

Auditor General's Observations of a Land Acquisition at Finch Avenue West and Arrow Road by the Toronto Parking Authority - Part 2

Date: June 22, 2017

To: Board of Directors of the Toronto Parking Authority

From: Auditor General

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report is about a proposed or pending land acquisition by the City or one of its agencies or corporations.

This report deals with personal matters about an identifiable person.

SUMMARY

The Auditor General was contacted and requested to review a pending property acquisition at Finch Avenue West and Arrow Road by the Toronto Parking Authority (TPA).

A report was issued in October 2016 entitled "Auditor General's Observations of a Land Acquisition at Finch Avenue West and Arrow Road by the Toronto Parking Authority" that focused on one aspect of this acquisition. That was Part 1 of the Auditor General's review.

The Auditor General has now completed Part 2 of her review of this transaction and this report represents the Auditor General's observations of the remaining aspects related to this acquisition.

RECOMMENDATIONS

The Auditor General recommends that:

1. The Board of Directors acknowledge and endorse the following as necessary improvements to the processes by the Toronto Parking Authority and refer them to the President for any necessary action:

- a. have non real estate assets with significant contributory value appraised by independent business valuers
 - b. prepare engagement letters for appraisers, valuers and consultants if relying on the value to support a purchase price to ensure there is a clear understanding of key terms of engagement such as scope, fees, methodology, timing, conflicts of interest declarations and expectations
 - c. ensure persons involved with procurement transactions do not have actual or perceived conflicts of interest
 - d. ensure confidentiality agreements are signed by persons who are advisors on transactions
 - e. ensure that Toronto Parking Authority obtains independent arms-length property valuations before requesting the board to approve a transaction
 - f. ensure the Board has proper procedural guidance during board meetings
 - g. arrange a formal board training session to provide information on Board member's duties, risks and responsibilities.
2. The Board of Directors request the President to review and recommend to City Council appropriate amendments to Toronto Parking Authority's by-law.
 3. The Board of Directors of the Toronto Parking Authority not authorize the public release of the confidential information contained in Confidential Attachment 1 to the report (June 22, 2017) from the Auditor General, as it is about a proposed or pending land acquisition by the City or one of its agencies or corporations and this report deals with personal matters about an identifiable person.
 4. The Board of Directors of the Toronto Parking Authority forward its decision on this report to City Council through the City's Audit Committee.

FINANCIAL IMPACT

The financial impact, if any, is not determinable at this time.

DECISION HISTORY

At its meeting of March 31, 2016, City Council adopted a report entitled "Allocation of the Public Realm Amount – Finch West LRT" including the following recommendation:

"5. City Council authorize and direct the Toronto Parking Authority, in support of the Public Realm Amount strategy set out in this report, to acquire a property located at the southeast corner of Finch Avenue West and Arrow Road (near Highway 400) for municipal parking and ancillary uses including proposed Bike Share Toronto infrastructure, and to permit construction of a possible gateway feature for the Emery

Village Business Improvement Area. Acquisition will be on terms and conditions to be negotiated by the President, Toronto Parking Authority, at fair market value plus associated costs such as land transfer tax, title insurance and other fees, and approved by the Toronto Parking Authority Board. The City Solicitor is authorized to complete the purchase transaction, deliver any notices, pay any expenses and amend the closing and other dates, on such terms and conditions as the City Solicitor may determine.”

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX13.9>

At its meeting of October 28, 2016, the Audit Committee adopted a report with amendments entitled “Auditor General’s Observations of a Land Acquisition at Finch Avenue West and Arrow Road by the Toronto Parking Authority”. This report was adopted with amendments by City Council on November 8, 2016.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.AU7.14>

BACKGROUND INFORMATION

Prior Audit of TPA Real Estate Process

During 2015, the Auditor General conducted an audit of TPA’s real estate practices. The audit focused on the acquisition, disposition, and joint venture development of properties during the period from January 1, 2010 through December 31, 2014. On October 22, 2015, the Auditor General presented the results of the audit of TPA real estate activities to the Board.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.AU4.11>

The Auditor General reported that while the City was receiving value, there were areas that could be strengthened to ensure both TPA and the City as a whole are achieving maximum value. The Auditor General made recommendations to:

- Enhance the analysis needed to demonstrate that TPA is maximizing the value generated from its transactions.
- Increase transparency and accountability of management’s decision making process and support the Board’s ability to fulfil its role in overseeing and monitoring management.
- Improve cross-corporate collaboration to obtain the best value from the City’s real estate assets.

The Auditor General identified that TPA does not have a formal policy which sets out the expected processes when acquiring real property including constructed parking facilities; however it does have a policy that was presented to the Real Estate sub-committee of the Board dated November 2012. Furthermore, the Auditor General expressed concerns about TPA’s documentation and made findings regarding the importance of providing better reporting information to the Board. The Auditor General emphasized that reports to the Board need to be more timely and comprehensive. TPA has now implemented quarterly Real Estate Committee meetings as per Recommendation #10 of the 2015 report.

For all acquisition and joint venture transactions reviewed during the audit, appraisals were obtained after the conditional agreement of purchase and sale had been executed but prior to the final approval of the transaction by the Board. Again, providing timely and comprehensive information to the Board was an issue.

On September 1, 2016, the Auditor General received a request to review a pending property acquisition at Finch Avenue West and Arrow Road by the TPA.

As a result of this request, the Auditor General issued a report dated October 24, 2016 on Part 1 of her review.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.AU7.14>

COMMENTS

As previously mentioned, the Auditor General has now completed her review of this land acquisition. The results of the Auditor General's Part 2 review are provided in Confidential Attachment 1 which is attached to this report.

Management's response to the public recommendations in this report are provided in Attachment 1.

CONTACT

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SIGNATURE

Beverly Romeo-Beehler
Auditor General

ATTACHMENTS

Confidential Attachment 1 - Auditor General's Observations of a Land Acquisition at Finch Avenue West and Arrow Road by the Toronto Parking Authority - Part 2

Attachment 1: Management's Response to the Public Recommendations in this Report

Attachment 1

Management's Response to the Public Recommendations in this Report

Observations which support each of these recommendations are contained in Confidential Attachment 1 to this report.

Recommendation 1: That the Board of Directors acknowledge and endorse the following as necessary improvements to the processes previously undertaken by the Toronto Parking Authority and refer them to the President for any necessary action:

- a. have non real estate assets with significant contributory value appraised by independent business valuers
- b. prepare engagement letters for appraisers, valuers and consultants if relying on the value to support a purchase price to ensure there is a clear understanding of key terms of engagement such as scope, fees, methodology, timing, conflicts of interest declarations and expectations
- c. ensure persons involved with procurement transactions do not have actual or perceived conflicts of interest
- d. ensure confidentiality agreements are signed by persons who are advisors on transactions
- e. ensure that Toronto Parking Authority obtains independent arms-length property valuations before requesting the board to approve a transaction
- f. ensure the Board has proper procedural guidance during board meetings
- g. arrange a formal board training session to provide information on Board member's duties, risks and responsibilities.

Management Response: Agree Disagree

Recommendation 2: The Board of Directors request the President to review and recommend to City Council appropriate amendments to Toronto Parking Authority's by-law.

Management Response: Agree Disagree