



# REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

## Transaction Update of City-owned 50 Cumberland Street / 37 Yorkville Avenue (Municipal Car Park 15)

**Date:** April 28, 2021

**To:** Board of Directors, Toronto Parking Authority

**From:** President, Toronto Parking Authority and City Solicitor

**Wards:** Ward 11 - University-Rosedale

### REASON FOR CONFIDENTIAL INFORMATION

---

Confidential Attachment 1 contains information and advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

### SUMMARY

---

The purpose of this report is to provide the Board of Directors of Toronto Parking Authority with an update regarding the sale of the former City-owned above-grade lands at 50 Cumberland Street / 37 Yorkville by PricewaterhouseCoopers LLP, as receiver and manager of the assets 33 Yorkville Residences Inc. and 33 Yorkville Residences Limited Partnership.

### RECOMMENDATIONS

---

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

1. The Board of Directors of Toronto Parking Authority adopt this report and Confidential Attachment 1 for information.
2. The Board of Directors direct that the information contained in Confidential Attachment 1 remain confidential in its entirety at the discretion of the City Solicitor, as it contains information and advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

## FINANCIAL IMPACT

---

There are no financial implications.

## 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>

At its meeting on March 11, 2020, the Board of Directors, Toronto Parking Authority were provided with information regarding insolvency proceedings commenced by the construction lenders bcIMC Construction Fund Corporation (bcIMC) and Otera Capital Inc. (Otera) against 33 Yorkville Residences Inc.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PA14.4>

At its meeting of July 8, 2020, the Board of Directors, Toronto Parking Authority were provided with further information and updates regarding the insolvency proceeding.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PA16.2>

At its special meeting of October 15, 2020, the Board of Directors, Toronto Parking Authority were provided with information on a proposed sale by the Receiver.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PA17.1>

At its meeting of November 25, 2020, City Council adopted Item GL17.12 - Transaction Update of City-owned 50 Cumberland Street/37 Yorkville Avenue (Municipal Car Park 15).

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.GL17.12>

As set out in DAF 2021-049 dated January 30, 2021, approval was granted by the Executive Director, Corporate Real Estate Management (Executive Director), of the terms and conditions of the Consent Agreement (to be executed by the Acting President of TPA) as set out in the Confidential Briefing Note addressed to the Executive Director and Acting President of TPA dated January 29, 2021.

## COMMENTS

---

As detailed in PA17.1, adopted by the Board of Directors on October 15, 2020, PricewaterhouseCoopers LLP (Receiver), as receiver and manager of the assets of 33 Yorkville Residences Inc. and 33 Yorkville Residences Limited Partnership (33 Yorkville Subsidiaries), entered into an agreement of purchase and sale with the successful proponent dated August 29, 2020 (New APS) for lands comprising: (i) the former City-owned above grade lands at 50 Cumberland/37 Yorkville Ave., (ii) part of a former adjoining City-owned lane, (iii) 26 - 30 Cumberland, and (iv) 27 – 29 Yorkville Avenue.

As part of the sale, the successful proponent is required to assume the obligations of the 33 Yorkville Subsidiaries to construct and complete a new replacement municipal parking garage within the below-grade lands at 50 Cumberland / 37 Yorkville retained in City ownership, and to be managed by Toronto Parking Authority (TPA). On closing, the successful proponent will assume the "TPA Agreements" comprising: (i) the agreement of purchase and sale dated February 16, 2011 between TPA as vendor and MUC Properties Inc., as purchaser, as amended; (ii) a Construction Procedures Agreement made as of December 18, 2015; and a Restrictive Covenant Agreement made as of December 18, 2015 and registered December 18, 2015 as Instrument No. AT4100213, on the terms and conditions as set out in Item GL17.12, adopted by City Council on November 25, 2020.

The successful proponent required finalization of a Consent to Assignment (Consent), before waiving its due diligence on February 4, 2021. The form of Consent was finalized, executed and delivered to the Receiver's counsel in escrow.

The New APS was completed on March 29, 2021 and the executed Consent was released from escrow following receipt by TPA and the City of all deliverables and amounts to be paid to TPA and the City.

Further information about this transaction is contained in the confidential attachment.

## CONTACT

---

Soo Kim Lee, Lawyer, Real Estate Section, Legal Services, 416-392-1246,  
[Sookim.Lee@toronto.ca](mailto:Sookim.Lee@toronto.ca)

Jeffrey Dea, Vice President, Business Development, Toronto Parking Authority,  
437-243-6545, [Jeffrey.Dea2@toronto.ca](mailto:Jeffrey.Dea2@toronto.ca)

Gregory Blyskosz, Manager, Parking Client Services, Toronto Parking Authority,  
416-450-2000, [gblysko@toronto.ca](mailto:gblysko@toronto.ca)

## **SIGNATURE**

---



W. Scott Collier, President,  
Toronto Parking Authority

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

Confidential Attachment 1 - Transaction Update of 50 Cumberland Street / 37 Yorkville Avenue