



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Expropriation of 39 Commissioners Street in Connection with Port Lands Flood Protection Project

Date: May 20, 2020

To: General Government and Licensing 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 (the "City").

SUMMARY

At its meeting on July 16, 17 and 18, 2019, City Council authorized, by way of adopting GL6.16, the initiation of expropriation proceedings in respect of the property municipally known as 39 Commissioners Street, in connection with the Port Lands Flood Protection project (the "Project") and in response to a request by Waterfront Toronto that the Waterfront Expropriation Protocol be utilized to protect construction timelines for the Project.

As Waterfront Toronto has requested that the City proceed with the expropriation, this report seeks approval from City Council to expropriate 39 Commissioners Street.

This report relates to the second stage of the expropriation process. During the first stage, the making of an application for approval to expropriate was authorized, and staff served and published notices on the registered owners of the property. The "Owners", as defined in the Expropriations Act, had 30 days to request an inquiry into whether the proposed taking is fair, sound, and reasonably necessary.

A hearing of necessity was initially requested and subsequently withdrawn. City Council may now approve the expropriation by this Stage 2 report. If authorized, the Expropriation Plan will be registered and associated notices served. Statutory offers of compensation must be served prior to the City taking possession of the expropriated property.

RECOMMENDATIONS

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

1. City Council, as approving authority under the Expropriations Act, approve the expropriation of 39 Commissioners Street, legally described in Appendix A and approximately shown on Appendix B (the "Property").
2. City Council authorize the City, as expropriating authority under the Expropriations Act, to take all steps necessary to comply with the Expropriations Act, including but not limited to the preparation and registration of an Expropriation Plan, and service of the Notices of Expropriation, Notices of Election as to a Date for Compensation, and Notices of Possession for the Property.
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 payable for the Property 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 Property, and of the potential business losses to the tenant of the Property that could result from an expropriation. As per the Waterfront Expropriation Protocol, Waterfront Toronto will be responsible for all costs associated with the expropriation and will indemnify the City in respect of such costs. The costs of expropriation include the market value of the Property, disturbance damages (if any), interest, applicable taxes, and all other costs stipulated under the Expropriations Act.

The City of Toronto has committed funding of \$255.5 million towards the Project which is included in the 2020-2029 Council Approved Capital Budget and Plan for the Waterfront Revitalization Initiative. The costs of the expropriation will be funded by Waterfront Toronto from the Project's tri-government funded budget of \$1.25 billion.

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

DECISION HISTORY

At its meeting on June 8 and 9, 2010, City Council adopted the report of May 4, 2010 from the Deputy City Manager titled "Waterfront Expropriation Protocol". The report outlined a Protocol between the City of Toronto and Waterfront Toronto to accelerate waterfront renewal by creating a common understanding of the requirements of the process, and the respective roles of both parties.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EX44.9>

At its meeting on July 4, 2017, City Council adopted the May 16, 2017 staff report from the Deputy City Manager, Cluster B, titled "Port Lands Planning Initiatives – Interim Report". City Council endorsed, in principle, the draft Port Lands Official Plan modification to the Central Waterfront Secondary Plan and the preferred street, transit, and municipal servicing solutions for the Port Lands South of Eastern Transportation and Servicing Master Plan.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG21.4>

At its meeting on December 5, 2017, City Council adopted the report of September 27, 2017 from the Deputy City Manager, Cluster B, titled "Port Lands Planning Initiatives – Final Report". City Council adopted recommendations that, among other things, endorsed the Villiers Island Precinct Plan (September 2017), prepared by Urban Strategies Inc. on behalf of Waterfront Toronto.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.6>

As part of the 2018 Budget process, City Council adopted the report of December 5, 2017 from the Deputy City Manager, Cluster B and the Acting Chief Financial Officer, titled "Port Lands Flood Protection". The report authorized the Deputy City Manager Cluster B, or his delegate, in consultation with the Acting Chief Financial Officer, to execute a Contribution Agreement with the Federal and Provincial governments and Waterfront Toronto for Port Lands Flood Protection, based substantially on terms attached to the report.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.BU39.1>

At its meeting on July 16, 27 and 18, 2019, City Council adopted the report of June 10, 2019 from the Acting Director of Real Estate Services, titled "Application for Approval to Expropriate - 39 Commissioners Street". City Council authorized the Director, Real Estate Services to initiate expropriation proceedings, if necessary, to acquire the property municipally known as 39 Commissioners Street. The report also recommended the Director, Real Estate Services to serve and publish Notices of Application for Approval to Expropriate, to forward any requests for hearings to the Chief Inquiry Officer, to attend any hearings in order to present the City of Toronto's position, and to report the Chief Inquiry Officer's recommendations to City Council for consideration.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.GL6.16>

COMMENTS

The Project, led by Waterfront Toronto, will provide flood protection to the level of a regulatory storm event (the equivalent of Hurricane Hazel) for the Port Lands and South of Eastern Avenue areas. As part of the Project, Commissioners Street will be raised, reconstructed, and expanded south of its current alignment to achieve flood protection goals, and to accommodate future vehicular, transit, cycling, pedestrian, and servicing infrastructure.

The Property is currently owned by Urban Domain Inc. (the "Owner"), and tenanted by Soulmutts Toronto Ltd. (the "Tenant"), which operates an indoor/outdoor dog daycare and boarding facility. The northern portion of the Property will be incorporated within the

widened Commissioners Street right-of-way, while the southern portion will be incorporated within a new park (currently referred to as "River Park North"). Once the Project is complete, it is anticipated that operational management of the northern portion of the Property will be transferred to Transportation Services and the southern portion will be transferred to Parks, Forestry and Recreation.

Pursuant to Council's authority and in accordance with the Expropriations Act, Notices of Application for Approval to Expropriate were served on the current "registered owners", as defined in the Expropriations Act, and published in a newspaper. Although both the Owner and the Tenant requested a hearing of necessity, and a hearing date was set for February 27, 2020, they withdrew their requests beforehand.

Waterfront Toronto's negotiations with the Owner and the Tenant to acquire the Property with vacant possession have been ongoing. However, an agreement has not been reached as of the date of this report. In order to protect the Project's construction schedule, Waterfront Toronto advises that it is appropriate to proceed with the expropriation of the Property. Therefore, 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 the expropriating authority, to take all necessary steps to proceed with the expropriation.

CONTACT

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David Stonehouse, Director, Waterfront Secretariat, City Planning Division, 416-392-8113, David.Stonehouse@toronto.ca

SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Appendix A - Property to be Expropriated
Appendix B - Location Map
Confidential Attachment 1

Appendix A
Property to be Expropriated

All right, title and interest in Part of Block 5, Plan 540E Toronto as in CT479992, City of Toronto, being all of PIN 21385-0074 (LT)

Appendix B Location Map

