



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Settlement of Expropriation of 1229 Ellesmere Road

Date: August 31, 2017

To: Government Management Committee

From: Chief Corporate

Officer General Manager Shelter, Support and Housing Administration

Wards: Ward 37 - Scarborough Centre

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

The purpose of this report is to obtain authority and funding to enter into a Section 24 Agreement under the *Expropriations Act (Ontario)* (the "Act"), to settle the acquisition 1229 Ellesmere Road, also known as Birkdale Residence. The acquisition will allow for the continued use of the site for emergency family shelter programs. This report also seeks approval from City Council, as the approving authority under the Act, to expropriate the lands in the event City Council does not approve this recommended settlement, or the Section 24 Agreement transaction is not successfully completed.

This shelter has been leased by the City as a tenant since 1996. The latest lease term ended on March 31, 2017. Since then, the City has continued as a month-to-month tenant, on the terms and conditions of the lease. On January 31, 2017, City Council granted authority to serve and publish Notices of Application for Approval to Expropriate 1229 Ellesmere Road, as it was unlikely that satisfactory terms for a continued lease or purchase could be reached at the time.

Due to the sensitive use of the site and shortage of shelter beds in the system, this property acquisition is necessary and recommended to ensure its continued use as an emergency shelter.

Staff have successfully negotiated terms of a settlement with the owner of the property and this report seeks approval from City Council to proceed with the acquisition. In the event that City Council does not adopt the settlement recommendation or the acquisition cannot be successfully completed, this report also seeks approval from City Council, as the approving authority under the Act, to expropriate the lands known municipally as 1229 Ellesmere Road. The owner has served a Notice to Quit the premises by November 30, 2017, if the acquisition or expropriation of the property has not been completed by that date.

RECOMMENDATIONS

The Chief Corporate Officer and General Manager of Shelter, Support and Housing Administration recommend that:

1. City Council authorize the Chief Corporate Officer (the "CCO") to enter into a Section 24 Expropriations Act Agreement (the "Agreement") for the acquisition of 1229 Ellesmere Road (the "Property") with 2288868 Ontario Limited (the "Owner") for the purchase price outlined in Attachment 1 – Confidential Information, and authorize the City to enter into the Agreement substantially on the terms outlined in Appendix "A" to this report, and on such other or amended terms and conditions as may be acceptable to the CCO, and in a form satisfactory to the City Solicitor.
2. City Council amend the 2017 Council Approved Capital Budget for Shelter, Support and Housing Administration by the addition of a new capital project called "1229 Ellesmere Road - Shelter Acquisition" for the costs as outlined in Confidential Attachment 1 – Confidential Information, funded from the Land Acquisition Reserve Fund (XR1012).
3. City Council authorize severally each of the CCO and the Director of Real Estate Services to execute the Agreement and any ancillary agreements and documents under the Agreement, on behalf of the City.
4. City Council authorize the CCO to administer and manage the Agreement, including the provision of any consents, approvals, waivers and notices, provided that she may, at any time, refer consideration of any such matters (including their content) to City Council for its consideration and direction.

5. City Council authorize the City Solicitor to complete the Agreement on behalf of the City, including paying any necessary expenses, amending the closing and other dates, and amending terms and conditions, on such terms as she considers reasonable.

6. If the acquisition of the Property is not successfully completed as provided for in Recommendation 1:

a. City Council, as approving authority under the *Expropriations Act*, approve the expropriation of the property shown as Part 1 on the draft Reference Plan in Appendix "C";

b. City Council authorize the City, as expropriating authority under the *Expropriations Act*, to take all necessary steps to comply with the *Expropriations Act*, including but not limited to, the preparation and registration of an Expropriation Plan and service of Notices of Expropriation, Notices of Election as to a Date for Compensation and Notices of Possession; and

c. City Council authorize the Director of Real Estate Services to sign the Notices of Expropriation, Notices of Possession and the Offer of Compensation for the Property, on behalf of the City.

7. City Council authorize the public release of the confidential information in Confidential Attachment 1 once the transaction contemplated in this report has been successfully completed, and the Owner has disposed of its interest in the Property, or in the event of an expropriation, there has been a final determination of all claims for compensation, to the satisfaction of the City Solicitor.

FINANCIAL IMPACT

This report seeks Council authority to purchase the Property as outlined in Attachment 1 – Confidential Information with funding provided from the Land Acquisition Reserve Fund (XR1012) and to amend the 2017 - 2026 Council Approved Capital Budget and Plan for Shelter, Support and Housing Administration (SSHA) by the addition of a new capital project "1229 Ellesmere Road – Shelter Acquisition".

The current lease at the Property is at a gross rent of \$125,000 per month, or \$1,500,000 annually, and is currently funded through the 2017 Council Approved Operating Budget for SSHA under account F01523. A portion of the lease charges paid are for the housekeeping and utilities of the building. Under City ownership, these ongoing costs would be the responsibility of SSHA and will be included in the 2018 and future Operating Budget submissions.

As well, the ongoing maintenance of the building and mechanical systems will become part of the State of Good Repair capital expenditures of SSHA and will be included in future Capital Budget submissions. Any incremental costs or savings associated with the ongoing ownership and maintenance of the Property will be identified through the 2018 Budget process for SSHA.

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

DECISION HISTORY

At its meeting of January 31, 2017, City Council adopted, *Expropriation of 1229 Ellesmere Road*. This report sought authority to serve and publish Notices of Application for Approval to Expropriate the Property.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM17.10>

COMMENTS

Shelter, Support and Housing Administration (SSHA) has leased 1229 Ellesmere Road since 1996, which currently serves as a shelter for 65 mother-led families. Birkdale Residence has close ties to the local community and is well integrated within the local neighbourhood.

The landlord has provided a Notice to Quit effective November 30, 2017 should the City not complete the acquisition or expropriation of the Property by this date. The shelter system continues to operate above the 90% occupancy target set by City Council and staff would have difficulty in finding alternate emergency accommodations for these families, should the shelter be required to relocate. There are limited properties available throughout Toronto for purchase or lease that would be suitable for use as an emergency shelter. Given the competitive real estate market in Toronto, suitable alternative sites are often difficult to find at affordable prices or lease rates.

The Property is located on Ellesmere Road, east of Midland Road, as seen on the Location Map in Appendix "B" and draft Reference Plan in Appendix "C". The Property is approximately 1884.9 m² (20,281.3 sq ft) with a 6 1/2-storey building and a gross floor area of approximately 3316 m² (35,693 sq ft) plus 33 spaces of underground parking. City Staff have been in discussions with the Owner since August 2016 regarding the City's potential interest in purchasing the Property.

As Birkdale Residence has operated and is expected to continue to operate over the long term as an emergency shelter, it is recommended that 1229 Ellesmere Road be purchased or expropriated to ensure its continued use without the excess costs and limitations of a lease.

CONTACT

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Gordon Tanner, Acting Director, Homeless Initiatives and Prevention Services, Shelter, Support and Housing Administration; Tel: (416) 392-5417; E-Mail: gtanner@toronto.ca

SIGNATURE

Josie Scioli
Chief Corporate Officer

Paul Raftis
General Manager, Shelter, Support
and Housing Administration

ATTACHMENTS

Appendix "A" - Terms and Conditions
Appendix "B" - Location Map
Appendix "C" - Draft Reference Plan
Confidential Attachment 1

Appendix "A"

Major Terms and Conditions of Section 24 Agreement

Property Address: 1229 Ellesmere Road, Toronto, Ontario

Owner: 2288868 Ontario Limited

Legal Description: All of Block B on Plan 5645 Scarborough, in the City of Toronto, being all of PIN 06300-0121 (LT)

Compensation: **Contained within the Confidential Attachment**

Additional Costs: **Contained within the Confidential Attachment**

Irrevocable Date: The Section 24 Agreement will remain open for acceptance by the City until October 19, 2017

Completion: November 30, 2017

City as Tenant: The City is the existing tenant of the Property, pursuant to a Lease with the predecessor of the Owner dated October 7, 2005, as amended by various agreements, including a Lease Extension Agreement between the Owner and the City dated September 28, 2016. The parties agree that the City shall continue its tenancy of the Property in accordance with the terms and conditions of the Lease, until the Closing Date.

Existing Chattels: The Owner agrees that all existing chattels and equipment at the Property, as detailed in the Section 24 Agreement, are included in the Compensation Amount, and will be left at the Property.

Transaction Failure: If the purchase of the Property is not successfully completed, the City shall proceed with expropriation proceedings and register an Expropriation Plan (the "Plan"), in accordance with the Act, on or before November 30, 2017. Following registration of the Plan, and the payment of the advanced payment under Section 25 (1) (b) of the Act (being 100% of the market value of the Property as estimated by the expropriating authority), and the City taking possession of Property, the Lease shall be terminated. If the Plan is registered, the City and the Owner agree to dispense with the negotiation proceedings set out in Section 26 of the Act. If the City does not register the Plan on or before November 30, 2017, the Lease shall be terminated, and the City shall vacate the Property.

Appendix "B"

Location Map



