



July 20, 2018

By E-mail

Toronto City Council
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Dear Members of Council:

**Re: Item GM29.27 Expropriation of 300 Commissioners Street
City Council Meeting, July 23, 24, and 25, 2018
Report for Action dated June 18, 2018**

We are the solicitors for Port Lands Land Co LP ("**Partnership**"), the holder of the long term lease of 300 Commissioners Street ("**Property**") granted by TEDCO. Our client has reviewed the above-noted City staff Report and wishes to correct and supplement the Report, and further requests additional Council direction be given to staff to properly conclude this matter in a timely manner.

The initial development phase of the Property is proposed to be a 5 storey, 13,447 sq. m. self-storage facility, in compliance with the Official Plan and City Zoning By-laws. The development concept plan was approved by the Toronto Port Lands Corporation on January 6, 2015, a company solely owned by the City, by a Board comprised of four senior members of City management, including the Deputy City Manager to whom planning and development reports. In reliance on this approval, an application was submitted for site plan approval on March 21, 2015, however, as a result of a potential desire to acquire lands within the Property, a decision was not made on the application and a referral to the Ontario Municipal Board, as it then was, was required. The City initially sought to adjourn the hearing to provide additional time to consider a road extension through the Property described by the Board as a "multi-year process to finalize an alignment shown notionally on a 13 year old secondary plan that is not yet in effect for the subject site being reported out to Council hopefully sometime in November or December of this year, with no certainty of that reporting date and no certainty of clear and final Council decision at that time". The adjournment was denied and provisional site plan approval was subsequently granted by the Board on August 24, 2017. Despite direction from the Board to finalize the approval, final site plan approval remains outstanding.

Please be advised that the Partnership has suffered damages as a result of these delays. Despite its interest in developing the Property and contrary to the Report, the Partnership has made best efforts to reach an agreement with the City in an effort to mitigate its losses.

Contrary to the Report, TEDCO has not attempted to purchase the leasehold interest. While City staff have attempted to negotiate an acquisition it has been for "nominal consideration"

only. The Partnership has remained open to a sale and in February of 2018 provided City staff with an offer to sell back the lease for an amount less than a third-party arms length purchase offer it has received and less than more recent expressions of interest. City staff have not substantively responded to this offer to date. Without any authorization of funds, details as to compensation, or a timeline for acquisition, negotiations have been fruitless.

Further, while the Partnership has diligently and consistently sought to make use of the Property, staff have repeatedly cautioned against development, relying upon the threat of expropriation. This has left the Partnership in limbo and caused the partners to suffer significant business losses.

Finally, be advised that the damages incurred by the Partnership will only continue to escalate and building permit issuance is imminent. Upon commencement of construction of the initial phase of development, the estimated costs of construction are approximately \$2million/month.

In order to minimize the Partnerships' losses and reduce future losses for which the City will be required to pay in any expropriation, our client requests that Council provide certainty with respect to the acquisition of the Property as follows:

1. Authorize sufficient funds to acquire the Partnership's interest in the Property and to fund any related or incidental costs associated with the acquisition;
2. Direct staff to seek any other requisite approvals necessary to acquire the Partnership's interest in the Property;
3. Authorize and direct staff to execute an offer for the Partnership's interest in the Property by August 31, 2018, conclude negotiations by September 30, 2018, and execute any agreements and documents required to do so;
4. Direct staff to seek Council authorization to finalize the acquisition by December 31, 2018.

Without securing such further certainty on the City's intention with respect to the Property, the Partnership has no choice but to mitigate its damages and proceed to develop the Property as permitted.

Yours truly,

Cassels Brock & Blackwell LLP



per Signe Leisk
SL/nv

cc. David Jollimore, Director, Real Estate Services