

Expropriation of 30 Newbridge Road and 36 North Queen Street - Request for Direction Regarding Ontario Land Tribunal Hearing

Date: July 11, 2022

To: City Council

From: City Solicitor

Wards: Ward 3 - Etobicoke-Lakeshore

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding litigation.

SUMMARY

In 2018 City Council authorized the expropriation of the properties municipally known as 30 Newbridge Road and 36 North Queen Street (the "**Properties**"), comprising of approximately 73 acres, in order to complete the Toronto Transit Commission's Line 2 Modernization Plan. The Plan will accommodate future service levels by increasing the storage and maintenance capacity of its existing facilities for the future.

The expropriated landowner has made a claim for damages pursuant to the *Expropriations Act*. A seven week hearing at the Ontario Land Tribunal (OLT) is scheduled to commence October 11, 2022.

The purpose of this report is to request further instructions regarding mediation of the expropriation claim advanced by the expropriated landowner. This report deals with litigation that affects the City and contains advice or communications that are subject to solicitor-client privilege. The information concerning mediation and staff recommendations in this regard are being provided as confidential material.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, if adopted by City Council, at the discretion of the City Solicitor.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial impact is discussed in Confidential Attachment 1 to this report.

DECISION HISTORY

At its meeting held on March 28 and 29, 2017, City Council adopted the recommendations contained within GM18.13 titled "Expropriation of 30 Newbridge Road and 36 North Queen Street" thereby authorizing the Director, Real Estate Services to continue negotiations for the acquisition of the Properties and initiate the expropriation process if it is deemed necessary or appropriate to proceed in that manner.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM18.13>

At its meeting held on May 22, 23 and 24, 2018, City Council adopted the recommendations contained within GM27.14 titled "Expropriation of 30 Newbridge Road and 36 North Queen Street" thereby approving the expropriation of the properties municipally known as 30 Newbridge Road and 36 North Queen Street, authorizing staff to take all necessary steps to comply with the *Expropriations Act*, directing the Director, Real Estate Services to obtain a valuation of the properties and to sign offers of confidential compensation.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM27.14>

At its meeting held on July 23, 24, 25, 26, 27 and 30, 2018, City Council adopted the recommendations contained within MM44.61 titled "Expropriation of 30 Newbridge Road and 36 North Queen Street for New TTC Line 2 West Service Yard - by Councillor Justin J. Di Ciano, seconded by Councillor Mark Grimes" thereby directing the Director, Real Estate Services to approve and serve an Offer of Compensation on all registered owners, in accordance with the requirements of the *Expropriations Act*.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM44.61>

The OLT has scheduled a seven week hearing beginning on October 11, 2022 for adjudication of the claim.

COMMENTS

This report has been prepared in consultation with staff from Corporate Real Estate Management, the Toronto Transit Commission (the "TTC"), and outside legal counsel.

The subject property is located in Etobicoke at 30 Newbridge Road 36 North Queen Street, adjacent to the existing Obico rail yard. The Properties were expropriated as they were considered the most suitable to acquire given the TTC's needs, as they meet the applicable area (approximately 73 acres) and location requirements (close proximity to Line 2 - Bloor-Danforth) to serve as the location of a subway vehicle storage and maintenance facility. The City's acquisition of the Properties also permits the TTC to consolidate planned capital infrastructure improvements and is a key strategic element in the modernization of Line 2.

The owner of the expropriated property has contested the market value compensation offered by the City and made additional claims of compensation. The parties are considering further discussions in the context of the litigation.

The City Solicitor requires further instructions. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client and litigation privilege. Confidential Attachment 1 to this report contains confidential advice and should be considered by Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information