



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Expropriation of 30 Newbridge Road and 36 North Queen Street

Date: April 12, 2018

To: Government Management Committee

From: Director, Real Estate Services

Wards: Ward 5 - Etobicoke-Lakeshore

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

This report provides City Council with a copy of the Inquiry Officer's Report dated March 1, 2018 on the proposed expropriation and seeks approval from City Council, as the approving authority under the Expropriations Act, to expropriate the properties municipally known as 30 Newbridge Road and 36 North Queen Street as identified in Appendix "A" (the "Properties") in order to complete the Toronto Transit Commission's Line 2 Modernization Plan. The Plan will accommodate future service levels by increasing the storage and maintenance capacity of its existing facilities for the future. City Council must decide whether to approve the expropriation at its May meeting in order to comply with the time lines set out in the Expropriations Act.

This report also seeks authorization for the City, as expropriating authority under the Expropriations Act, to expropriate the Properties, serve associated notices and make an Offer of Compensation in accordance with the Expropriations Act.

RECOMMENDATIONS

The Director, Real Estate Services recommends that:

1. City Council, as approving authority under the Expropriations Act, consider the report of the Inquiry Officer, and approve the expropriation of the properties municipally known as 30 Newbridge Road and 36 North Queen Street as identified in Appendix "A" (the "Properties") for the purpose of completing the Toronto Transit Commission's Line 2 Modernization Plan for the reasons set out in the Inquiry Officer Report attached as Appendix "C".

2. City Council approve the confidential instructions to staff in Confidential Attachment 1 and 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, on the terms set out in Confidential Attachment #1, and service of Notices of Expropriation, Notices of Election as to a Date for Compensation and Notices of Possession, as may be required.
3. City Council authorize the Director, Real Estate Services to obtain an appraisal report to value the Properties, as of the date of expropriation or, if the owner so elects in accordance with the Expropriations Act, as of the date of service of the Notices of Expropriation or the Notice of Hearing in respect of the inquiry, and subject to Confidential Recommendations 1 and 2 in Confidential Attachment #1, to prepare and serve an Offer of Compensation on all registered owners, at the appraised value, all in accordance with the requirements in the Expropriations Act.
4. City Council authorize the Director, Real Estate Services to sign the Offer of Compensation for the Properties on behalf of the City.
5. City Council authorize the public release of the confidential information contained in Confidential Attachment #1 once there has been a final determination of the compensation payable for the Properties by arbitration, appeal or settlement 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 2018 - 2027 Council Approved Capital Budget and Plan for the Toronto Transit Commission under account CTT110.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting held on March 28 and 29, 2017, City Council adopted the recommendations contained within GM18.13 titled "Expropriation of 30 Newbridge Road and 36 North Queen Street" thereby authorizing the Director, Real Estate Services to continue negotiations for the acquisition of the Properties and initiate the expropriation process if it is deemed necessary or appropriate to proceed in that manner.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM18.13>

COMMENTS

It is anticipated that the Toronto Transit Commission (the "TTC") will outgrow its current subway storage and maintenance capacity within the next 10-15 years. Ongoing projects that aim to increase storage capacity within the existing subway yards will accommodate the current fleet of subway vehicles over a short term period only. The forecasted subway service levels will increase the fleet of subway vehicles which will exceed the current subway vehicle storage and maintenance capacity of existing TTC facilities. In order to accommodate these future service levels, the TTC needs to strategically pursue and acquire properties for additional capacity.

The Properties are considered the most suitable to acquire given TTC's needs, as they meet the applicable area (approximately 73 acres) and location requirements (close proximity to Line 2 - Bloor-Danforth). The City's acquisition of the Properties would also present an opportunity for the TTC to consolidate planned capital infrastructure improvements and would be a key strategic element in the modernization of Line 2.

Pursuant to Council's authority and in accordance with the Expropriations Act, Notices of Application for Approval to Expropriate were served on the registered owners, as defined in the Expropriations Act, and published in the newspaper. The City received notice of a request for an inquiry as to whether the proposed taking was fair, sound and reasonably necessary (the "Inquiry") from the owner of the Properties.

The Inquiry was held on February 27, 2018, with Douglas Colbourne presiding as Inquiry Officer. He heard evidence on behalf of the City from Michael G. Stevenson, Director of Planning and Approvals for the TTC. The Inquiry Officer provided his report to the City on March 1, 2018, which is attached as Appendix "C" (the "Report").

In the Report, the Inquiry Officer noted that the TTC's need for a second storage and maintenance facility for Line 2 was not challenged, and also accepted the City's evidence that the site is the appropriate size and in a strategic location. Therefore, he found that the proposed expropriation is fair, sound and reasonably necessary in the achievement of the City's stated objectives.

As ongoing negotiations with the owner have not resulted in the acquisition of the Properties, expropriation is required in order to meet the timelines associated with the Line 2 Modernization Project. Therefore, for the reasons provided in the Inquiry Officer's Report and herein, 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 to take all necessary steps to proceed with the expropriation.

Once an expropriation plan is registered and the Properties are expropriated, the Expropriations Act requires the City to serve an Offer of Compensation based on an appraisal report valuing the property as of the date of expropriation. Alternatively, the owner is entitled to elect to have the Properties valued as of the date it was served with the Notice of Expropriation or as of the date that the Notice of Hearing in respect of the Inquiry was served. Therefore, this report seeks direction to obtain an appraisal report and serve it on the registered owners, along with an Offer of Compensation for the appraised value.

Additional lands will be required to facilitate the connection between TTC's Line 2 and the proposed new TTC service yard on the Properties. Negotiations with the applicable property owners have commenced and the acquisition of these additional lands will be addressed in a future staff report.

CONTACT

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SIGNATURE

David Jollimore
Director, Real Estate Services

ATTACHMENTS

Appendix "A" – Required Property Interests
Appendix "B" – Location Map
Appendix "C" – Inquiry Officer Report of Douglas Colbourne - March 1, 2018
Confidential Attachment #1

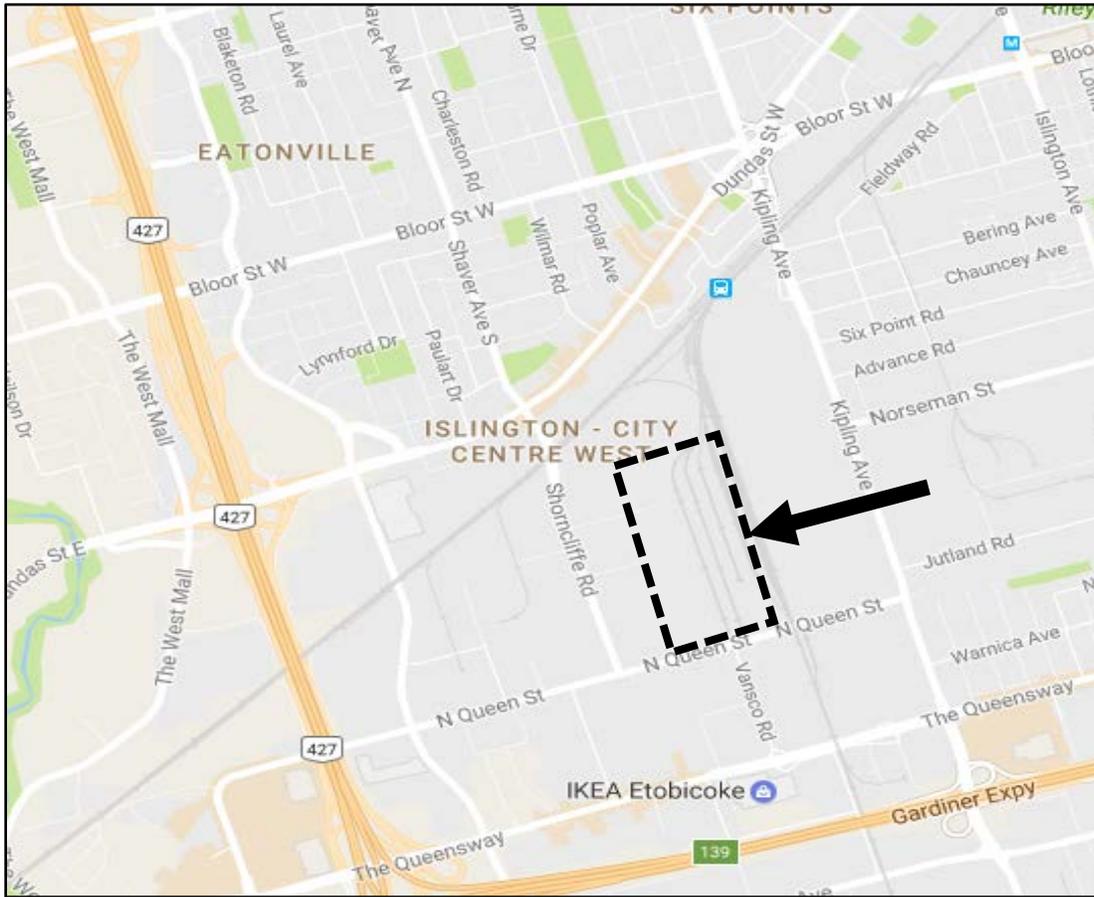
Appendix "A"

Required Property Interests

| Municipal Address | Property Interests | Approx. Area |
|-----------------------|--|--------------|
| 30 Newbridge Road | All right, title and interest in the lands legally described as Part of Lot 7, Con 4 Colonel Smith's Tract, Part 1, 64R6124 Etobicoke, in the City of Toronto, being all of PIN 07549-0055 | 24 acres |
| 36 North Queen Street | All right, title and interest in the lands legally described as Part of Lot 7, Con 4 Colonel Smith's Tract as in EB301682 except Pt 1, 64R6124, Pt 7, 64R14770; Pt 1, 64R2640 and Pt 4, 64R2291; S/T EB301682; Etobicoke, City of Toronto, being all of PIN 07549-0113 | 49 acres |

Appendix "B"

Location Map - 30 Newbridge Road and 36 North Queen Street



Appendix "C"

Inquiry Officer Report

IN THE MATTER OF THE EXPROPRIATIONS ACT

IN THE MATTER OF an application by the City of Toronto for approval to expropriate a fee simple interest, including all right title and interest in: All of the lands known municipally as 30 Newbridge Road, legally described as being Part of Lot 7, Con 4 Colonel Smith's Tract, Part 1, 64R6124 Etobicoke, in the City of Toronto, being all of PIN 0749-0055; and All of the lands known municipally as 36 North Queen Street, legally described as being Part of Lot 7, Con 4 Colonel Smith's Tract as in EB301682 except Pt 1, 64R6124 Pt7, 64R14770; Pt. 1, 64R2640 and Pt 4, 64R2291; S/T EB301682; Etobicoke, City of Toronto being all of PIN 07549-0113, All for municipal purposes, including to complete transit modernization and accommodate future transit service levels.

Date of Hearing: February 27, 2018

Appearances:

| | | |
|-------------------------|-----|-------------------------|
| Brendon O' Callaghan | for | City of Toronto |
| Christopher J. Williams | for | Dream Assets Management |

REPORT

THE HEARING AS HELD PURSUANT TO Section 7 of the Expropriations Act, R.S.O. 1990. C.E. (as amended) to determine whether the taking by the City of Toronto of the lands municipally numbered 30 Newbridge Road and 36 North Queen Street in the City of Toronto is fair, sound and reasonably necessary in the achievement of the objectives of the Authority.

THE OBJECTIVE

Essentially the objective is to provide a subway train storage and maintenance yard facility comprising a car house and overhaul facility for the modernization of Line 2 of the Toronto subway system.

THE SITE

A subsidiary of Dream Assets Management, Obico Rail Yard is the owner of what appears to be two parcels located on the north side of North Queen Road, and to the east of Newbridge Road. The total area is 73 acres, and extends north from North Queen to lands in the ownership of Hydro One. The Hydro lands lie between the subject lands and the rail tracks to the north and the Kipling subway station. Access to the subway line will require access over those Hydro lands.

The lands were previously a CPR facility, and were surplus when that facility was moved to the Intermodal CPR terminal in Vaughan in 2012. The site contains one 155K warehouse building. To the east of the property there are rail tracks which run from the east west tracks south beyond North Queen Street. Further east are the lands of Hydro One, which front on Kipling Avenue all of which extend north close to the subway tracks.

The lands zoned as Core Employment were acquired by the current owners in 2012 with the intent to develop for mixed use; office/ commercial, residential and industrial uses.

PROPONENT'S EVIDENCE

The only evidence was provided by Mr. Michael G. Stevenson on behalf of the TTC. He is currently the Director of Planning & Approvals for the TTC. He has been co-ordinating with Metrolinx as they propose electrification of their line to the east adjacent to the Subway line.

This facility will be the 2nd storage and maintenance facility for Line 2 complementing the current Greenwood facility which alone supports Line 2. Greenwood has a storage capacity of 21 trains. It is expected that there will be 45 trains in 2031. The current T-1 (separate) cars will be replaced with the TR (6 car) rocket trains which will be delivered at the rate of 13-14 per year commencing in 2026, with full service in 2030. Greenwood can not service the TR cars. Rather than the current dead heading of cars for service and track service the west storage facility can empty the line for servicing. In addition to new cars they will have Auto Train Control with the signals being in the train and not in the tunnel thereby allowing greater capacity.

The subject site is ideally located has the right size and has the right track grades (4%) front to back. Its size is similar to the TTC Wilson yard (Line 1), and will have sufficient space for tracks to loop around with the appropriate spacing for the separate maintenance, storage and overhaul areas.

As set out in red on Exhibit 4 access tracks from the west end of the Kipling station to the site are proposed to go underground below the tracks which proceed to the west and travel underground within the Hydro One lands rising in the subject site. The tangent of that curve given the location of the tracks and subject site is key to the speed for trains.

The TTC has been seeking a 50 + acre site in recent years with no success in the Western end of the line. This was formerly a rail yard and has the appropriate industrial designation and is appropriate in all other respects. Possession is to be immediate, with construction commencing in 2019 with full development in 2026.

The only questions raised were with respect to property size and timing.

CONCLUSION

The need was not challenged and as set out in the evidence the site is the appropriate size and is in a strategic location. On the evidence I conclude that the proposal meets the test in the Expropriations Act and the summation as set out by the courts. The test in subsection 7 (5) of the Act is whether the proposed taking is “fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority, and I so positively conclude. Court decisions such as in Re: Parkins and the Queen (1997). 13KL. C.R. 327 (O.C.A.) concludes that the test that the inquiry officer must apply can be expressed as whether the proposal is “reasonably defensible in the achievement of the authority’s objective. For all the reasons given above, I find that the proposed taking by the City of the property described is reasonably defensible in the achievement of the authority’s objective.

March 1, 2018

_____original signed_____

Douglas Colbourne - Inquiry Officer

SCHEDULE A

WITNESS:

Michael G. Stevenson - Director - Planning & Approvals - TTC

EXHIBITS:

Notice of Grounds
C. V. - M. G. Stevenson
Aerial Photo Lands & Surrounding Area
Aerial Photo - Property Information