



**STAFF REPORT  
ACTION REQUIRED**  
with Confidential Attachment

**Expropriation of Temporary Easements at 1065 & 1071  
Eglinton Avenue West – Eglinton-Scarborough  
Crosstown LRT Project**

<b>Date:</b>	February 11, 2013
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Ward:</b>	21 – St.Paul's
<b>Reason for Confidential Information:</b>	This report is about a proposed or pending land acquisition by the City or one of its agencies, boards, and commissions and deals with litigation or potential litigation that affects the City or one of its agencies, boards and commissions
<b>Reference Number:</b>	

**SUMMARY**

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This report seeks authority, and approval from City Council as the approving authority under the *Expropriations Act*, to expropriate temporary easements at 1065 & 1071 Eglinton Avenue West for the purpose of constructing a launch shaft and crossover track in connection with the Eglinton-Scarborough Crosstown LRT Project (the "Project"). For the proposed expropriation at 1071 Eglinton Avenue West, which has been the subject of an inquiry, the Inquiry Officer's report is being provided to City Council for its consideration.

**RECOMMENDATIONS**

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**The City Solicitor recommends that:**

1. City Council, as approving authority under the *Expropriations Act*, approve the expropriation of temporary easements at 1065 Eglinton Avenue West, as set out in Appendix "A" and shown on Appendix "B1", for the purpose of works related to the construction of a launch shaft and crossover track in connection with the Project;

2. City Council, as approving authority under the *Expropriations Act*, consider the report of Victor L. Freidin Q.C., Inquiry Officer as detailed herein and approve the expropriation of temporary easements at 1071 Eglinton Avenue West, as set out in Appendix "A" and shown on Appendix "B2", for the purpose of works related to the construction of a launch shaft and crossover track in connection with the Project for the reasons outlined herein and based on the recommendations of the Inquiry Officer;
3. City Council, as expropriating authority under the *Expropriations Act*, authorize all necessary steps to comply with the *Expropriations Act*, including but not limited to the preparation and registration of an Expropriation Plan, service of Notices of Expropriation, Notices of Election as to a Date for Compensation and Notices of Possession;
4. Leave be granted to introduce the necessary Bill in Council to give effect thereto; and
5. City Council authorize the public release of the confidential information contained in Confidential Attachment 1 once there has been a final determination of the compensation payable for the subject property by arbitration, appeal or settlement to the satisfaction of the City Solicitor.

## **Financial Impact**

Funds for property acquisition for the Project are available in the City of Toronto Internal Order No. 99000055 for Metrolinx funded initiatives, which costs are recoverable from Metrolinx paid advances held in City reserves. The Province of Ontario, through Metrolinx, will fund 100% of the property acquisition costs for the Project.

Confidential Attachment 1 to this report identifies the initial appraised values for the required temporary easements as described in Appendix "A" and illustrated in Appendices "B1" and "B2" (the "Temporary Easements").

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

## **DECISION HISTORY**

On November 30, December 1, 2, 4 and 7, 2009, City Council adopted the recommendations of Report CC42.7, approving the recommendations of a class environmental assessment study which included an underground light rapid transit line along Eglinton Avenue between Black Creek Drive and Brentcliffe Road. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.CC42.7>

At a special meeting held on February 8, 2012, City Council, adopted Item CC17.1, reaffirming its support for LRT priority plan for Toronto and the early implementation of the following projects: (a) Finch West LRT from the Spadina Subway extension to Humber College, (b) Eglinton Crosstown LRT from Jane Street to Kennedy Station, and (c) Scarborough RT conversion to LRT from Kennedy Station to Sheppard Avenue, with an extension to Malvern Town Centre as funds become available.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.CC17.1>

On March 5, 6 and 7, 2012, City Council adopted the recommendations of Government Management Report GM11.8, authorizing the Director of Real Estate Services to serve and publish Notices of Application for Approval to Expropriate the remaining property interests required to implement the tunnelled portion of the Eglinton Scarborough Crosstown transit project, to forward to the Chief Inquiry Officer any requests for hearing that are received, to attend the hearings to present the City's position and to report the Inquiry Officer's recommendations to City Council for its consideration.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.GM11.8>.

At its meeting on October 30, 31 and November 1, 2012, City Council adopted Item CC27.6, as amended, which, among other matters, approved a Master Agreement among Metrolinx, the City and the Toronto Transit Commission for the implementation of the LRT projects.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.CC27.6>

## **ISSUE BACKGROUND**

The Temporary Easements are required in connection with the construction of a launch shaft within the Eglinton Avenue West road allowance. The underground portion of the LRT will be constructed using twin tunnel boring machines (TBMs). Given space constraints, the TBMs cannot safely bore underneath the existing TTC University-Spadina Subway infrastructure at Allen Road. Therefore, the TBMs will be lifted out of the ground at an extraction shaft west of Allen Road and reinserted at a launch shaft east of Allen Road.

In order to construct a launch shaft that is wide enough to accommodate two TBMs with sufficient clearances, the existing sidewalk in front of several properties must be removed. Therefore, temporary easements are required to construct and maintain a temporary sidewalk and associated concrete barriers on the two affected properties for the duration of tunnel construction. The easements will include the right to pass over and occupy the easement lands with personnel, material and equipment.

Temporary subsurface easements are also required during construction for placement and maintenance of tie-backs, which are steel rods or cables installed underground to reinforce the shoring and excavation for the launch shaft. Holes will be drilled through the excavation wall below grade and filled with grouting to support the excavation. The launch shaft will ultimately be converted to a permanent cross-over track at the east end

of the station box for Eglinton West (Allen) LRT Station, and once construction of the box structure for the track is complete, the tie-backs will be de-stressed. They can later be removed by the owner in the event that the property is redeveloped.

As authorized by City Council, Notices of Application for Approval to Expropriate the Temporary Easements were published and served on the registered owners of the affected properties in accordance with the *Expropriations Act*. The owner of 1071 Eglinton Avenue West requested an inquiry as to whether the proposed expropriation of easements in its property is fair, sound and reasonably necessary to achieve the City's objectives as provided in section 7 of the *Expropriations Act*. The outcome of the Inquiry is summarized in the Report of Victor L. Freidin, Q.C., Inquiry Officer, dated December 19<sup>th</sup>, 2012, and attached to this report as Appendix "C". No Inquiry was requested in connection with the Temporary Easements at 1065 Eglinton Avenue West.

## **COMMENTS**

Under the *Expropriations Act*, where an Inquiry has been held, before authorizing the expropriation, City Council acting as the Approving Authority must consider the report of the independent Inquiry Officer, and then approve or not approve the proposed expropriation and provide reasons for that decision.

In brief, at the hearing for 1071 Eglinton Avenue West, the Inquiry Officer heard evidence from Tomas Gregor, Ph.D., P.Eng., P.E., of Hatch Mott MacDonald, Project Engineer/Deputy Project Manager for the design of the Eglinton Crosstown LRT twin tunnels. Mr. Gregor explained the nature of the Project and why temporary easements are required at this property to allow construction of a launch shaft for tunnel boring machines and a crossover track at Eglinton West (Allen) Station within the Eglinton Avenue West road allowance. The property owner questioned why the launch shaft could not be located elsewhere along Eglinton Avenue West, but ultimately accepted the City's evidence that the current location is optimal. The Inquiry Officer found that the proposed expropriation is fair, sound and reasonably necessary to construct the launch shaft and crossover track. For the reasons stated in the Inquiry Officer's report and herein, it is recommended that City Council approve this expropriation.

Negotiations are still underway to acquire the required Temporary Easements at both properties on mutually acceptable terms. However, in order to preserve the construction schedule for the Project, this report recommends that Council continue with the expropriation proceedings and authorize all necessary steps to proceed with the expropriations in compliance with the *Expropriations Act*. Although management of the Project has been handed over to Metrolinx from TTC, these proceedings were commenced on behalf of TTC in the name of the City and starting new proceedings in the name of Metrolinx could result in property interests not being secured on time and could result in costly delays in the construction schedule.

All necessary steps, including payment of the required compensation using Metrolinx funds, will be undertaken by City staff pursuant to delegated authority as applicable.

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski  
City Solicitor

## **ATTACHMENTS:**

Attachment 1 – Confidential Information

Appendix "A" – Table of Temporary Easements to be Expropriated

Appendix "B1" – 1065 Eglinton Avenue West - Draft Plan of Survey

Appendix "B2" - 1071 Eglinton Avenue West - Draft Plan of Survey

Appendix "C" - Report of Victor L. Freidin, Q.C., Inquiry Officer, dated December 19, 2012

Appendix "D" - Site Map