



REPORT FOR ACTION

Expropriation of the Right of Way Easement Interest in favour of 40 Avondale Avenue over Parts of 44 Avondale Avenue

Date: March 8, 2017

To: Government Management Committee

From: Chief Corporate Officer

Wards: Ward 23 - Willowdale

SUMMARY

This report seeks authority to commence expropriation proceedings on the 'Right of Way' Easement interest in favour of the property municipally known as 40 Avondale Avenue located over part of 44 Avondale Avenue, being City Owned Lands.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council grant authority to the Director of Real Estate Services to initiate expropriation proceedings, if necessary, where negotiations are unsuccessful, for the acquisition of the easement interest in favour of 40 Avondale Avenue depicted in Appendix "A" (the "Lands").
2. City Council grant authority to the Director of Real Estate Services to serve and publish Notices of Application for Approval to Expropriate 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 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 reimbursed fully by Avongate Developments Holding Inc. (Avongate).

In the event of expropriation, expenditures for the market value of the Lands as well as disturbance costs (if any), interest, and land transfer tax, and all other associated costs stipulated under the Expropriations Act will be funded by Avongate.

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

On July 30, 2008, the Ontario Municipal Board approved an appeal of an application to amend former City of North York Zoning By-law 7625 to permit the development of a proposed condominium at 9 & 15 Bales Avenue by Avongate.

COMMENTS

Within 90 days of the date of final approval of the zoning by-law amendment for the properties at 9 and 15 Bales Avenue, the property at 44 Avondale Avenue was to be transferred to the City of Toronto, free and clear of any structures, tenancies and encumbrances, by Avongate Developments Holding Inc. (Avongate) as part of a Section 37 Agreement requirement for future road purposes relating to the North York Centre Secondary Plan.

The property at 44 Avondale Avenue, has a four foot wide easement on the West part of the lot in favour of the neighbouring property at 40 Avondale Avenue for reciprocal access purposes, and the City requested the removal of the easement from title prior to the transfer of the lot to the City. Negotiations by Avongate with the owner of 44 Avondale Avenue to have the easement removed failed and Avongate agreed to pay to the City for any acquisition and/or expropriation costs to remove the easement from title. The Section 37 Agreement was amended to permit the transfer to the City with the easement on title, and the transfer occurred on December 18, 2015. Given that Avongate was responsible for the clear transfer of title to the City, they agreed to pay for all costs associated with the expropriation, and the Section 37 Agreement was amended to include provisions obligating Avongate to provide the City with a certified cheque and a letter of credit of \$100,000 to cover the cost of the City initiated expropriation. Avongate has provided the City with the cheque and the letter of credit.

Real Estate Services have been asked by Transportation Services to aid in the negotiations with the owner of 40 Avondale Avenue and if negotiations fail, to then proceed with Expropriation of the easement right.

CONTACT

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SIGNATURE

Josie Scioli
Chief Corporate Officer

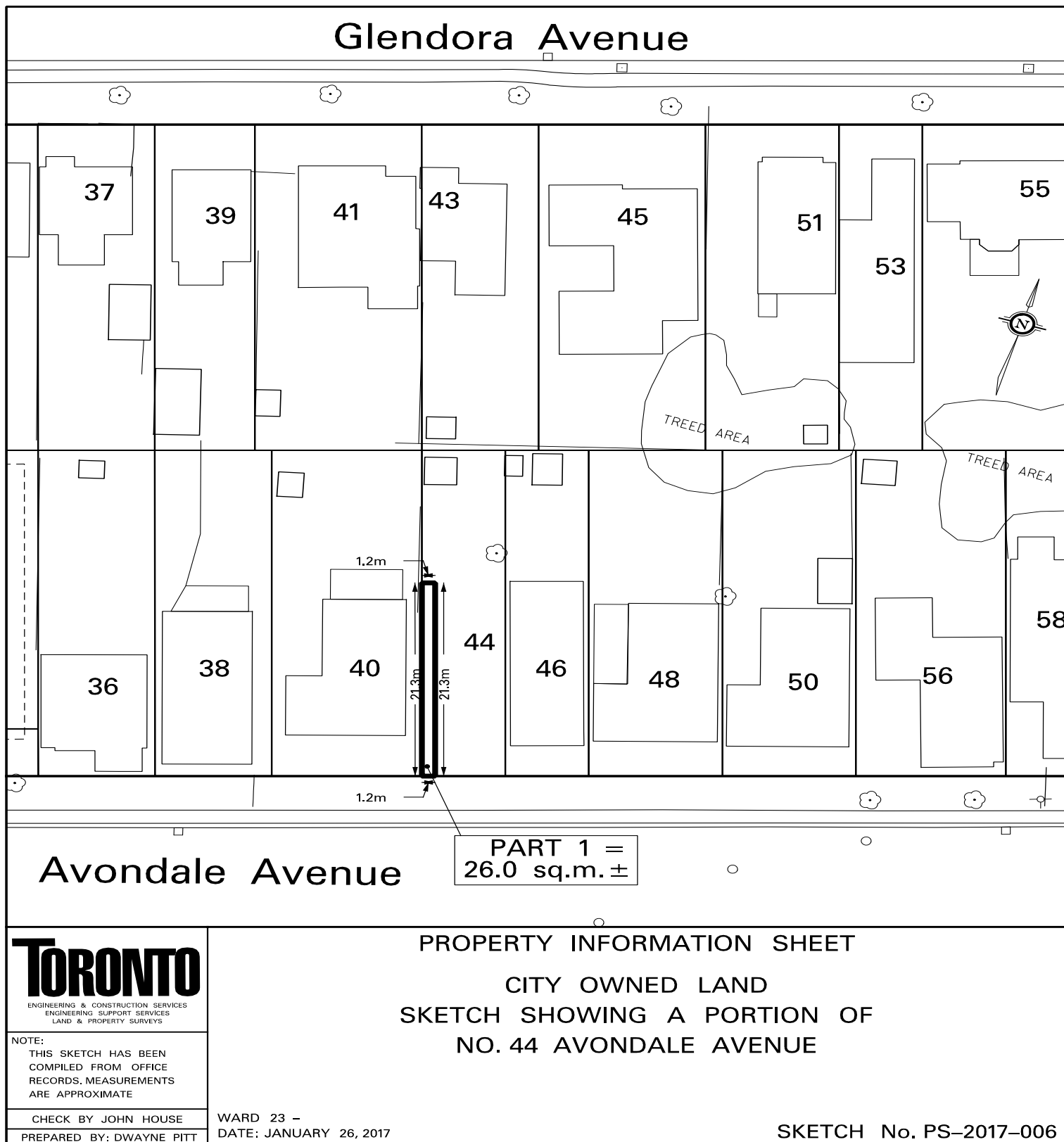
ATTACHMENTS

Appendix "A" - Right of Way Easement Description
Appendix "B" - Survey Sketch of Right of Way Easement
Appendix "C" - Location Map / Arial View

Appendix "A" Legal Description of Right of Way

"Right -of-Way Easement" means the right of way easement described in the Instrument Nos. TB223539 and TB960961 in the Land Registry Office of Metropolitan Toronto (no. 66) describing the right of way easement over the westerly four (4) feet of the southerly seventy (70) feet lot 1263 on registered Plan 1967 in favour of those lands legally described as Lot 1264 on Registered Plan 1967, Township of York; Part of Lot-1265 on Registered Plan 1967 as in instrument No. TB960961, being all of PIN: 10104-0659 in Land Registry Office of metropolitan (No. 66)

Appendix "B" – Survey Sketch of Right of Way Easement



Appendix "C" – Location Map / Arial View

