



**STAFF REPORT  
ACTION REQUIRED  
With Confidential Attachment**

**Expropriation of Head Tenant's Leasehold Interest in  
City-owned John Street Roundhouse, 255 Bremner Blvd.**

<b>Date:</b>	February 22, 2016
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Ward:</b>	20 – Trinity-Spadina
<b>Reason for Confidential Information:</b>	This report is about a proposed or pending land acquisition or disposition by the City or one of its agencies, boards, and commissions and about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions and contains advice or communications that are subject to solicitor-client privilege.
<b>Reference Number:</b>	

## **SUMMARY**

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Item MM11.51, as adopted by City Council on December 9 and 10, 2015, authorized the Director of Real Estate Services to negotiate with the head tenant of the City-owned John Street Roundhouse to secure consent to the assignment of Leon's sublease to Steam Whistle Brewing Inc., and if the negotiations were unsuccessful, to initiate expropriation proceedings to expropriate the head tenant's leasehold interest, for municipal and economic development purposes.

Negotiations with the head tenant have been unsuccessful. The purpose of this report is to provide confidential information and advice with respect to the proposed expropriation.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Attachment 1.

2. City Council direct that the confidential information in Attachment 1 remain confidential as it is about a proposed or pending land acquisition or disposition by the City and contains advice or communications that are subject to solicitor-client privilege.

## **Financial Impact**

The financial implications are set out in confidential Attachment 1.

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

## **DECISION HISTORY**

Pursuant to Administration Committee Report 1(1), as adopted by City Council on July 6, 7 and 8, 1999, the City entered into a lease with Steam Whistle Brewing Inc. ("Steam Whistle") for Bays 1 – 11 of the John Street Roundhouse, for a term of 20 years, expiring on February 29, 2020.

<http://www.toronto.ca/legdocs/1999/minutes/council/appa/cc990706/adm1rpt.htm>

Administration Committee Report 6(39), as adopted by City Council on September 25, 26 and 27, 2006 (the "2006 Authority"), authorized certain amendments to the lease with Steam Whistle and authorized an overall head lease for the John Street Roundhouse with a single purpose Ontario corporation to be owned by Tenen Developing and Producing Ltd. and State Developments (Toronto) Corporation, for a term of 60 years, with the head tenant being permitted to enter into subleases without the City's consent.

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/adm6rpt/cl039.pdf>

Item MM11.51, as adopted by City Council on December 9 and 10, 2015, authorized the Director of Real Estate Services to negotiate with the head tenant of the John Street Roundhouse to secure consent to the assignment of Leon's sublease to Steam Whistle, and if the negotiations were unsuccessful, to initiate expropriation proceedings to expropriate the head tenant's leasehold interest, for municipal and economic development purposes.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM11.51>

## **ISSUE BACKGROUND**

The John Street Roundhouse has been used since 1986 for the storage of various rail related equipment and rolling stock. It was acquired by the City in 1997. In accordance with the 2006 Authority, the City entered into a sixty (60) year lease (the "Head Lease") with John Street Roundhouse Developments Corp. (the "Tenant"), commencing July 8, 2009 and expiring July 7, 2069, for Bays 1 – 32 of the John Street Roundhouse. In addition, the City's lease with Steam Whistle was amended to add Bays 12 – 14, and to extend the term until April 30, 2032, with an option for Steam Whistle to extend the term for one additional 5 year period if Steam Whistle restores and accommodates two (2)

pieces of rolling stock within its operation. The Steam Whistle lease, as amended and extended, was then assigned to the Tenant, such that Steam Whistle became the City's subtenant. In addition, Bays 15 – 17 were subleased back to the City for a rail museum, with no basic rent payable, for a term commencing May 28, 2010 and ending a day before the Head Lease expiry date. The Tenant entered into a sublease with Leon's Furniture for Bays 18 – 32 for a term of ten (10) years expiring July 8, 2019, with options to extend for four (4) consecutive terms of 5 years each. In 2015, Leon's entered into an agreement to assign its sublease to Steam Whistle, subject to obtaining the Tenant's consent on or before December 17, 2015. The Tenant has refused to provide its consent for Leon's to assign its sublease to Steam Whistle.

## **COMMENTS**

Confidential legal advice is provided in confidential Attachment 1.

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski,  
City Solicitor

## **ATTACHMENTS**

Attachment 1 - Confidential Information