



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Review of OMB Decision - 405 Dufferin Street

Date:	May 28, 2012
To:	City Council
From:	City Solicitor
Wards:	Ward 18 Davenport
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege. This report contains advice or communications about pending litigation.
Reference Number:	

SUMMARY

On May 4, 2012, the Ontario Municipal Board issued a land compensation decision for a property located at 405 Dufferin Street which the City expropriated in 2005 as part of the Dufferin Jog elimination project. The Ontario Municipal Board awarded the owner of 405 Dufferin Street significantly more money for the property than the City believed it to be worth. The Expropriations Act gives the parties to a compensation hearing six weeks from the date of the Board decision in which to appeal. The information in the Confidential Attachment to this report discusses the Board decision and seeks Council's direction regarding a potential appeal.

RECOMMENDATIONS

1. City Council adopt the confidential recommendations in Attachment 1; and
2. City Council authorize the public release of confidential recommendation 1 in Attachment 1 if adopted by Council.

FINANCIAL IMPACT

The financial implications are set out in Attachment 1.

DECISION HISTORY

At its meeting of June 27 and 28, 2001, City Council authorized the elimination of the Dufferin Jog at the CP rail corridor, located at the intersection of Queen Street West and Dufferin Street. This approval authorized the construction of a continuation of Dufferin Street under the rail corridor south of the previous southerly terminus of Dufferin Street which was at the Canadian Pacific Railway corridor just north of Queen Street West. The elimination of the Dufferin Jog involved the expropriation of a number of properties, including the entire property located at 405 Dufferin Street.

The City acquired title to 405 Dufferin Street in the fall of 2005 and complied with all legal requirements of the Expropriations Act including making a statutory payment to the owner of the property which, in the City's view, reflected the full market value of the property. As permitted by the Expropriations Act, the owner accepted the City's offer, but reserved its right to make a further claim for additional financial compensation to the Ontario Municipal Board.

COMMENTS

This decision of the Municipal Board was the result of the claim for additional compensation which the owner made for both market value for the land taken and for business losses. The Board held a six week hearing into the appropriate compensation in the fall of 2010 and released its decision seventeen months after the hearing ended on May 4, 2012.

In the decision the Municipal Board concluded that the market value of the lands taken by the City was almost twice the amount that the City's expert advisors concluded that it was worth.

Additionally the Board found that the owner had suffered significantly more business losses than the City's experts concluded the owner had experienced.

The Confidential Attachment to this report provides further information.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1: Confidential Information regarding the OMB decision regarding compensation owing to the owner of 405 Dufferin Street.