

2075 Bayview Avenue – Sunnybrook Health Sciences Centre – Agreement Re: Road Widening Conveyance

Date: March 29, 2021

To: City Council

From: City Solicitor

Wards: Ward 15 - Don Valley West

SUMMARY

The purpose of this report is to seek authority for the City to enter into an agreement with the heirs, executors and trustees of the estate of Alice Kilgour, the Government of Canada and the University of Toronto, to confirm that the conveyance by the University of Toronto to the City, for road widening purposes, of a portion of the Sunnybrook Health Sciences Centre site will not trigger the reversion of the remainder of the site to the City for public park purposes or to the heirs of Alice Kilgour pursuant to the terms of the original 1928 conveyance of these lands to the City by Alice Kilgour.

This matter is time sensitive because the conveyance and dedication of the road widening lands adjacent to Bayview Avenue cannot be completed until this agreement is executed. Consequently, this report is being sent directly to City Council.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council authorize the City to enter into an agreement with the heirs, executors and trustees of the estate of Alice Kilgour, Her Majesty the Queen in Right of Canada as represented by the Minister of Veterans Affairs and The Governing Council of the University of Toronto, to confirm that the conveyance by The Governing Council of the University of Toronto to the City, for road widening purposes, of a portion of the Sunnybrook Health Sciences Centre site will not trigger the reversion of the remainder of the site to the City for public park purposes or to the heirs of Alice Kilgour pursuant to the terms of the original 1928 conveyance of these lands to the City by Alice Kilgour, on such terms and in a form as may be satisfactory to the City Solicitor.

FINANCIAL IMPACT

There is no financial impact associated with the City entering into the agreement with the heirs, executors and trustees of the estate of Alice Kilgour, Her Majesty the Queen in Right of Canada as represented by the Minister of Veterans Affairs and The Governing Council of the University of Toronto.

DECISION HISTORY

At its meeting on February 6 and 7, 2012, City Council authorized the City to enter into an agreement to confirm that the conveyance by The Governing Council of the University of Toronto to the City, for road widening purposes, of a portion of the Sunnybrook Health Sciences Centre site would not trigger the reversion of the remainder of the site to the City for public park purposes or to the heirs of Alice Kilgour pursuant to the terms of the original 1928 conveyance of these lands to the City by Alice Kilgour. The Council decision and staff report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.CC16.2>

COMMENTS

In 2020, application was made to the City for site plan approval in respect of a three-storey addition to the Sunnybrook Health Sciences Centre's E-Wing, which is designed to treat brain related disorders. A Notice of Approval Conditions was issued on May 12, 2020 which included a condition to convey to the City a road widening along Bayview Avenue described as Part 1 on Reference Plan 66R-30465.

Sunnybrook Health Sciences Centre is located on lands that were once owned by Alice Kilgour. In 1928, Alice Kilgour conveyed the lands to The Corporation of the City of Toronto, so long as the lands were used as a public park known as Sunnybrook Park and subject to various other conditions set out in the deed to the City, failing which the lands would automatically revert back to Alice Kilgour or her heirs. In 1944, with the consent of Alice Kilgour's heirs, The Corporation of the City of Toronto conveyed the lands to His Majesty the King in Right of Canada for use as a military hospital.

In 1963, Her Majesty the Queen in Right of Canada conveyed a portion of the lands back to The Corporation of the City of Toronto, who then conveyed the lands to The Municipality of Metropolitan Toronto, for use for public park purposes. In 1966, with the consent of The Corporation of the City of Toronto and the heirs, executors and trustees of Alice Kilgour pursuant to an agreement dated December 1, 1965, Her Majesty the Queen in Right of Canada conveyed a portion of its remaining lands to The Governors of the University of Toronto, for hospital purposes and medical, research and university teaching purposes related thereto.

Upon the lands ceasing to be used for such hospital and medically-related purposes, The Governors of the University of Toronto covenanted to transfer the lands to The Municipality of Metropolitan Toronto for public park purposes and, upon the lands ceasing to be used by Metro for such purposes, the lands would automatically revert to The Corporation of the City of Toronto on the terms set out in the original 1928 conveyance to the City. The University of Toronto currently leases the lands to the Sunnybrook Health Sciences Centre.

As noted above, as a condition of site plan approval for the Sunnybrook Health Sciences Centre E-Wing expansion project, the University of Toronto is required to convey a portion of its lands to the City for road widening purposes. There is a concern, however, that by doing so, the University will inadvertently trigger the reversion of the entire hospital site to the City for public park purposes on the terms set out in the original 1928 conveyance of these lands by Alice Kilgour to the City and, if such terms are not complied with by the City, that the entire site will revert to the heirs of Alice Kilgour. The timing for the conveyance of the road widening is dependent on a resolution of this issue.

To ensure that this unintended consequence does not result, the University of Toronto has requested that the City sign an agreement that will also be signed by the heirs, executors and trustees of the estate of Alice Kilgour, Her Majesty the Queen in Right of Canada, as represented by the Minister of Veterans Affairs and The Governing Council of the University Toronto, to confirm that all of the parties consent to the road widening conveyance to the City and that such conveyance will not trigger the reversion of the entire Sunnybrook Health Sciences Centre site, including the road widening lands, to the City or to the heirs of Alice Kilgour pursuant to the terms of the original 1928 conveyance of the lands to the City by Alice Kilgour.

A similar request was previously made of the City when application was made to the City for site plan approval in respect of an expansion to the Sunnybrook Health Sciences Centre's emergency room. A Notice of Approval Conditions was issued on April 26, 2006 which included a condition to convey a road widening strip along Bayview Avenue to the City.

In 2012, City Council authorized the City to enter into an agreement with the heirs, executors and trustees of the estate of Alice Kilgour, Her Majesty the Queen in Right of Canada as represented by the Minister of Veterans Affairs and The Governing Council of the University of Toronto, to confirm that the conveyance by The Governing Council of the University of Toronto to the City, for road widening purposes, of a portion of the Sunnybrook Health Sciences Centre site would not trigger the reversion of the remainder of the site to the City for public park purposes or to the heirs of Alice Kilgour pursuant to the terms of the original 1928 conveyance of these lands to the City by Alice Kilgour.

The agreement was subsequently executed by all of the parties and the road widening conveyance was successfully completed without triggering the reversion of the remainder of the site.

It is recommended that the City sign a similar agreement at this time to enable the current road widening conveyance to proceed without the risk of any reversionary interests being triggered.

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SIGNATURE

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City Solicitor