



STAFF REPORT ACTION REQUIRED

Request to Amend Servicing Agreement with Minglehaze Investors Inc., the Regional Municipality of York and the City of Vaughan for Steeles Avenue West and Gihon Spring Drive Site

Date:	October 2, 2013
To:	Public Works and Infrastructure Committee
From:	Executive Director, Engineering & Construction Services
Wards:	Ward 1 – Etobicoke North
Reference Number:	P:\2013\Cluster B\TEC\TE13054 (AFS# 18432)

SUMMARY

The purpose of this report is to request authority to negotiate and enter into an Amending Agreement with Minglehaze Investors Inc., Kipling Square Developments Inc., the Regional Municipality of York, and the City of Vaughan. The original agreement dealt with the provision of water and sewer services to a proposed development at the north west corner of Steeles Avenue West and Gihon Spring Drive. The City of Toronto has now been requested to enter into an Amending Agreement which would replace one clause in the original agreement pertaining to ownership of a private driveway and add one additional clause binding all future property owners to the conditions of the Amending Agreement.

Engineering & Construction Services staff, in consultation with Legal Services, have reviewed the proposed amendment and have no objection to entering into an amending agreement subject to conditions.

RECOMMENDATIONS

The Executive Director of Engineering & Construction Services recommends that:

1. City Council authorize the Executive Director of Engineering & Construction Services to negotiate and enter into an Amending Agreement, as set out in this report, subject to the following conditions:

- i) Kipling Square Developments Inc. be required to execute the proposed Amending Agreement;
- ii) Receipt of written confirmation from the Regional Municipality of York, the City of Vaughan and Kipling Square Developments Inc. that they are in agreement with the terms and conditions of the Amending Agreement; and
- iii) That the terms and conditions of the Amending Agreement are satisfactory to the Executive Director, Engineering & Construction Services and in a form satisfactory to the City Solicitor.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

On July 22, 23 and 24, 2003 City Council adopted a report from the Commissioner of Works and Emergency Services granting authority to negotiate and enter into agreements with the Regional Municipality of York, City of Vaughan and Minglehaze Investors Inc. ("Minglehaze") for the City of Toronto to provide and have installed water and sewer services to the proposed development at the north west corner of Steeles Avenue West and Gihon Spring Drive. The development site was comprised of Parts 2 and 4 on Plan 65R25383, attached.

The following is the link to the Council Decision Document:

<http://www.toronto.ca/legdocs/2003/agendas/council/cc030722/wks6rpt/cl009.pdf>

ISSUE BACKGROUND

Following City Council's approval, an Agreement for the provision of water and sewer services was entered into and registered as Instrument No. YR395531 on November 28, 2003 ("2003 Agreement"). Since then the services have been installed and the proposed development, a long-term care facility, has been constructed and is operational. Access to the site is provided from Steeles Avenue West via a private driveway directly across from Gihon Spring Drive. This access driveway is comprised of Parts 6 and 7 on Plan 65R25383. The 2003 Agreement stipulates that this driveway remain in Minglehaze's ownership until such time as the City of Vaughan dedicates it as a public highway if and when development on adjacent lands occurs. The Agreement also stipulates that the City of Toronto must be informed prior to any changes to this access or its dedication as a public highway. These conditions are captured in Section 8.2 of the 2003 Agreement.

In December 2012 Minglehaze transferred the private driveway (Parts 6 and 7, Plan 65R25383) and the adjacent development block (Part 1 on Plan 65R25383) to Kipling Square Developments Inc. ("Kipling"), thus contravening Section 8.2 of the 2003 Agreement.

On September 16, 2013 the City of Toronto received a letter from Minglehaze requesting that Section 8.2 of the 2003 Agreement be amended to state that the ownership of the private driveway remain in common ownership with the Part 1 on Plan 65R25383, the development block currently owned by Kipling. The Amending Agreement is also to contain a new paragraph stipulating that the Amending Agreement would be binding on all parties to the 2003 Agreement and any subsequent owners, and it will be registered on title to the affected properties, with the consent of Kipling.

COMMENTS

Engineering & Construction Services staff have reviewed the request for an Amending Agreement in consultation with Legal Services and have no objections to the requested changes and additions subject to the following conditions:

- i) Kipling execute the proposed Amending Agreement, given that they are the current owners of Parts 1, 6 and 7 on Plan 65R25383; and
- ii) Receipt of written confirmation from the Regional Municipality of York, the City of Vaughan and Kipling Square Developments Inc. that they are in agreement with the terms and conditions of the Amending Agreement.

CONTACT

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SIGNATURE

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Executive Director
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ATTACHMENTS

Attachment 1: Plan 65R25383