



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Expropriation of 300 Commissioners Street for the Future Broadview Avenue Extension Project

Date: September 20, 2019

To: General Government and Licencing Committee

From: Executive Director, Corporate Real Estate Management

Wards: Ward 14 - Toronto-Danforth

REASON FOR CONFIDENTIAL INFORMATION

This report deals with a proposed or pending acquisition of land by the City of Toronto or one of its agencies or corporations.

SUMMARY

On July 23, 2018, City Council authorized the initiation of expropriation proceedings for the leasehold interest at the property municipally known as 300 Commissioners Street (the "Property Interests") for the purpose of the future Broadview Avenue Extension project.

This stage 2 report seeks approval from City Council, as the approving authority under the Expropriations Act, to expropriate the Property Interests, as legally described in Appendix A and depicted in Appendix B. Following approval of this report and expropriation by-law, an expropriation plan will be registered and Notices of Expropriation will be served. Statutory offers of compensation will be served prior to the City taking possession of the expropriated Property Interests.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management, recommends that:

1. City Council, as approving authority under the Expropriations Act, approve the expropriation of the leasehold interest in 300 Commissioners Street, as legally described in Appendix A (the "Property Interests") and depicted on the location map in as Appendix B.

2. City Council, authorize CreateTO, which manages the lands under the ownership of the Toronto Economic Development Corporation ("TEDCO"), to transfer to the City of Toronto for nominal consideration such part or parts of 300 Commissioners Street as may be required by the City of Toronto, such transfer to occur at such time as the City of Toronto requests, with the City of Toronto to provide a minimum of one year's prior notice to TEDCO of its requirement for part or parts of 300 Commissioners Street to be transferred.

3. City Council authorize the City of Toronto, 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 for the Property Interests.

4. 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 the Property to the satisfaction of the City Solicitor.

FINANCIAL IMPACT

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

Funding to acquire the Property Interests is being provided by Transportation Services and the required amounts are included in Transportation Services 2020 Capital Plan. Immediate costs will be funded through cost center CTP819-02.

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

DECISION HISTORY

At its meeting of July 23, 2018, City Council directed the Director of Real Estate Services to continue discussions with the owner of the leasehold interest of 300 Commissioners for the acquisition of the leasehold interest in 300 Commissioners Street and authorized the initiation of the expropriation process of the required interest, if deemed necessary by the Director of Real Estate Services. The council decision associated with the approval can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM29.27>

At its meeting held on June 7, 8 and 9, 2016 City Council adopted the following recommendation from Attachment 1 - Confidential Information of that report, which the City Solicitor has determined no longer has to remain confidential:

"Direct TEDCO to enter into negotiations to purchase back the leasehold option interests to the Lands and if successful convey the area necessary for the Broadview Avenue extension to the City for nominal consideration when required."

TEDCO was unable to successfully purchase back the leasehold interests in the Lands and as such this report is before Council for consideration.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE16.9>

COMMENTS

The Port Lands and South of Eastern Transportation and Servicing Master plan, adopted in 2017 identified a portion of the 300 Commissioners Street Lands as part of the preferred alignment for the proposed extension of Broadview Avenue.

Staff from Corporate Real Estate Management have been in discussions with the owner of the leasehold interest in 300 Commissioners Street in an effort to reach mutually acceptable terms regarding the acquisition of the Property Interests since 2017. As it appears that a negotiated settlement cannot be reached, expropriation of the Property Interests is recommended.

Pursuant to City Council's authority and in accordance with the *Expropriations Act*, Notices of Application for Approval to Expropriate the Property Interests were served on the registered owners and published in the newspaper. The City of Toronto received a notice request for a hearing of necessity and was scheduled on July 24, 2019. At the hearing it was found that the City taking of the property interests is reasonably defensible in the achievement of the authority's objective. The Inquiry Officer's report is found attached in Appendix C, as mandated by section 8(1) the Expropriations Act, which is required to be provided to Council for its consideration.

It is recommended that City Council, as approving authority under the Expropriations Act, approve the expropriation of the Property 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 Property Interests.

CONTACT

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SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Appendix A: Property Interests

Appendix B: Location Map

Appendix C: Inquiry Officer's report

Confidential Attachment 1: Initial Estimated Market Value of 300 Commissioners Street

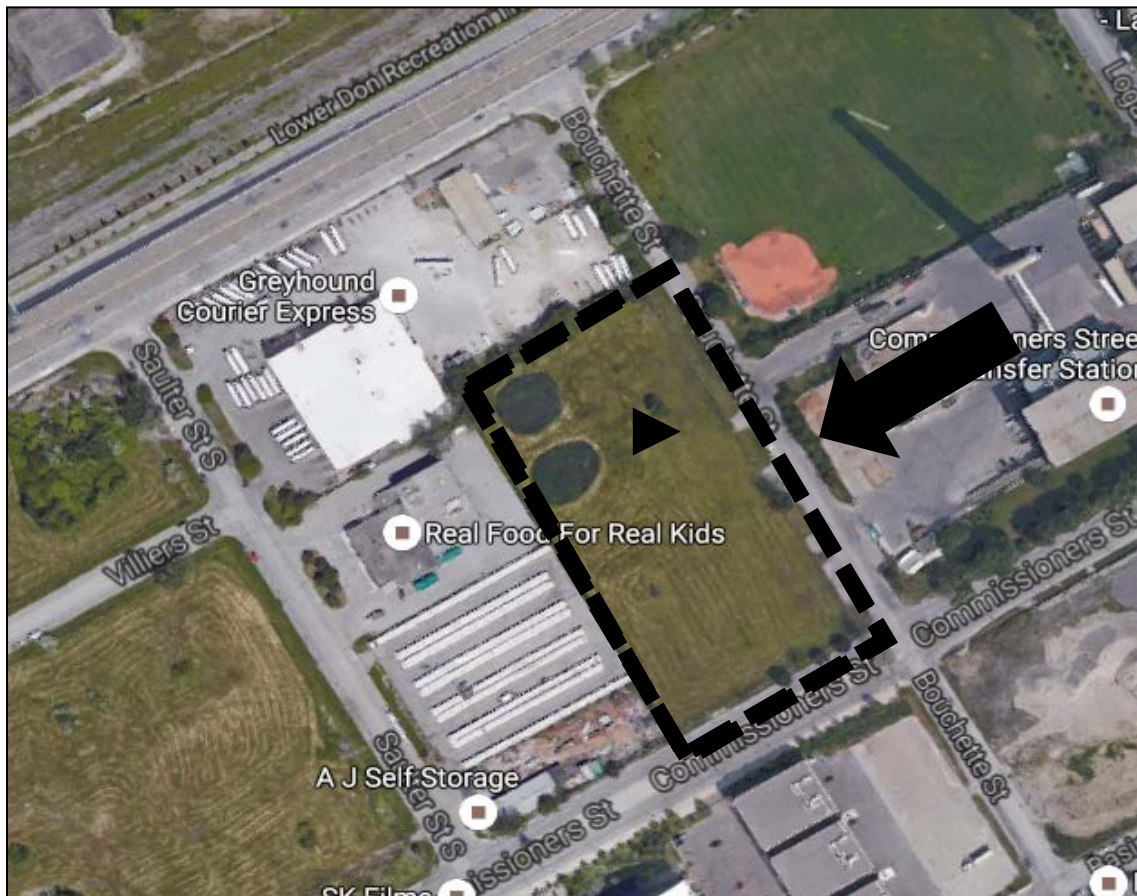
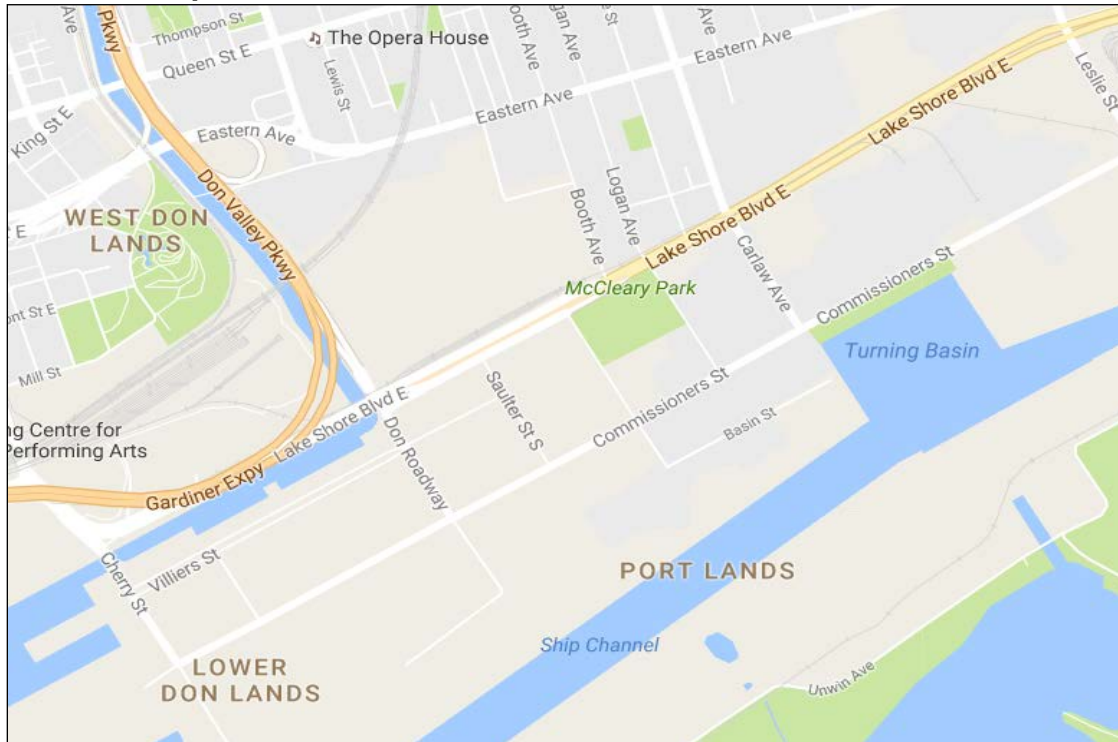
Appendix A

Property Interests

Municipal Address	Legal Description
300 Commissioners Street, Toronto	The leasehold interest in those lands legally described as Part of Block D, Plan 554E Toronto as in Instrument No. CA298174 (Schedule A-20) City of Toronto being All of PIN: 21385-0109 (LT) and all rights and interests relating thereto.

Appendix B

Location Map



Appendix C

Inquiry Officer's Report

IN THE MATTER OF THE EXPROPRIATIONS ACT

IN THE MATTER OF an application by the City of Toronto for approval to expropriate the Leasehold interest in the land know municipally as – 300 Commissioners Street, City of Toronto – legally described as: All of PIN 21385-0109(LT) – Part of Block D Plan 554E Toronto, as in CA 298174 (Schedule A-20), City of Toronto for municipal purposes, including the proposed extension of Broadview Avenue.

PROCEEDINGS:

Hearing: July 24th 2019

Venue: Metro Hall – Toronto

Appearances:

Brendan O’Callaghan for City of Toronto

Shane Rayman for Port Lands Co. LP (Port Lands)

REPORT

This hearing was held pursuant to Section 7 of the Expropriations Act to determine whether the taking by the City of the interest in the lands previously set out for the purpose of facilitating the construction of an extension of Broadview Avenue south of Lakeshore Boulevard and through the Port Lands to Unwin Ave. to Unwin Ave. is fair, sound and reasonably necessary in the achievements of the objectives of the expropriating authority.

THE LANDS

The vacant lands are located at the North West corner of Commissioners and current Bouchette Streert. The vacant lands are City owned but subject to a lease with TEDCO. An option to lease was obtained by TEDCO in 2015. Subsequently a long term lease was executed with TEDCO. Port Lands commenced planning the use of the property in 2013.

CITY EVIDENCE

Cassidy Ritz gave the planning and policy evidence for the City. She outlined that the Port Lands area has been the subject of many years of study and analysis by both City staff and outside planning and transportation consultants.

The background contained in the Notice of Grounds states:

The Port Lands is one of the most significant urban renewal opportunities in Toronto but also a remarkable place today with its concentration of heritage resources, natural areas, active port and industrial uses that assist in building and maintaining the broader city, as well as numerous film studios and related uses that support Toronto's film sector. An updated framework to guide and shape urban renew is vital to ensure all development advanced in the near, medium and longer-terms will have lasting value and support long-term city building objectives.

Three major pieces of planning work were completed for the area in 2017 that set in place a comprehensive 50 plus year vision for the area that will provide a context for positive change, establish new and enhanced policy direction for the Port Lands and support continued employment growth in the South of Eastern area.

The development of a Port Lands wide planning framework, referred to as the Port Lands Planning framework will provide a high level, long-term plan for the Port Lands with comprehensive policy directions in the associated Port Lands Official Plan modification.

The Port Lands, essentially industrial since 1912, has significant underutilized lands but is to become a key economic area with significant office space to accommodate 50 million plus employees. In this regard OPA 387 was settled at LPAT in 2017 and the Central Waterfront Secondary Plan adopted by Council in December 2018.

The interim report Exhibit 4 at D22 – Transforming The Port Lands states:

The Port Lands will transform into a number of new, vibrant districts with unique and memorable local identities and character that promote social interaction, cultural enrichment, ecological health a low-carbon future, and a prosperous local economy. Each district will take its cue from the naturalized river valley and wild natural areas, spectacular waterfront parks and open spaces and rich cultural heritage.

The Port Lands will have an eclectic mix of uses, offering diverse opportunities for Torontonians to live, work and play. Intrinsic to this mix of uses is the energy, vibrancy and theatre of the working port and nurturing the growth of creative and innovative industries.

A resilient urban structure will be set in place, connecting the Port Lands to the city and providing sustainable options for moving in and through the area. The Urban structure will provide a robust legacy of fine-grained streets and blocks to allow the Port Lands to continue to evolve and transform over time.

Key to the issue in this matter, The Port Lands and South of Eastern Transportation and Servicing Master Plan environmental assessment (TSMP) developed all of the infrastructure necessary to implement the planning and development of the area. As a result of this study and transportation modelling by Dillon Consulting and others, I.B.2-Exhibit 4 was selected as the preferred route.

Municipal Class EA processes were undertaken in 2017 and 2018 for the Broadview Extension from Queen Street East to Unwin Avenue as well as other associated municipal streets in the Unilver Precinct, to support the redevelopment of the Unilever Precinct. Broadview is the critical access. Goods movement was a key consideration in developing the network through the TSMP in recognition that portions of the Port Lands will continue to be utilized for port and industrial purposes.

The Broadview extension, along with an extension of Bouchette Street combined provide the necessary north-south capacity and connectivity in the area. The alignment also maintains the existing secure perimeter associated with the Pinewood Toronto Studio complex with limited impact. The extension contributes to the need to relocate hydro infrastructure in the area. The main disadvantage of the preferred alignment of the Broadview extension related to property impacts. However, other alternatives likewise had significant property impacts. Many critical aspects of the extension were confirmed through the TAMP EA process.

The preferred alignment, one of six analyzed for the Broadview extension crosses diagonally through 300 Commissioners Street. The alternatives were comprehensively evaluated against a total of 28 evaluation criteria and 53 qualitative and quantitative measures and the preferred alignment best meets the criteria and measures and the critical aspects of the extension.

Pg. 71 of the Interim Report describes the extension as follows:

The extension of Broadview Avenue will be a centrally-located civic spine into and through the Port Lands that extends across the Ship Channel, linking destinations along its way. It will include dedicated transit to Commissioners Street, with dedicated transit protected for south to the Hearn. The street will be aligned on axis with the Hearn chimney stack, framing this iconic piece of Toronto history.

Ms. Ritz evidence was that the extension does not require all of the lands of 300 Commissioners Street. It is the excess lands which develops as the issue between the parties.

The parties have been in discussions for some years as evidenced by the several iterations of the Broadview extension on the property along with several design plans for a storage facility. Exhibit 6. Ms. Ritz states the City does not have plans for the excess lands yet, but any development of that excess would necessarily have to be in line with the broad planning objectives developed for the area.

PORT LANDS EVIDENCE

Stephen Hardy for Port Lands has been involved in negotiations on this property since 2013, and confirmed that there is no issue with the extension of Broadview Avenue, nor that it will be on 300 Commissioners Street site. This is supported by the several proposals Exhibit 6, which shows different structures on the triangular excess beside the extension.

As the negotiations continued and no agreement was reached, Port Lands gained approval of a site plan at the The Local Planning Appeal Tribunal /-Ontario Municipal Board for development of a storage facility for the whole of the property.

FINDING

Mr. Rayman says the record and Council should know that not all of the lands are needed for the Broadview extension and as the excess appears to be developable, there is no necessity for the taking of the whole of the property.

Mr. O'Callaghan argues that the City is not optimistic in dealing with Port Lands with respect to an agreement which accommodates both parties given previous experience and their actions in gaining planning approval for development.

The parties agree that the Broadview extension is necessary and that there will be excess lands on the property. This of course has been the reality throughout the negotiations to date which commenced at least in 2013.

The evidence and documents supports that the Broadview extension is critical to the development of the Port Lands. Given the inability to reach agreement to date, I believe the public interest requires that the City should have the control necessary to continue developing the Port Lands plans. I find that the taking is necessary in these circumstances.

CONCLUSION

After considering all of the evidence and arguments, I conclude that the proposal meets the test in the Expropriations Act and 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 reasons given above, I find that the proposed taking the City of the property described is reasonably defensible in the achievement of the authority's objective.

Dated at Toronto August 8th, 2019

original signed
D.S. Colbourne
Inquiry Officer

SCHEDULE A

Witnesses:

Cassidy Ritz – (A) – Project Mgr. Strategic Initiatives, Policy and Analysis
Stephen Hardy – (A) – General Partner - Port Lands Co LP

Exhibits:

C.V. Cassidy Ritz

Document Planning Initiatives
Draft Central Waterfront Secondary Plan
Broadview Extension Alternatives
Notice of Grounds
Early Alignment Proposals