



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **Expropriation of Condominium Units - 414 Dawes Road - Units 1 and 6**

**Date:** February 8, 2019

**To:** General Government and Licensing Committee

**From:** Acting Director, Real Estate Services

**Wards:** Ward 19 - Beaches-East York

#### **REASON FOR CONFIDENTIAL INFORMATION**

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This report deals with a proposed or pending acquisition or disposition of land by the City of Toronto on behalf of the Toronto Public Library Board.

#### **SUMMARY**

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This report provides City Council with a copy of the Inquiry Officer's Report dated January 7, 2019 and received on January 9, 2019, attached as Appendix "A," (the "Report") and seeks authority to expropriate two residential condominium units at 414 Dawes Road, units 1 and 6 (the "Properties") required for the construction and development of a new library and community facility on Dawes Road.

The existing library branch at 416 Dawes Road is insufficient to serve the needs of the community. The condominium building containing the library branch is also at the end of its useful life. Through negotiated agreements, the City acquired 6 of the 8 existing residential condominium units, with the goal of constructing an improved facility on the property. Expropriation of the remaining 2 units is necessary for the project. The Inquiry Officer concluded that the proposed expropriation is fair, sound and reasonably necessary.

To comply with the legislative requirements of the Expropriations Act, this report must be considered by Council at its meeting of March 27th and 28th, 2019.

This report also seeks authorization for the City to serve Notices and make an Offer of Compensation in accordance with the Expropriations Act.

## **RECOMMENDATIONS**

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The Acting Director, Real Estate Services recommends that:

1. City Council, as approving authority under the Expropriations Act, consider the Report of the Inquiry Officer attached as Appendix "A".
2. City Council, as approving authority under the Expropriations Act, approve the expropriation of 414 Dawes Road, units 1 and 6 set out in Appendix "B" for municipal purposes including the construction and development of a new library and community facility.
3. City Council authorize payment of the applicable costs arising from the Inquiry to the owners of 414 Dawes Road, units 1 and 6, in accordance with the Expropriations Act.
4. City Council, as expropriating authority under the Expropriations Act, 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 and Notices of Possession, as may be required.
5. City Council authorize the Acting Director, Real Estate Services to obtain an appraisal report to value 414 Dawes Road, units 1 and 6, and to prepare and serve an Offer of Compensation on all registered owners of 414 Dawes Road, units 1 and 6, at the appraised value, all in accordance with the requirements in the Expropriations Act.
6. City Council authorize the Acting Director, Real Estate Services to sign the Offer of Compensation for 414 Dawes Road, units 1 and 6 on behalf of the City.
7. 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 and compensation payable for 414 Dawes Road, units 1 and 6 by arbitration, appeal or settlement to the satisfaction of the City Solicitor.

## **FINANCIAL IMPACT**

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

Funding to acquire the Properties and disburse all anticipated costs associated with the proposed acquisition has been accrued in the Toronto Public Library's 2018 Council Approved Capital Budget under account CLB194-1.

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

## DECISION HISTORY

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At its meeting held on October 2, 3 and 4, 2017, City Council adopted the recommendations contained within Staff Report GM 22.29 titled "Purchase of Residential Units - 414 Dawes Road" granting authority to City staff to negotiate the acquisition of all 8 residential condominium units at 414 Dawes Road for the proposed consideration as outlined within the confidential attachment to the report.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM22.29>

At its meeting held on January 31 and February 1, 2018, City Council adopted the recommendations contained within Staff Report GM 24.12 titled "Expropriation of Residential Condominium Units - 414 Dawes Road" 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=2018.GM24.12>

## COMMENTS

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City staff have successfully acquired 6 of the 8 residential condominium units located at 414 Dawes Road. The acquisition of the remaining 2 residential condominium units is required to proceed with Toronto Public Library Board's proposal to construct a new larger library branch and community space facility on the same property.

Communications and negotiations with the owners of the Properties and their legal representative commenced in 2016, but have not resulted in the amicable municipal acquisition of the remaining 2 condominium units. Expropriation is necessary to complete the proposed construction project within the established schedule.

Notices of Application for Approval to Expropriate were served on the registered owners in February 2018. The City received notice of a request for an inquiry into whether the proposed taking was fair, sound and reasonably necessary (the "Inquiry") from the owners.

The Inquiry was held on November 16, 2018, with Douglas Colbourne presiding as Inquiry Officer. Mr. Colbourne heard evidence on behalf of the City from Moe Hosseini-Ara, Director of Branch Operations and Customer Experience for the Toronto Public Library. The Inquiry Officer provided his Report to the City on January 9, 2019, which is attached as Appendix "A".

In the Report, the Inquiry Officer noted that the evidence supports the objectives of the authority. He concluded that the proposed expropriation is fair, sound and reasonably necessary in the achievement of the City's objective.

The Expropriations Act requires the City to render its approval decision and serve it on the owners within 90 days of receiving the Report (received January 9, 2019).

For the reasons provided in the 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 Properties as of the applicable date selected by the owners of the Properties. This report seeks direction to obtain an appropriate appraisal report and serve it on the registered owners, along with an Offer of Compensation for the appraised value.

## **CONTACT**

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## **SIGNATURE**

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Nick Simos  
Acting Director, Real Estate Services

## **ATTACHMENTS**

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Appendix "A" – Inquiry Officer Report of Douglas Colbourne - January 7, 2019  
Appendix "B" – Property Interests to be Expropriated  
Appendix "C" – Location Map  
Confidential Attachment #1

## **Appendix "A" - 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 and all appurtenant interest in Unit 6, Level 2, York condominium Plan No. 260, being Part of Lot 1 Concession 2 from the Bay, designated as Part 1 on 66R-8422 as in Schedule "A" of Declaration registered as instrument No. B502517, East York, City of Toronto, being all of PIN 11260-0007 (LT)

And

Fee Simple and all appurtenant interests in: Unit 1, Level 2, York condominium Plan NO. 260, being Part of Lot, Concession 2 From The Bay, designated as Part 1 on 66R-8422, as in Schedule "A" of Declaration registered as Instrument No. 502517, East York, City of Toronto, being all of PIN 11260-0002(LT)

All for municipal purposes, including the construction and development of a new library and community facility.

**Hearing** November 16, 2018

#### **Appearances:**

B. O'Callaghan for City of Toronto

#### **For themselves:**

Terry-Lynn Margaret Weese Owners of TH 1 and 6  
Stephen John Pritchard York Condominium Plan 260  
Michael David Pritchard

### **REPORT**

This hearing was held pursuant to Section 7 of the Expropriations Act., to determine whether the taking by the City of Toronto of the interests in the lands set out above for the purpose of demolishing the building and redeveloping the property as a larger library and community hub to provide additional services to the community is fair sound and reasonably necessary in the achievements of the objectives of the expropriating authority.

### **THE LANDS**

Currently the Dawes Road library is located on the ground floor of York Condominium No 260 located at 414 Dawes Road. The city has acquired all but two of the (No. 1 and 6) units of the eight located above the library. The objective is to demolish the building and redevelop the property with a sole purpose use new library.

## **LIBRARY EVIDENCE**

The evidence was given by Moe-Hosseini-Ara, Director of Branch Operations for the Toronto Public Library. The library occupies the ground floor of the four storey condominium building (6740 Sq. Ft.), which sits on a quarter acre of land. The building was constructed in 1976, with the last renovations in 2003. The Property Conditions Assessment (Exh. 3) outlines the repairs necessary in the order of 1.5 million dollars, with a significant portion for AODA. The condominium ownership format does not accord the library the necessary control to accomplish their proposals. The library does not wish to keep the condos on top.

The desired Library Service Delivery Model is set out in (Exh. 2). Simply put the library does not meet current community requirements. There is a need for 20,000 sq. ft. for the current service model and its new programming needs. Each library should contain a digital hub, a kids stop for early learning and tactile activities, as well as a programme room. None of these could be accomplished on the ground floor of the site. According to him, upgrade to the existing floorplate and building is not worth the investment. Other sites were investigated – 5 City sites and 7 private sites and a church site but none are satisfactory for a single floor plate.

The property 82 Chapman would not significantly assist. Webster School is not interested in collocating with a library. Similarly, 2 Gower St. would be collocating with what appears to be the Riverdale Community Health Centre.

The two owners indicated their desire to remain in the partnership with the library and are willing to utilize the repairs fund balance.

## **FINDINGS**

It is an understatement to say that the status of the present library facility is not satisfactory in terms of the desired provision of services for the community. The question is how can the property be brought up to the desired facility or are there alternative sites.

On the issue of alternative sites Mr. Hosseini-Ara stated that within the 4 km. area, sites did not have sufficient space for a single floor plate. On the other sites suggested to be shared, some of the partners had no interest in sharing with the library, and indeed it represents the current ownership arrangements, the library desires to avoid.

On the present site, the remaining condo owners are willing to work with the Library including utilizing the current reserve funds. The reality is that given the current condominium arrangements, it would not be the prerogative of the Library to use all of it, and it would certainly not be anywhere near sufficient to expand and provide the facility desired.

On the part of the library the ownership structure is no longer desired in order to expend the funds necessary for the desired facilities. The vision is a stand-alone structure. Whether or not the new library could be physically accommodated with the remaining condo owners, it really doesn't make sense financially. I am of the view that the evidence supports the objectives of the authority.

## CONCLUSION

After considering all of the evidence and arguments, I conclude that the proposal meets the test in the Expropriations Act and the summation of it 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.” Court decisions such as in *Re:Parkins and the Queen* (1977), 13 L.C.R. 327 (O.C.A.), conclude 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 objectives”.

For the reasons given above, I find that the proposed taking by the City of Toronto of the properties described is reasonably defensible in the achievement of the City’s Library system’s objective of the replacement of the library.

January 7, 2019

"original signed"  
Douglas Colbourne  
Hearing Officer.

## SCHEDULE A

### WITNESSES:

1. Moe Hosseini-Ara - Director Branch Operations and Customer Experience
2. Terri-Lynn Weese - Unit owner
3. Stephen Pritchard - Unit owner

### EXHIBITS:

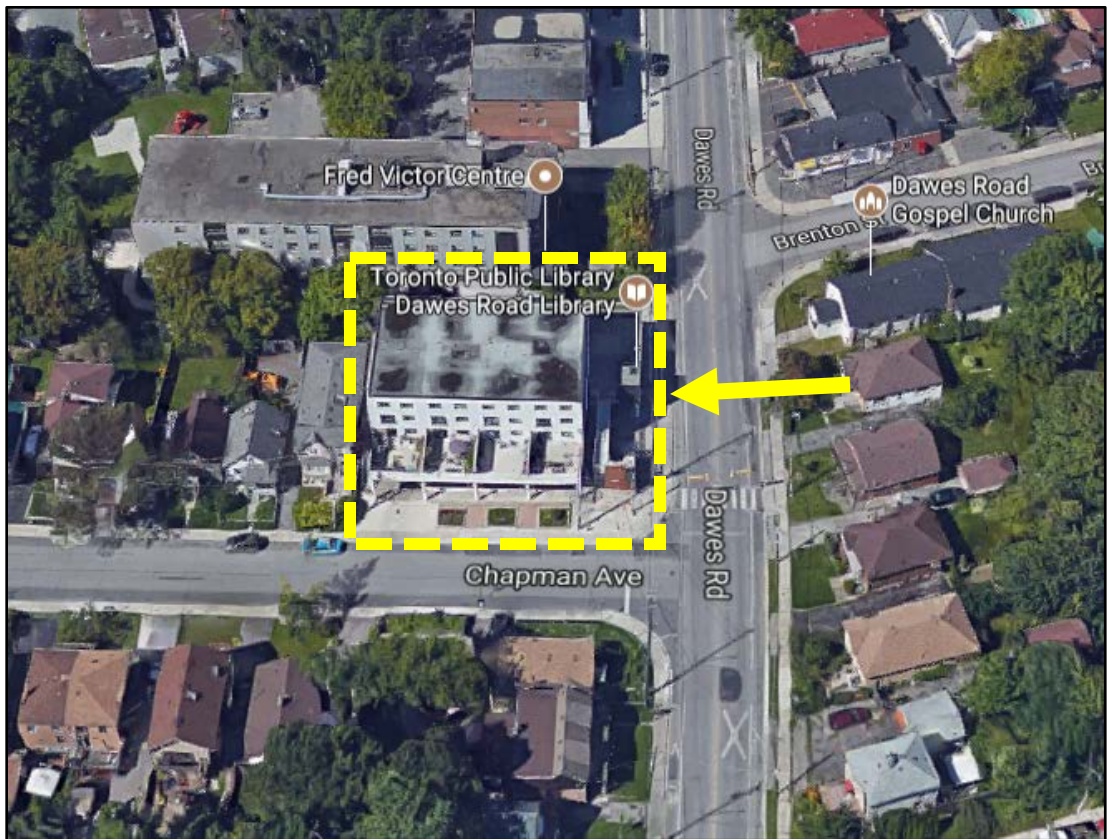
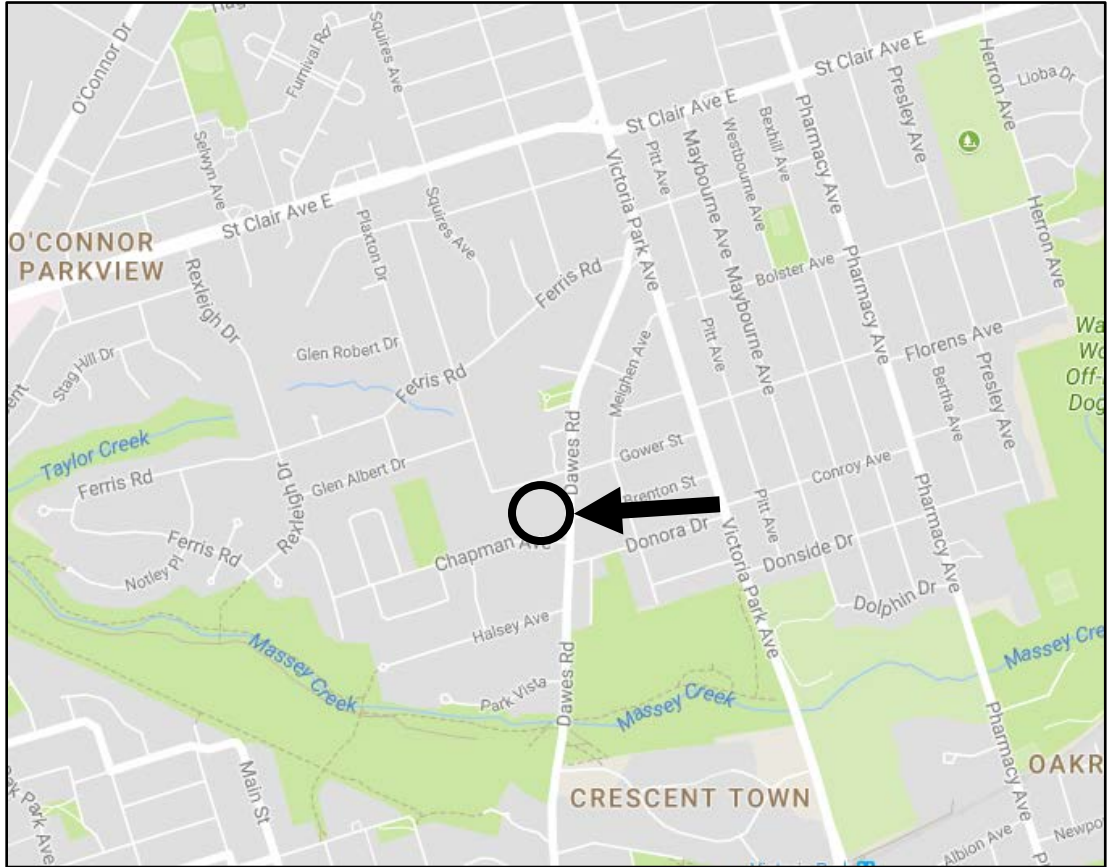
1. CV. M Hosseini-Ara
2. Library Service Delivery Model
3. Property Assessment Condition
4. Existing Site Conditions and Options
5. Google Map = 2 Gower St.
6. Google Map Geo. Webster School

## Appendix "B" - Property Interests to be Expropriated

Municipal Address	Legal Description	Approximate Area
414 Dawes Road - Unit 1	All right, title and interest in the property legally described as Unit 1, Level 2, York Condominium Plan No. 260; Part Lot 1 Concession 2 FTB, Part 1 66R8422, as in Schedule "A" of Declaration B502517; East York, City of Toronto, being all of PIN 11260-0002 (LT)	1,500 square feet
414 Dawes Road - Unit 6	All right, title and interest in the property legally described as Unit 6, Level 2, York Condominium Plan No. 260; Part Lot 1 Concession 2 FTB, Part 1 66R8422, as in Schedule "A" of Declaration B502517; East York, City of Toronto, being all of PIN 11260-0007 (LT)	1,500 square feet



# Appendix "C" - Location Map



Expropriation of Condominium Units - 414 Daves Road-Unit #1 & #6