



**STAFF REPORT
ACTION REQUIRED**

**Real Estate Expropriations – Toronto-York Spadina
Subway Extension Project (South of Steeles):
St. Regis Curve Properties**

Date:	January 12, 2012
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 8 – York West
Reference Number:	P:\2012\Internal Services\Re\Gm12006re (AFS 13757)

SUMMARY

This report seeks authority to initiate expropriation proceedings, if necessary, to acquire permanent surface easements for support and safety of subsurface infrastructure over parts of seven properties, and a temporary six-month construction easement over part of one property, as described in Appendix "A" and illustrated in Appendices "B1" to "B8", for the purposes of the Toronto-York Spadina Subway Extension Project (the "Project"). These easements will effectively extend the physical limits of subsurface easements previously expropriated and will grant a temporary construction easement to the City.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council authorize the Director of Real Estate Services to initiate expropriation proceedings, if necessary, for permanent surface easements over parts of 3685 Keele Street, 3675-3677 Keele Street, 3695 Keele Street, 3701 Keele Street, 3711- 3715 Keele Street, 3725 Keele Street, and 77 St. Regis, and a temporary six-month construction easement over part of 1170 Sheppard Avenue West, as described in Appendix "A", in connection with the Toronto-York Spadina Subway Extension.

2. City Council authorize the Director of Real Estate Services to serve and publish Notices of Application for Approval to Expropriate permanent surface easements over portions of 3685 Keele Street, 3675-3677 Keele Street, 3695 Keele Street, 3701 Keele Street, 3711- 3715 Keele Street, 3725 Keele Street, and 77 St. Regis, and a temporary six-month construction easement over part of 1170 Sheppard Avenue West, to forward any requests for hearing that are received to the Chief Inquiry Officer, to attend the hearing in order to present the City's position, and to report the Chief Inquiry Officer's recommendations back to City Council for its consideration.

Financial Impact

Total property acquisition costs for the Project were estimated preliminarily at \$125 million (in as spent dollars). Funding for property acquisition is shared by the Move Ontario Trust (includes \$870 million set aside for the purposes of Project funding), and by the City and the Regional Municipality of York. Of the municipal portion of Project funding, 59.96% is attributable to the City and the remainder to York Region.

Funding for the easements identified in Appendix "A" is available in the Council Approved 2011 Capital Budget and 2012-2020 Capital Plan within the Toronto-York Spadina Subway Extension Capital Project.

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

DECISION HISTORY

On January 27 and 28, 2009, City Council adopted Item GM20.4, thereby authorizing the Director of Real Estate Services to negotiate to acquire and initiate expropriation proceedings, if necessary, with respect to property requirements at thirty-two properties, including subsurface portions of the six properties affected by this report, for the purpose of the subway tunnel alignment. The report can be found at:

<http://www.toronto.ca/legdocs/mmis/2009/cc/decisions/2009-01-27-cc30-dd.pdf>

On August 5 and 6, 2009, City Council adopted Item CC38.4, thereby authorizing the Director of Real Estate Services to negotiate and initiate expropriation proceedings, if necessary, to acquire revised property requirements at the eleven properties, including portions of seven properties affected by this report as a result of a design change to the curve radius of the tunnel alignment. The report can be found at:

<http://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-22576.pdf>

On July 6, 7, and 8, 2010, City Council adopted Item GM32.11, thereby approving the expropriation of fee simple interests for the subway tunnels and permanent easements for support and safety of the subway tunnels, among other interests in ten properties, including subsurface portions of the seven properties affected by this report. The report can be found at:

<http://www.toronto.ca/legdocs/mmis/2010/cc/decisions/2010-07-06-cc51-dd.htm>

On August 25, 26, and 27, 2010, City Council adopted Item GM33.15, thereby approving the expropriation of fee simple interests for the subway tunnels, emergency exit and a stairwell and permanent easements for support and safety of the subway tunnels and the stairwell and a temporary easement for construction staging in one property affected by this report. The report can be found at:

<http://www.toronto.ca/legdocs/mmis/2010/gm/bgrd/backgroundfile-32795.pdf>

ISSUE BACKGROUND

The \$2.6 billion Project involves an 8.6 km, 6 station extension of the TTC Spadina Subway system from the existing Downsview station to the Vaughan Corporate Centre at Highway 7 in York Region. The City of Toronto and York Region are each responsible for acquiring properties within its own geographical boundaries, and for resolving all related claims for compensation.

The City portion of the Project is 6.2 km in length, and includes four stations: Sheppard West, Finch West, York University, and Steeles West (this station crosses the municipal boundary). As the design progresses, TTC identifies its property requirements and submits them to the City for acquisition by negotiation or expropriation.

COMMENTS

In the initial reports to Council seeking authority to commence expropriation proceedings, the property interest required for the subway tunnels was identified as subsurface fee simple. Subsequently, it was determined to be more appropriate to acquire a subsurface fee simple interest for the tunnels, with a permanent easement for support and safety above them to protect the structural integrity of the tunnels and other subsurface infrastructure and otherwise ensure their safe operation. In summary, this easement is intended to prevent loading on subsurface infrastructure, prevent removal of structural support from above, and restrict potentially dangerous uses and materials by requiring property owners to seek prior approval for activities directly above the tunnels that might present a risk to the tunnels or their users.

An Application for Approval to Expropriate was submitted and Notices were advertised and served on the property owners based on the subsurface requirements approved by City Council at its meeting on January 27 and 28, 2009. Although the Application and Notices reflected the stratified fee simple and permanent easement takings discussed above, the permanent easements were limited to the subsurface portions of the properties.

However, since the permanent easements do indirectly impact the surface, staff have determined that it would be prudent to acquire supplementary surface easements to effectively augment the areas of the easements previously expropriated. Staff have been successful in securing these easements by negotiation in several instances, but have been unable to reach agreements with the respective property owners in connection with the properties listed in Appendix "A". Therefore, this report seeks approval from City Council to initiate expropriation proceedings, if necessary, to acquire the required surface easements over parts of these properties, as illustrated in Appendices B1 to B7.

In addition to the above, the City expropriated a temporary easement interest for construction purposes over part of 1170 Sheppard Avenue West, by registering Expropriation Plan AT2537652 on October 28th, 2010. The term of the expropriated temporary easement ran for thirteen months and will expire on August 31, 2012. The TTC requires the use of the lands for an additional six month term. It is therefore necessary to expropriate the additional six month term at this time to avoid any gaps or disruption in construction activities. Therefore, this report also seeks approval from City council to initiate expropriation proceedings, if necessary, to acquire the required temporary six-month construction easement over part of 1170 Sheppard Avenue West, as illustrated in Appendix B8.

CONTACT

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SIGNATURE

Bruce Bowes, P.Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix A – Property Requirements Table
Appendix B1-B8 – Reference Plans of Survey
Appendix C1-C3 – Location Maps