



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Transaction Update on City-Owned 50 Cumberland Street/37 Yorkville Avenue (Municipal Car Park 15)

Date: March 13, 2020

To: Board of Directors, Toronto Parking Authority

From: Acting President, Toronto Parking Authority and City Solicitor

Wards: Ward 11, University-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report pertains to potential litigation involving the Toronto Parking Authority and the City of Toronto and contains advice that is subject to solicitor-client privilege.

SUMMARY

Item GM11.13, adopted by City Council on March 5, 6, and 7, 2012, approved a purchase agreement ("Purchase Agreement") between Toronto Parking Authority ("TPA") as vendor and MUC Properties Inc. as purchaser, involving a sale to MUC Properties Inc. ("MUC") of a stratified portion of City-owned and TPA managed property at 50 Cumberland Street/37 Yorkville Avenue, for a total consideration of approximately \$76 million and detailed as follows:

- a. purchase price of \$44 million (cash proceeds); plus
- b. an 800-space public parking garage to be built by the purchaser at its sole cost in accordance with TPA's parking specification and approved plans with an estimated value of \$32 million (\$40,000 per space); and
- c. purchase price bonus (if applicable) of \$60,000 per square foot of gross floor area of the project in excess of 550,000 square feet of gross floor area, established when the project is zoned in final form.

On September 21, 2015, MUC assigned the Purchase Agreement to MK 37 Yorkville Inc. and Kingsett Real Estate Growth LP No. 4 (collectively "Kingsett"). On December

15, 2015, TPA completed the sale of the upper strata portion of the property to Kingsett, with the City retaining ownership of the lower strata portion. On December 20, 2017, Kingsett sold to 33 Yorkville Residences Inc. ("33 Yorkville") the upper strata portion of 50 Cumberland/37 Yorkville, together with adjoining lands municipally known as 27 Yorkville Avenue and 26-30 Cumberland Street. The Purchase Agreement, as amended, which includes the purchaser obligation to construct the 800-space public parking garage, the TPA lease back dated December 18, 2015, the Construction Procedures Agreement dated December 18, 2015 and the Mutual Undertaking dated December 18, 2015 regarding the reciprocal cost-sharing and easement agreement to be entered into, was assigned by Kingsett to 33 Yorkville and Cresford Capital Corporation ("Cresford").

On March 2, 2020, TPA received correspondence that the construction lenders for 33 Yorkville and Cresford will bring an application now returnable on March 27, 2020 to appoint a receiver and manager for 33 Yorkville and Cresford. The purpose of this report is to inform TPA Board of Directors of relevant information in view of these developments.

Confidential Attachment 1 contains information pertaining to potential litigation and contains advice that is subject to solicitor-client privilege.

RECOMMENDATIONS

The Acting President, Toronto Parking Authority and the City Solicitor recommend that:

1. The Board of Directors of Toronto Parking Authority direct that the information contained in Confidential Attachment 1 remain confidential in its entirety at the discretion of the City Solicitor, as it pertains to potential litigation involving the Toronto Parking Authority and the City of Toronto and contains advice that is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial implications are discussed in Confidential Attachment 1.

DECISION HISTORY

At its meeting of March 5, 6, and 7, 2012, City Council adopted Item GM11.13 - Sale of Stratified Portion of 50 Cumberland Street / 37 Yorkville Avenue Municipal Car Park No. 15 (Ward 27), and authorized the sale transaction.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.GM11.13>

At its meeting of August 25, 26, 27 and 28, 2014, City Council approved applications to amend the Official Plan and Zoning By-Law to permit two linked mixed-use towers of 62 storeys on Yorkville Avenue and of 40 storeys on Cumberland Street with a 2, 7, and 10-storey base for the properties on 27-37 Yorkville Avenue, 26-32 and 50 Cumberland Street.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE34.32>

CONTACT

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SIGNATURE

Robin Oliphant, Acting President
Toronto Parking Authority

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Transaction Update - 50 Cumberland/37 Yorkville

Confidential Attachment 1 - Confidential Appendix 1