



STAFF REPORT ACTION REQUIRED

Expropriation of Easement for Sanitary Trunk Sewer and Erosion Control, 36 Westmount Park Road

Date:	August 27, 2015
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 2 – Etobicoke North
Reference Number:	P:\2015\Internal Services\RE\Gm15028re (AFS # 21768)

SUMMARY

The purpose of this report is to seek authorization from City Council to commence proceedings for the expropriation of a permanent easement for sanitary sewer and erosion control purposes on the property municipally known as 36 Westmount Park Place ("the Property").

While the City does have existing permanent easement rights over a portion of the Property related to the sanitary sewer, further rights are required in order to permit and maintain erosion control works to protect the infrastructure.

In addition, easement rights are required over additional adjacent portions of the Property in order to permit the aforementioned creek and ravine erosion control measures as well as for ongoing maintenance, access, and construction requirements related to the infrastructure itself, part of the Chapman Sanitary Trunk Sewer.

While negotiations with the Property owner continue, staff has come to the conclusion that is unlikely that satisfactory easement terms can be achieved and acquisition of these rights by expropriation is likely necessary.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council authorize the Director, Real Estate to continue negotiation to acquire, and if unsuccessful, to initiate the expropriation process for the easement interest at 36 Westmount Park Road depicted on the sketch in Appendix "A" (the "Lands") and shown on the map attached as Appendix "B".
2. City Council authorize staff to serve and publish Notices of Application for Approval to Expropriate the permanent easement in the Lands, to forward to the Chief Inquiry Officer any requests for hearing that are received, to attend the hearing to present the City's position and to report the Inquiry Officer's recommendations to City Council for its consideration.

Financial Impact

The costs to serve and publish the required Notices of Application for Approval to Expropriate, together with any costs related to attendance at the Hearing of Necessity, if any, will be funded from the 2015 Capital Budget and 2016-2024 Capital Plan for Toronto Water (CWW014-15-04: Trunk Sewer Rehabilitation – 2014).

In the event of expropriation, expenditures for the market value of the easement interest as well as disturbance costs (if any), interest, land transfer tax costs, and all other associated costs stipulated under the *Expropriations Act* will also be funded from the same account within the 2015 Capital Budget and 2016-2024 Capital Plan for Toronto Water. The detailed funding amounts will form part of a subsequent report to Committee and Council seeking final approval for the expropriation, if necessary.

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

DECISION HISTORY

This issue has not been previously considered by Council.

ISSUE BACKGROUND

The Lands are located within the Humber Creek, running through the Humber Ravine. The Lands are at the rear of the Property, located on non-buildable TRCA regulated lands.

Engineering and Construction Services ("ECS") and Toronto Water ("TW") have issued a construction tender to rehabilitate the Chapman Sanitary Trunk Sewer ("Chapman STS") to address corrosion and to reline the sanitary trunk sewer pipe and the maintenance holes, and extend service life of the Chapman STS. The STS is located within lands through which the City has an existing permanent easement. However, in order to access the trunk sewer pipe further permanent easement rights are required over lands adjacent to the existing easement. Without these additional easement rights that portion of the STS cannot be rehabilitated and repaired.

This maintenance and relining work was initially projected to commence at the beginning of 2015 and is being delayed due to the ongoing difficulty in obtaining the appropriate easement rights from the homeowner. As the trunk sewer is in poor condition due to corrosion, ECS proposes to commence the rehabilitation of the other sections of the STS and cause the contractor to rehabilitate that portion of the trunk sewer within the 36 Westmount Park Road property once a permanent easement, either consensual or expropriated, is in place. This easement required on the Property is the last of the easements that need to be acquired for the sanitary sewer upgrade and long term sewer maintenance.

As a separate issue, in 2013, after a storm which resulted in major flooding within the Humber Creek, emergency erosion control measures were urgently undertaken by TW on part of the Lands as the trunk sewer had become exposed due to massive erosion of the creek bed. If no erosion control measures had been undertaken there was significant risk of trunk sewer collapse resulting in environmental contamination to the lands and creek. Entry to effect the erosion control work to stabilize the creek and surrounding lands and create the associated access was completed pursuant to section 72 of the City of Toronto Act. Due to the permanent nature of the required erosion control measures put in place on the permanent easement lands and adjacent lands and the above-mentioned ECS work, a permanent easement is required over all of the parts shown on the sketch in Appendix A.

Real Estate Services, Legal Services, Toronto Water, and City Engineering staff have been in discussions with the owner of 36 Westmount Park Road and her solicitors regarding the acquisition of the permanent easement since 2014. Correspondence has been exchanged and staff have met with both the homeowner and her legal representatives on numerous occasions in order to attempt to reach mutually acceptable terms. To date, the owner has not agreed to convey the required permanent easement, on acceptable terms, to the City. As such, expropriation of the easement is recommended by staff should it be required.

COMMENTS

The permanent easement is required by TW and ECS as part of the rehabilitation of the Chapman STS and for future maintenance of the trunk sewer and the erosion control works protecting the creek bed and adjacent ravine. The Chapman STS is a 750 mm trunk sewer located in the Chapman creek. The City has an easement for the existing sewer, but there is a requirement for additional easement rights. The rehabilitation will involve relining the trunk sewer pipe and the maintenance holes and will address corrosion in the sewer pipe, thereby extending the service life of the STS by an anticipated 50 to 75 years. The rehabilitation project extends from the rear of 20 Westmount Park Road to the Humber River. As part of the project, the City will be implementing an environmental management plan as per requirements from the TRCA and the City's Parks, Forestry & Recreation division in order to protect trees, replace removed trees and manage other ecological challenges within the Chapman Creek.

The owner of the Property is not willing to convey the required easement to the City. Accordingly, the commencement of expropriation proceedings is recommended.

CONTACT

Joe Casali
Director of Real Estate Services
Tel.: (416) 392-7202
Email: jcasali@toronto.ca

SIGNATURE

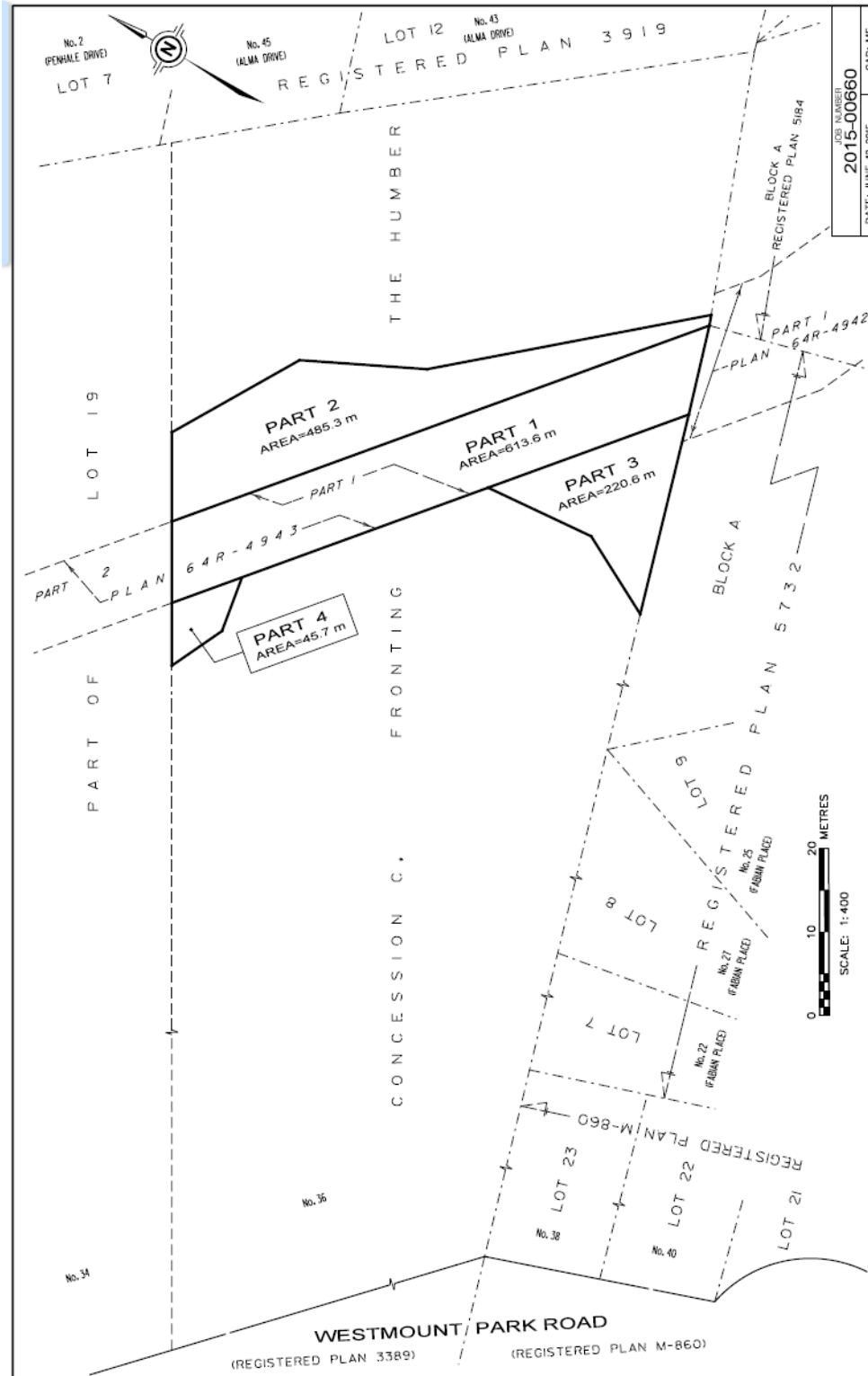
Josie Scioli
Chief Corporate Officer

ATTACHMENTS

Appendix "A" – Survey Sketch: Easement Area Requirements
Appendix "B" – Location Map

Appendix "A"

Survey Sketch: Easement Area Requirements



Appendix "B"

Location Map

