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Presentation to City Council
July 5, 2017

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

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Auditor General's Office
Integrity, Excellence and Innovation

Auditor General's Report: Part 1 – October 2016

Complaint:

A complaint was received raising a concern that there was insufficient support to justify purchase of a 4.675 acre property at 1111 Arrow Road.

The property has 2 components that add value: **the land and a digital sign**

Key Dates:

- September 1, 2016 - Complaint
- September 2, 2016 - Investigation Commenced
- September 15, 2016 - The last Board meeting to review the transaction
- October 18, 2016 - Property was set to 'go firm' due diligence conditions removed

2 Reports:

Part 1 – To establish the FMV of the property

Part 2 – To identify how TPA arrived at the Purchase Price

Auditor General's Report: Part 1 – October 2016

Key Findings:

1. The negotiated purchase price of **\$12.18** million exceeded the existing TPA Board approval
2. The FMV of the property was **\$9.55** million (around **\$8 million for the land** and **\$1.55 million for the sign**)
3. The difference between the FMV and the negotiated purchase price was **\$2.63** million

TPA management **agreed** with the Auditor General's valuations and recommendations

Part 2: Some Key Findings

1. TPA did not use a qualified independent business valuator to value the sign
2. Conflicts and potential conflicts of interest - Lobbyist
3. TPA became involved with valuing the sign
4. Difficulty obtaining information and consistent explanations during the investigation process
5. Opportunities to improve board functioning

Category 1: TPA did not use a qualified independent business valuator to value the sign

1. Not a Chartered Business Valuator – Role: to maximize potential revenue
2. Represented the vendor 2009 – Works for TPA now – He was valuing his own deal – As a free ‘service’
3. The sign income – not sufficient to support negotiated price
4. VP asked SC how to maximize the sign value
 - estimated a 25% chance that MOT would change their current law to allow signs along Highway 400
 - they added the income from a second (non-existent) sign
 - valued signs at over \$4 million

Category 1: TPA did not use a qualified independent business valuator to value the sign

- Sign consultant submitted final version of the valuation – (current + the proposed sign) just after the AG showed up. Within 24 hours, the valuation changed to a different methodology – ‘multiples approach’ .
- September 4, 2016 email from the sign consultant:
“My note has a fairly aggressive multiple and we could be more conservative. I think the delta between your appraised land value and the purchase price is about \$3.5m + - (confirm this). If this is the case then the value of the license fee (2.75) plus a modest lump sum could get you there. Why don't the 3 of us have a call to discuss the best approach ...”

Category 2: Potential conflicts of interest – the Lobbyist

The Lobbyist:

1. appears to have been involved with the negotiations of the Agreement of Purchase and Sale (APS) and had copies of draft agreements
2. may have been helping to advance the financing of the flagpole
3. may have had access to in-camera information
4. appears to be providing advice to TPA and a Board member while representing the EVBIA
5. was also the sign consultant's lobbyist

Category 3: TPA became involved with valuing the sign

1. Purchase price of \$12 million was as low as the vendor was willing to go
2. The land portion of the deal was only worth around \$8 million – the sign became a key component of the deal
3. The income from the current sign did not support the purchase price of \$12.18 million
4. A potential second sign was added – the VP prepared the calculations for the sign consultant based on assumptions discussed

Category 3: TPA became involved with valuing the sign

5. Final version of the report was prepared - sign consultant put the VP's calculations on his letterhead – 2nd Potential Signs approach
6. Auditor General commences investigation - Sign valuation methodology changed
7. A second final valuation report was prepared with the assistance of the VP- Multiples Approach

Category 3: TPA became involved with valuing the sign

One example of changes requested by the VP.....

The VP asked the sign consultant to **backdate his September 8th report to September 1, 2016** and asked him to **include a line stating** "I have completed my analysis as at September 1, 2016..."

- **September 1st** was the day before the Auditor General interviewed TPA on this matter. The sign consultant backdated his report – the consultant had not commenced his work using the ‘multiples approach’ methodology until **September 3rd**.

Category 3: TPA became involved with valuing the sign

Another Example

Real Estate Appraiser noted:

“here is our draft report with limited references to [the sign consultant]. I do not wish to state their conclusions within our appraisal document.”

VP wrote to the President:

"Here is their answer. I haven't been able to speak with (my former Partner, who still worked with the appraisal firm) yet. I don't want to go final yet – just in case (my former colleague) can get (the Executive VP of the appraisal firm) to reconsider..."

Category 4: Difficulty obtaining information and consistent explanations

Example 1: **Establish how the purchase price was arrived at**

- No documentation – Calculations on “Back of an Envelope” – said from her experience \$2 million/acre + something for the sign.
- AG found VP’s Project Note – stating there were 2 appraisals – \$12 million was the average between them – asked for them – not forthcoming.
 - Asked for all documentation related to her prior firm – received a draft appraisal
- Lobbyist appeared to be aware – 2 appraisals and that \$12 million was the medium price
- While reviewing the draft report, VP said that she was not involved with coming up with the price. Lobbyist was in the room with the vendor – She received a call from the lobbyist with the price

Category 4: Difficulty obtaining information and consistent explanations

Request for documents made several times: One example – email from the AG

“Confirm that you have provided copies of the entire file for the 1111 Arrow Road property (emails, notes, other documents, electronic records – everything you have related to the property) – please send on missing documents”.

Documents not provided: Sign valuation, prior draft appraisals, engagement letters for valuations, emails from sign consultant and appraiser

Document deleted after requested by the AG

Category 5: Opportunities to improve board functioning

1. Sufficient and timely information not provided to the board
2. Importance of board members disclosing information and involvement with the transaction
3. Lack of understanding of procedural matters led to disagreement
4. Interactions

Category 5: Opportunities to improve board functioning

Board Chair.....

*“He is asking for information, ahead of our boarding meeting, which he has every opportunity to attend. **His referral of the situation, to the AG, is nothing more than a desperate attempt to create another false problem with this process and to stifle the progress towards finalizing a deal** which the overwhelming majority of the TPA board and Council, for that matter, wants the TPA to complete.”*