

## APPENDIX C

### REPORT OF VICTOR L. FREIDIN, Q.C. INQUIRY OFFICER

**IN THE MATTER OF** the proposed expropriation by the City of Toronto of the following interests in parts of the lands known municipally as 1071 Eglinton Avenue West, and described legally as PIN 10460-0003 (LT) being Lot 206 Plan 2338 and Part Block Q Plan 2599, Township of York, City of Toronto, for the purpose of constructions and operating a transit and/or other municipal system(s), and for all works and uses ancillary thereto:

- (a) a temporary easement in, on, over and through part of the lands shown as Part 1 on Drawing No. ECLC1-15-K00522A-R3, prepared by Hatch Mott MacDonald, for construction and maintenance of a temporary sidewalk and concrete barriers, such temporary easement to include the right to pass over and occupy Part 1 with personnel, materials and equipment for a period of three years and six months; and,
- (b) a temporary subsurface easement in and through part of the lands shown as Parts 1 and 2 on Drawing No. ECLC1-15-K00522A-R3 prepared by Hatch Mott MacDonald for installation and maintenance of tie backs, for a period of five (5) years.

A Hearing of Necessity was held on December 12, 2012 at Metro Hall, Toronto, Ontario regarding a proposed expropriation of property at 1071 Eglinton Avenue West, Toronto, Ontario. The City of Toronto seeks to expropriate two temporary easements from the owner of 1071 Eglinton Avenue West which are described in the description above. The easements are required to construct part of the Eglinton-Scarborough Crosstown Transit Project.

The City of Toronto was represented by Charlene Farrugia and Patricia H. Simpson, solicitors in the City of Toronto Legal Services Division. The landowner, Jenida Investments Inc., was represented by Mr. Ronald Himelfarb. Although he had practised as a lawyer for many years, Mr. Himelfarb appeared as a principal of the corporate landowner as opposed to its solicitor.

The Notice of Grounds attached hereto describes the purpose of the temporary easements. In brief, one temporary easement was required to construct and maintain a temporary sidewalk and associated concrete barriers for the duration of the tunnel construction, estimated at up to 3 years and 6 months. The other easement was a temporary subsurface easement in and through part of 1071 Eglinton Avenue West during the construction for the placement of tiebacks.

Mr. Thomas Gregor, Ph.D., P.Eng., PE is an engineer employed with Hatch Mott MacDonald. He is the Project Engineer and Deputy Project Manager for the design of twin tunnels and related structures for the transit project referred to. He was qualified as an expert witness in civil engineering, and was the only witness to give evidence at the hearing.

Mr. Gregor testified that the temporary easements were necessary. He explained why the proposed design, including the location of the launch shaft for the tunnel and the proposed transit station could not be moved. The landowner asked many questions regarding possible alternate designs that might reduce the effect of the proposed construction on its property. Mr. Gregor testified that changes to the proposed design could not be made. He testified that minimizing effects on properties such as 1071 Eglinton Avenue West had been addressed by designing the separation between the twin tunnels to the smallest size possible to minimize the width of excavated areas. Indeed, at the end of the hearing, the landowner accepted the evidence presented by the City of Toronto. Regarding the evidence of Mr. Gregor and the position put forward by the City of Toronto, Mr. Himelfarb stated that the City of Toronto "got it right".

In light of the landowner's acceptance of the City's evidence, I have not provided a detailed description of why there were no reasonable alternatives to the construction design proposed by the City of Toronto.

On the basis of the evidence, I recommend that the proposed expropriation is fair, sound, and reasonably necessary in the achievement of the objects of the expropriating authority.

DATE: December 19, 2012.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**



**VICTOR L. FREIDIN, Q.C.**  
**INQUIRY OFFICER**

**LIST OF EXHIBITS**

- Exhibit 1 - Affidavit of Tammy Turner sworn December 11, 2012 re registered owner.
- Exhibit 2 - Affidavit of Corina James sworn December 11, 2012 re Notice of Application to Expropriate.
- Exhibit 3 - Affidavit of Patricia H. Simpson sworn December 11, 2012 re Service of Notice of Grounds.
- Exhibit 4 - Sketch showing property requirements.
- Exhibit 5 - Aerial photo of property.
- Exhibit 6 - CV of Tomas Gregor.