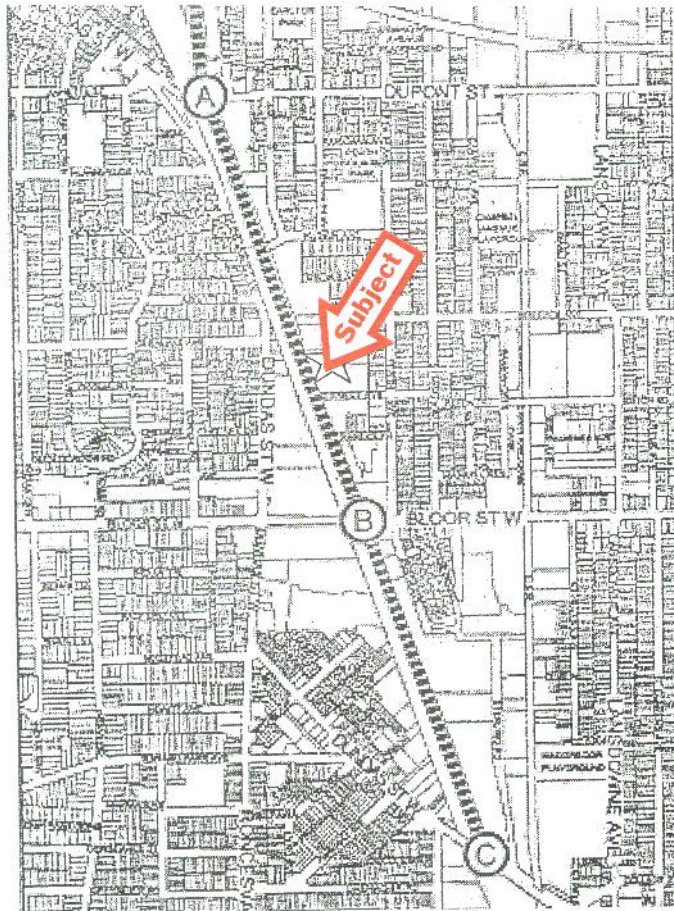
Sketch "A" - The Property
Location Map

Sketch "A" - The Property





NOTE: PYS. (A) → (B) → (C) → (D)
6' CHAIN-LINK FENCE (MIN)
TO BE ERECTED BY LESSEE



Location Map



LEGEND

-  SUBJECT PROPERTY
-  DU PONT ST BRIDGE
-  BLOOR ST BRIDGE
-  DUNDAS UNDERPASS



JUNE 2000

CP PS LEAD

Site Map

