



**STAFF REPORT
ACTION REQUIRED**

Transfer of Properties to Build Toronto and Declaration of Surplus – Third Quarter 2010

Date:	August 6, 2010
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	5, 16, 26 and 36
Reference Number:	P:\2010\Internal Services\Re\Gm10057Re – AFS #12496

SUMMARY

By its adoption of EX32.5, as amended, on May 25, 26, and 27, 2009, City Council, among other matters, declared sixteen properties surplus, with the intended method of disposal to be by way of a transfer to Build Toronto Inc. (Build Toronto). Those properties included 3326 Bloor Street West and part of 1226 Islington Avenue, and 4050 Yonge Street. In addition, the Chief Corporate Officer, by his delegated authority, has declared surplus for transfer to Build Toronto the lands located at the southwest corner of Eglinton Avenue East and Don Mills Road.

This report recommends the terms on which three of these surplus properties, the southwest corner of Eglinton Avenue East and Don Mills Road, 3326 Bloor Street West and part of 1226 Islington Avenue, and 4050 Yonge Street, are to be transferred to Build Toronto.

This report further recommends that an additional property, 253 Markham Road/12 Dunelm Street, be declared surplus for the purposes of transfer to Build Toronto.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council grant authority to enter into an agreement to transfer part of the property at the southwest corner of Eglinton Avenue East and Don Mills Road, more particularly described in Appendix 2, including agreements related thereto, to Build Toronto, substantially on the terms and conditions set out in Appendices 1 and 2 attached, and on such other and amended terms and conditions as may be

- approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.
2. City Council grant authority to enter into an agreement to transfer the property municipally known as 3326 Bloor Street West and part of 1226 Islington Avenue, more particularly described in Appendix 3, including agreements related thereto, to Build Toronto, substantially on the terms and conditions set out in Appendices 1 and 3 attached, and on such other and amended terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.
 3. City Council grant authority to enter into an agreement to transfer the property municipally known 4050 Yonge Street, more particularly described in Appendix 4, including agreements related thereto, to Build Toronto, substantially on the terms and conditions set out in Appendices 1 and 4 attached, and on such other and amended terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.
 4. City Council grant authority to the Chief Corporate Officer to permit Build Toronto to engage in licensing and leasing activities in respect of properties that are or become the subject matter of executed Transfer Agreements, during the period prior to the closing of the transfer transactions, on terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.
 5. City Council grant authority to fund the City's outstanding expenses related to these properties from the Approved Operating Budgets for Facilities and Real Estate (F&RE), in the year(s) that the expenses are incurred, as necessary and, once these expenses are known, to transfer the funding for these expenses from the Land Acquisition Reserve Fund (LARF), with appropriate adjustments to F&RE's Approved Operating Budgets, as necessary, through subsequent Quarterly Variance Reports.
 6. City Council grant authority to make appropriate budget adjustments to F&RE's Operating Budgets to address the net revenue loss arising from the transfer of 3326 Bloor Street West and the southwest corner of Eglinton Avenue East and Don Mills Road to Build Toronto, beginning in the budget year following the registration of the transfer(s) of these properties to Build Toronto.
 7. City Council grant authority to make appropriate budget adjustments to the Toronto Transit Commission's Operating Budget to address the net revenue loss from the termination of TTC parking operations arising from the transfer to Build Toronto of part of 1226 Islington Avenue and 4050 Yonge Street, effective on a date to be agreed upon by the Deputy City Manager and Chief Financial Officer and the TTC.

8. City Council authorize the termination and removal from the title of the properties to which it applies, including part of 1226 Islington Avenue, of a lease agreement between Metropolitan Toronto and the TTC entered into December 30, 1969, and registered as EB367652, as it now redundant and inconsistent with the intended redevelopment of properties that are to be transferred to Build Toronto.
9. City Council rescind Recommendation 3 of EX2.10 as approved on February 5, 6, 7, and 8, 2007, regarding sale proceeds from the Bloor/Islington lands and the Westwood lands, so that Build Toronto will be able to derive revenue from its redevelopment of the Bloor/Islington lands and integrate alternatives for the relocation of the Islington bus terminal within its master plan.
10. City Council declare surplus 253 Markham Road/12 Dunelm Street, as set out in Appendix 5, subject to the retention of those areas and interests required to satisfy operational requirements and subject to the retention of any interests required by by-law as well as those City and other interests required to be protected (“Required Interests”), with the intended method of disposal to be by way of a Transfer to Build Toronto on an “as is” basis, for nominal consideration (with Build Toronto to pay any applicable Land Transfer Tax, HST, registration and other costs).
11. City Council approve, as the approving authority under the provisions of the *Expropriations Act*, the transfer to Build Toronto of any property that was acquired by expropriation without giving the original owner from whom the property was expropriated the first chance to repurchase the property.
12. City Council rescind, at such time as a property that is to be made available to Build Toronto is no longer being utilized by the Toronto Parking Authority for parking purposes, any prior designation of such property for parking by the Toronto Parking Authority.
13. City Council authorize and direct the appropriate City officials to introduce in Council any Bills necessary to give effect to the foregoing.
14. City Council grant authority severally to each of the Chief Corporate Officer and the Director of Real Estate Services to execute the transfer agreements on behalf of the City.
15. City Council authorize the City Solicitor to complete the transactions to be provided for in the transfer agreements on behalf of the City, including making payment of any necessary expenses, amending the closing and other dates to such earlier or later date(s), and amending or waiving the terms and conditions, as she may from time to time consider reasonable.

Financial Impact

The transfer/sale of the properties that are the subject of this report to Build Toronto will defer the receipt of proceeds from the disposition of the properties during Build Toronto's development process. However, the transfer will optimize benefits to the City as a whole and achieve potentially greater returns over time.

As these properties are being transferred for nominal consideration, no revenue will be available to cover the expenses of effecting the transfers, such as registration charges that would normally be for the account of the vendor in a transaction of purchase and sale, survey fees, appraisal fees, etc. As the total of the expenses related to these properties is not known at this time, it is recommended that these expenses be accommodated within F&RE's Approved Operating Budgets, in the year(s) that the expenses are incurred, as necessary, and that, once these expenses are known, funds be provided from the LARF. Budget transfers to adjust F&RE's Approved Operating Budgets, as necessary, funded from the LARF through subsequent Quarterly Variance Reports, are also recommended.

The Toronto Transit Commission ("TTC") is the registered owner of 4050 Yonge Street and has management responsibility for part of 1226 Islington Avenue and receives revenue from parking operations on these properties. Pursuant to Recommendation 5 of EX32.5 (2009), appropriate adjustments will be required to the TTC Operating Budget, not earlier than 2011, to address the loss of these revenues.

Real Estate Services has management responsibility over 3326 Bloor Street West and the southwest corner of Eglinton Avenue East and Don Mills Road and receives revenue from them, which will become revenue to the account of Build Toronto commencing in 2011. The 2010 revenue from the properties is estimated to be \$7,100 and \$40,000, respectively. Pursuant to Recommendation 5 of EX32.5 (2009), appropriate adjustments will be required to F&RE's Operating Budget, not earlier than 2011, to address the loss of these revenues.

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

DECISION HISTORY

On May 25, 26, and 27, 2009, City Council adopted EX32.5, as amended, endorsed the Principles of a Real Estate Strategy and declared surplus, subject to the retention of required interests, sixteen properties, with the intended method of disposal to be a transfer to Build Toronto, and five properties, with the intended method of disposal to be a turnover to Build Toronto.

New Model to Enhance Toronto's Economic Competitiveness

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-15926.pdf>

Principles of a Real Estate Strategy and Declaration of Surplus for Sale/Transfer or Turnover to Build Toronto

<http://www.toronto.ca/legdocs/mmis/2009/ex/bgrd/backgroundfile-20629.pdf>

Appendices 2, 3 and 4 - Properties to be Declared Surplus
(<http://www.toronto.ca/legdocs/mmis/2009/ex/bgrd/backgroundfile-20630.pdf>)

Report on Executive Committee Motion Regarding EX32.5a
(<http://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-21424.pdf>)
(<http://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-21647.pdf>)

On September 30, and October 1, 2009, City Council adopted GM24.30, and approved the terms of transfer of four properties.

Report - Transfer of Properties to Build Toronto
(<http://www.toronto.ca/legdocs/mmis/2009/gm/bgrd/backgroundfile-23306.pdf>)

Appendices 1-5
(<http://www.toronto.ca/legdocs/mmis/2009/gm/bgrd/backgroundfile-23307.pdf>)

On November 30 and December 1, 2, 4 and 7, 2009, City Council adopted GM26.30 as amended, and approved the terms of transfer of six properties.

Report – Transfer of Properties to Build Toronto – Fourth Quarter 2009
(<http://www.toronto.ca/legdocs/mmis/2009/gm/bgrd/backgroundfile-25098.pdf>)

Appendices 1-7
(<http://www.toronto.ca/legdocs/mmis/2009/gm/bgrd/backgroundfile-25099.pdf>)

On May 11 & 12, 2010, City Council adopted GM30.17, and approved the terms of transfer of five properties.

Report - Transfer of Properties to Build Toronto - Second Quarter 2010
(<http://www.toronto.ca/legdocs/mmis/2010/gm/bgrd/backgroundfile-29616.pdf>)

Appendices 1-6
(<http://www.toronto.ca/legdocs/mmis/2010/gm/bgrd/backgroundfile-29617-29622.pdf>)

Report - Transfer of Properties to Build Toronto - Second Quarter 2010
(<http://www.toronto.ca/legdocs/mmis/2010/gm/bgrd/backgroundfile-29616.pdf>)

Appendix 1-6
(<http://www.toronto.ca/legdocs/mmis/2010/gm/bgrd/backgroundfile-29617-29622.pdf>)

COMMENTS

Expropriated Lands

Lands to be made available to Build Toronto may originally have been acquired by expropriation. The *Expropriations Act* provides that when a municipality intends to sell lands which were acquired by expropriation, the former owner is to be given the chance to purchase the lands on the terms of the best offer received unless the approving authority authorizes the disposal of such lands without giving the former owner a first chance to purchase. In order to give full effect to the proposal to allow Build Toronto maximum flexibility in developing City lands, it is recommended that Council, as approving authority, authorize the disposal of land to Build Toronto that was acquired by expropriation without giving the owner from whom the land was expropriated an opportunity to repurchase.

Toronto Parking Authority

The Toronto Parking Authority by-law must be amended appropriately to rescind the previous designation of a property for parking purposes (if such property is to be made available to Build Toronto) at such time as that property is no longer being utilized by the Toronto Parking Authority for parking purposes.

Build Toronto's Interim Access and Rights

While Build Toronto is seeking legislative amendments regarding its holding costs on the properties being transferred by the City, Build Toronto has requested in the interim, to begin its leasing and sales activities in respect of properties that are to be transferred. On this basis, the Chief Corporate Officer recommends that City Council authorize him to permit Build Toronto to undertake, for those properties that are or become the subject matter of executed Transfer Agreements, licensing and leasing activities, to facilitate the generation of much-needed revenues for Build Toronto.

Bloor/Islington Property

A lease agreement was originally entered into by Metropolitan Toronto and the TTC on December 30, 1969 allowing for the TTC's use of a number of properties owned by Metropolitan Toronto. As this lease agreement predates amalgamation and the *City of Toronto Act*, and as the real estate arrangements between the City and its ABCDs is set out in a number of City policies and the Principles of a Real Estate Strategy adopted May 25, 26 and 27, 2009, the lease is now rendered redundant and should be terminated and removed from the title of the properties to which it applies. It is recommended that this lease agreement be terminated prior to the transfer of any of these leased properties to Build Toronto as it would be inappropriate that such a lease arrangement would be assumed by Build Toronto.

The prior redevelopment program for the Bloor/Islington property as approved by City Council on April 28 and 29, 2008 (Item GM13.14) called for the offering of the entire property on the open market for redevelopment with a provision for a phased closing with the eastern portion of the property to be conveyed at a later date after the TTC had vacated and decommissioned the old bus terminal. It should be noted that City Council directed in Recommendations 5 and 6 of Item GM13.14 that the future redevelopment of the Bloor/Islington lands include a significant office/commercial employment component or the property should be re-conveyed to the City. This direction is proposed to be carried forward as a term of the transfer to Build Toronto.

The prior redevelopment strategy was based on the planned construction of a new Islington bus terminal to the north of the subway line for which City Council had approved funding of \$23 million in 2007. At the time the “Capital Funding for the Kipling/Islington Redevelopment Initiative” was approved on February 5, 6, 7, and 8, 2007 (Item EX2.10), City Council in Recommendation 3 directed that proceeds from the sale of the Bloor/Islington lands and the Westwood lands be used to repay LARF for the funds proposed to be allocated for the construction of the new terminal.

By the end of 2009, however, the projected budget for the new Islington bus terminal was substantially more than the allocated funds and it was deleted from the TTC’s 10 year Capital Budget. The other component of the Kipling/Islington Redevelopment Initiative, the planned inter-regional bus terminal at Kipling Station that would serve Mississauga and GO Transit buses, has also been delayed by the assumption and redesign of this project by Metrolinx.

Consequently, the timing of the relocation of the Islington bus terminal is uncertain for freeing up of the eastern portion of the property for redevelopment. City Council has addressed the need for phased redevelopment of the Bloor/Islington property by declaring surplus 3326 Bloor Street West and part of 1226 Islington Avenue for transfer to Build Toronto and declaring the eastern portion of the Bloor/Islington property surplus for turnover to Build Toronto. With the transfer of 3326 Bloor Street West and part of 1226 Islington Avenue, on the terms recommended in this report, Build Toronto will be able to bring its development expertise into the mix to advance alternatives for the relocation of the Islington bus terminal so as to achieve the optimal development of the whole property. Until the development program is initiated, it assumed that commuter parking use will be able to continue on the property.

In view of the deletion of the new Islington bus terminal from the TTC’s 10 year Capital Budget and in order to implement City Council’s declaration of surplus of 3326 Bloor Street West and part of 1226 Islington Avenue to transfer to Build Toronto for nominal consideration, it is proposed that Recommendation 3 of Item EX2.10, allocating sale proceeds to repay LARF, be now rescinded.

4050 Yonge Street

This property was transferred to the TTC in 2006 on a nominal basis to satisfy an outstanding financial obligation to the TTC of \$7 million, which was inherited by the City. Build Toronto has proposed to develop a head office for the TTC on the 4050 Yonge Street property, and the financial terms of this proposal are to be reviewed by the Commission at the end of August, 2010. Consequently, the terms of transfer to Build Toronto have to address two potential outcomes – continued occupancy by the TTC or development for another user.

Conclusion

This report gives effect to EX32.5 (adopted May 25, 26, and 27, 2009) with respect to the properties municipally known as 3326 Bloor Street West and part of 1226 Islington Avenue, and 4050 Yonge Street and recommends the terms of transfer to Build Toronto of the surplus property at the southwest corner of Eglinton Avenue East and Don Mills Road. This report further recommends that 253 Markham Road/12 Dunelm Street be declared surplus for the purposes of a transfer to Build Toronto.

Implementation of the recommendations in this report will contribute to Build Toronto's portfolio of development properties.

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SIGNATURE

Bruce Bowes, P.Eng.
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ATTACHMENTS

Appendix 1 – Terms & Conditions of Transfer for All Properties
Appendix 2 – Southwest Corner of Eglinton Ave East & Don Mills Rd
Appendix 3 – 3326 Bloor St W and Part of 1226 Islington Ave
Appendix 4 – 4050 Yonge St
Appendix 5 – 253 Markham Road/12 Dunelm St