



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Expropriation of Part of 228-230 Queens Quay West and Part of the Lands at the Rear of 250-270 Queens Quay West for the Reconstruction of the York/Bay/Yonge Off-ramp from the F.G. Gardiner Expressway

Date: January 4, 2017
To: Government Management Committee
From: Chief Corporate Officer
Wards: Ward 20 - Trinity Spadina

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

In December 2015, City Council authorized the initiation of expropriation proceedings for certain property required for the reconstruction and realignment of the Gardiner Expressway's York/Bay/Yonge off ramp (the "Project"), with a new ramp to Lower Simcoe Street. In October, 2016, City Council authorized the initiation of expropriation proceedings for certain additional property required for the Project.

This report seeks approval from City Council, as the approving authority under the Expropriations Act, to expropriate certain lands forming part of the condominium property known municipally as 228-230 Queens Quay West and certain lands located to the north (rear) of the condominium properties known municipally as 250-270 Queens Quay West. The required properties are shown as Parts 1 to 6 and 8 to 19 on the draft Reference Plan attached as Appendix "B".

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council, as approving authority under the Expropriations Act, approve the expropriation of the property requirements set out in Appendix "A" and shown as Parts 1 to 6 and 8 to 19, inclusive, on the draft Reference Plan attached as Appendix "B" (the "Properties").
2. 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.
3. City Council authorize the public release of the confidential information contained in Confidential Attachment 1 once there has been a final determination of all claims for compensation for all of the Properties to the satisfaction of the City Solicitor.

FINANCIAL IMPACT

Confidential Attachment 1 to this report identifies the initial estimated value of the Properties.

Funding to acquire the Properties is available in the 2016-2025 Council Approved Capital Budget and Plan for Transportation Services under capital account CTP814-56-02.

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

DECISION HISTORY

At its meeting of October 5, 6 and 7, 2016, City Council authorized the initiation of the expropriation process for certain additional lands at 228-230 Queens Quay West required for the Reconstruction of the York/Bay/Yonge Off-Ramp from the F.G. Gardiner Expressway. The Council decision associated with this approval can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM14.8>

At its meeting of December 9 and 10, 2015, City Council directed the Director of Real Estate Services to continue discussions with the property owners at 228-230 Queens Quay West and 250-270 Queens Quay West for the acquisition of certain lands required

for the Reconstruction of the York/Bay/Yonge Off Ramp from the F.G. Gardiner Expressway and authorized the initiation of the expropriation process for the required lands, if deemed necessary by the Director of Real Estate Services. The Council decision associated with this approval can be found at:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.GM8.19>

COMMENTS

Pursuant to Council's authority and in accordance with the Expropriations Act, Notices of Application for Approval to Expropriate the Properties were served on the registered owners and published in the newspaper. The City has not received notice of any requests for a hearing of necessity and the time limitation set out in the Expropriations Act for giving notice of such a request has expired.

The lands that are required at 228-230 Queens Quay West form part of the common elements of two condominium towers, which are governed by one condominium corporation, Toronto Standard Condominium Corporation No.1536. Pursuant to the Condominium Act, 1998, a condominium corporation is prohibited from selling part of the common elements of a condominium unless at least 80% of the unit owners vote in favour of the sale and unless at least 80% of those persons with a registered claim against the property consent in writing to the sale. As there are over 500 units in these two buildings, it would be extremely difficult to achieve the 80% threshold that is required before the condominium corporation can sell the necessary land to the City. Therefore, it is necessary to expropriate these lands.

The lands that are required at the rear of 250-270 Queens Quay West do not form part of a condominium and are owned by a private corporation. Negotiations are still underway with the owner for the acquisition of the necessary property on mutually acceptable terms. Staff remain optimistic that a negotiated agreement can be reached, but recommend that the City continue with expropriation proceedings to ensure that the construction schedule for the Project is not jeopardized. In addition, there are three condominium towers located at 250-270 Queens Quay West, each governed by separate condominium corporations, Metropolitan Toronto Condominium Corporation No. 719, Metropolitan Toronto Condominium Corporation No. 725 and Metropolitan Toronto Condominium Corporation No. 739. These three condominiums each have the benefit of a number of easement rights over the property that is required by the City. These easements need to be released from the lands that the City requires. Pursuant to the Condominium Act, 1998, a condominium corporation may by by-law release an easement that forms part of the common elements if a majority of the unit owners vote in favour of the by-law. If releasing the easement also involves an amendment to the condominium declaration, then 80% of the unit owners must first consent to the amendment in writing. Given that collectively these three condominium buildings also have over 500 units, it would be extremely difficult to obtain the necessary votes and written consents that are required before the condominium corporation can release the easements over the lands that are required by the City. Therefore, expropriation of these easements is necessary even if the City is able to acquire ownership of the lands through a negotiated agreement with the owner.

As a condition of draft plan approval for the condominiums at 250-270 Queens Quay West, Harbourfront Corporation and The Municipality of Metropolitan Toronto entered into an agreement pursuant to Subsection 50(6) of the Planning Act, 1983, dated March 1, 1986 (the "10 Metre Agreement"). Pursuant to the 10 Metre Agreement, the owner agreed to convey to Metro Toronto, for nominal consideration, the northern 10 metres of the site (the "10 Metre Strip"), free of encumbrances, upon receipt of notice from Metro Toronto that the land is required for dedication for roads purposes. Parts 1, 2, 3, 4 and 5 shown on the draft Reference Plan attached as Appendix "B" are located within the 10 Metre Strip. The 10 Metre Strip is subject to a number of easements that were granted in 1986 and 1987 for the benefit of the new condominiums that were constructed at 250, 260 and 270 Queens Quay West, respectively. At the time the easements were granted, each of the new condominium corporations executed a Reciprocal Agreement in which it acknowledged and consented to the 10 Metre Agreement. Accordingly, no compensation should be payable by the City for the expropriation of the Properties that form part of the 10 Metre Strip.

It is recommended that City Council, as approving authority under the Expropriations Act, approve the expropriation of the Properties and that City Council authorize the City, as expropriating authority under the Expropriations Act, to take all necessary steps to proceed with the expropriation of the Properties, so that the construction schedule for the Project is not jeopardized.

CONTACT

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SIGNATURE

Josie Scioli
Chief Corporate Officer

ATTACHMENTS

Attachment 1 - Confidential Attachment
Appendix "A" – Table of Property Requirements
Appendix "B" – Draft Reference Plan
Appendix "C" – Location Map

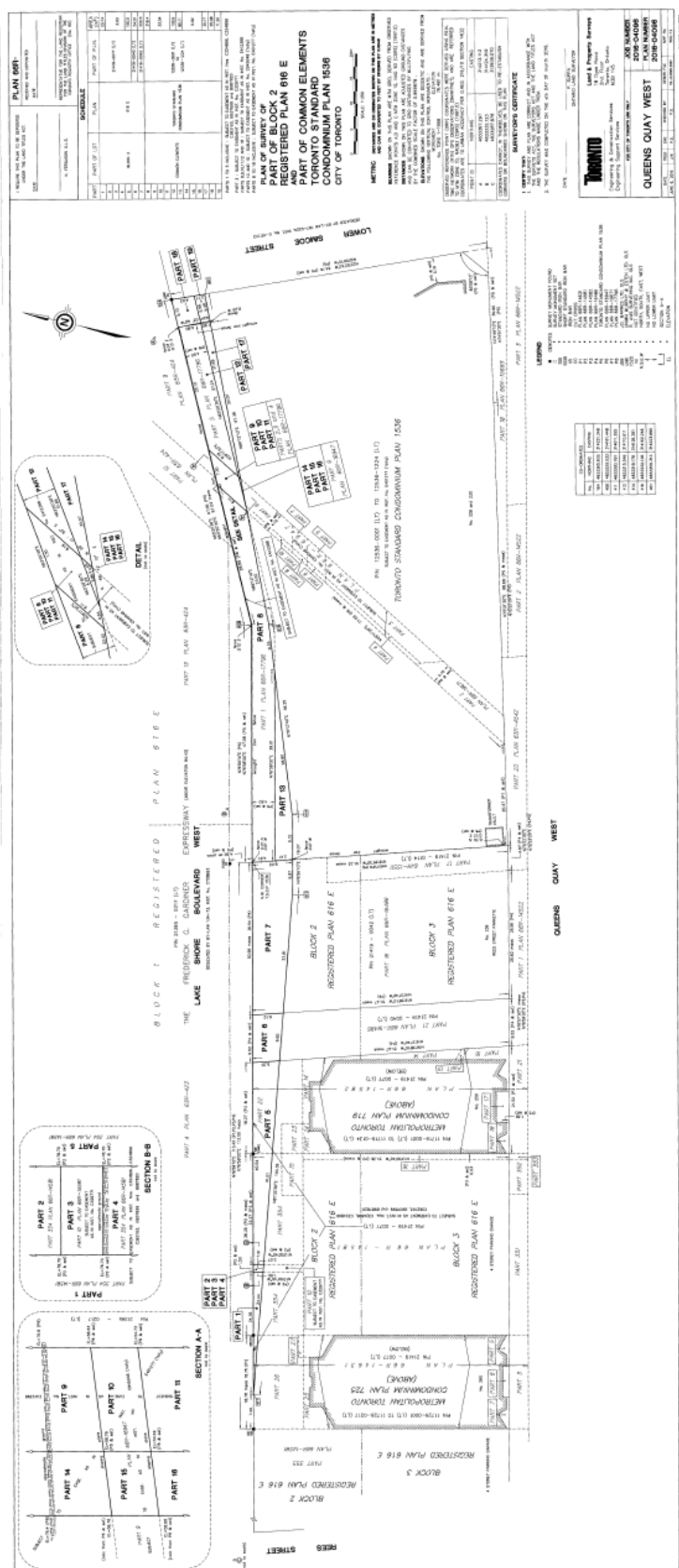
Appendix "A"

Table of Property Requirements

	Address	Legal Description	Site Area (approx.)	Property Requirement
1.	Part of 228-230 Queens Quay West	Part of PINs 12536-0001 (LT) to 12536-1224 (LT), inclusive, being part of the common elements on Toronto Standard Condominium Plan No. 1536, Condominium Block 12536, City of Toronto, designated as Parts 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 on draft Reference Plan attached as Appendix "B"	6844.99 sq ft 635.92 m ²	Fee simple and all other right, title and interest (full taking)
2.	Part of the Vacant Lands at the Rear of 250-270 Queens Quay West	Part of PIN 21419-0077 (LT) - Part of Block 2, Plan 616E Toronto, City of Toronto, designated as Parts 1, 2, 3, 4 and 5 on draft Reference Plan attached as Appendix "B"	1,908.12 sq ft 177.27 m ²	Fee simple and all other right, title and interest (full taking)
3.	Part of the Vacant Lands at the Rear of 250-270 Queens Quay West	Part of PIN 21419-0040 (LT) – Part of Block 2, Plan 616E Toronto, City of Toronto, designated as Part 6 on draft Reference Plan attached as Appendix "B"	586.74 sq ft 54.51 m ²	Fee simple and all other right, title and interest (full taking)

Appendix "B"

Draft Reference Plan - required properties are shown as Parts 1 to 6 and 8 to 19



Appendix "C"

Location Map - 228-230 Queens Quay West and of 250-270 Queens Quay West

