



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Litigation Update Regarding Option to Purchase Retail Component of Development at 935 Eglinton Avenue West (Municipal Car Park 655)

Date: March 19, 2021

To: Board of Directors, Toronto Parking Authority

From: President, Toronto Parking Authority and City Solicitor

Wards: Ward 12, Toronto-St. Paul's

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

This is a report on the status of the legal action commenced by Toronto Parking Authority (TPA) on January 17, 2019 against BSaR (Eglinton) Ltd. and BSaR (Eglinton) LP (both together referred to as BSaR), and BSaR's principals, Tarek Sobhi, and Tyler Hershberg. In the legal action, TPA is claiming damages in the amount of \$7.0 million for breach of contract related to an option held by TPA to purchase the retail unit (Retail Component) of a joint venture development at 935 Eglinton Avenue West (the Property).

RECOMMENDATIONS

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

1. The Board of Directors of Toronto Parking Authority adopt the confidential instructions to staff in Confidential Attachment 1;
2. The Board of Directors of Toronto Parking Authority authorize the public release of the confidential instructions to staff contained in Confidential Attachment 1, at the discretion of the City Solicitor; and

3. The Board of Directors of Toronto Parking Authority direct that the balance of the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial implications are discussed in Confidential Attachment 1.

DECISION HISTORY

At its meeting of November 17, 2009 (TPA Board Minute #09-161), TPA Board of Directors authorized staff to proceed with negotiating the terms and conditions of an agreement of purchase and sale (APS) with BSaR based on a non-binding Letter of Intent (LOI).

At its meeting of May 18, 2010 (TPA Board Minute #10-074), TPA Board of Directors approved the APS with BSaR involving the sale of the development rights through a conveyance to BSaR of a stratified interest in City-owned lands to be declared as surplus at Municipal Car Park 655, 935 Eglinton Avenue West.

The City's internal approval process of declaring the subject site surplus to the City's needs was followed and the Property was declared surplus on August 6, 2010 by Delegated Approval Form Tracking No.: 2010-161.

At its meeting of February 7, 2011, City Council adopted the recommendations in Item GM1.13 – Purchase and Sale Transaction of 935 Eglinton Avenue West – Municipal Car Park No. 655, and authorized the sale of the Property.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.GM1.13>

At its meeting of December 14, 2020, TPA Board of Directors adopted a report on the status of the legal action commenced by TPA on January 17, 2019 against BSaR (Eglinton) Ltd. and BSaR (Eglinton) LP (both together referred to as "BSaR"), and BSaR's principals, Tarek Sobhi, and Tyler Hershberg.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PA20.11>

COMMENTS

The Confidential Attachment provides an update on the status of the litigation against BSaR and BSaR's principals, Tarek Sobhi, and Tyler Hershberg, and recommends next steps.

CONTACT

Michele A. Wright, Practice Lead & Solicitor, Litigation, Legal Services,
416-397-5342, Michele.A.Wright@toronto.ca

Jeffrey Dea, Vice President, Business Development, Toronto Parking Authority,
437-243-6545, Jeffrey.Dea2@toronto.ca

Gregory Blyskosz, Manager, Parking Client Services, Toronto Parking Authority,
416-450-2000, gblysko@toronto.ca

SIGNATURE

W. Scott Collier, President
Toronto Parking Authority

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Litigation Update Regarding Option to Purchase Retail
Component of Development at 935 Eglinton Avenue West (Municipal Car Park 655)