

The Disposition of 13 Barberrry Place

Date: February 16, 2023

To: General Government Committee

From: Executive Director, Corporate Real Estate Management

Wards: 17 - Don Valley North

SUMMARY

This report seeks City Council authority to dispose of a portion of the property municipally known as 13 Barberrry Place, Toronto, as shown cross hatched in blue and marked as Part 1 on Attachment 1 to this report (the "Surplus Lands") without giving the owners from whom the Surplus Lands were expropriated the first chance to repurchase the Surplus Lands on the terms of the best offer received by the City, pursuant to section 42 of the Expropriations Act, R.S.O. 1990, c. E.26, as amended (the "Expropriations Act").

The Surplus Lands form a small remnant portion of the original expropriated property at 13 Barberrry Place. The previous owner does not own any abutting property, and therefore it is unlikely that the previous owner would have any interest in acquiring the Surplus Lands. Furthermore, City staff have been unable to locate the previous owner. In 2018, the Surplus Lands (along with the rest of the lands at 13 Barberrry Place) were expropriated by the City for the purposes of a Transportation Services road project.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management, recommends that:

1. City Council, as the approving authority under the Expropriations Act, approve the disposition of a portion of the property municipally known as 13 Barberrry Place, Toronto, as shown cross hatched in blue and marked as Part 1 on Attachment 1 (the "Surplus Lands"), by the City, as expropriating authority, without giving the owner from whom the Surplus Lands was expropriated the first chance to repurchase the Surplus Lands on the terms of the best offer received by the City.

2. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

FINANCIAL IMPACT

There are no financial implications resulting from this approval.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

DECISION HISTORY

In accordance with the City's Real Estate Disposal By-law, No. 814-2007, the Surplus Lands were declared surplus in February 2023 by Delegated Authority Form 2023-052 with the intended manner of disposal to be by way of inviting an offer to purchase from JFJ Development Inc.

On December 8, 2017, by the Enactment of By-Law No. 1378-2017, City Council authorized the expropriation of 13 Barberrry Place and 23 Barberrry Place to create a new east/west road which will connect Rean Drive to Kenaston Gardens. Expropriation Plan AT4797618 was registered on February 6, 2018 and Notices of Expropriation were served on the owners of the properties on March 1, 2018.

<https://secure.toronto.ca/council/agenda-item.do?item=2017.GM23.17>

At its meeting held on August 25, 26, 27 and 28, 2014, City Council adopted Item GM32.17 "Required Land Acquisitions and Related Costs to Complete East-West Road between Rean Drive and Kenaston Gardens" and authorized the purchase of 13 Barberrry Place based on its current appraised value and the expropriation of 23 Barberrry Place in the event it could not be obtained for nominal consideration through the development process, if and when a development application was submitted.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.GM32.17>

At its meeting held on February 19 and 20, 2014, City Council adopted Item MM48.34., and requested the Director of Real Estate Services, in consultation with the Director of Transportation Services, North York District, the Director of Community Planning, North York District and the City Solicitor to identify the land acquisitions necessary to complete the east/west road running from Rean Drive to Kenaston Gardens and to report to Government Management Committee with respect to the means by which those lands could be acquired and the potential cost and source of funds to complete the acquisitions.

<https://secure.toronto.ca/council/agenda-item.do?item=2014.MM48.34>

COMMENTS

Background

By the registration of Plan of Expropriation AT4797618 on February 6, 2018, the City expropriated the lands located at 13 Barberry Place from the owner, as part of a Transportation Services project to construct a new east/west road running from Rean Drive to Kenaston Gardens. The proposed road was required to improve pedestrian connections to the TTC Bayview subway and for vehicular circulation. After Transportation Services staff prepared the final plans for the new road, it was determined the Surplus Lands, being the northerly portion of the 13 Barberry Place lands and having an area of approximately 2,319 square feet, were no longer required for the new road project.

Right of First Refusal under the Expropriations Act

Under section 42 of the Expropriations Act, lands in the possession of the City that have been expropriated and are no longer required for its purposes, cannot be disposed of without giving the owners from whom the land was taken, the first chance to repurchase the lands on the terms of the best offer received by the City, unless City Council provide the authority to do so. Therefore, the City requires the approval of City Council, as approving authority, to dispose of the Surplus Lands without giving the prior owner the first chance to repurchase them on the terms of the best offer received by the City. In addition, as the expropriation of 13 Barberry Place occurred less than 10 years ago, City staff do not have delegated authority to provide the above approval, and such approval must come directly from City Council, at its discretion.

Proposed Sale of Surplus Lands

The owner of the adjoining lands to the north of the Surplus Lands, JFJ Development Inc., is proposing a residential development and has expressed interest in purchasing the Surplus Lands to improve access to this development. Corporate Real Estate Management staff are in active negotiations with the adjoining landowner for the sale of the Surplus Lands, for which separate authority will be sought.

Pursuant to the delegated authority contained in Article 1 of Chapter 213 of the Municipal Code, the Deputy City Manager, Corporate Services has declared the Surplus Lands to be surplus, with the intended manner of disposal to be by way of inviting an offer to purchase from the adjoining landowner, JFJ Development Inc.

The Surplus Lands form a small remnant portion of the original expropriated property at 13 Barberry Place. The home at the property will be demolished in order to build the new road. Due to these reasons, and given that the previous owner does not own any abutting property, it is unlikely that the previous owner would have any interest in acquiring the Surplus Lands. Furthermore, City staff have been unable to locate the previous owner.

In contrast, the Surplus Lands are valuable to the adjoining landowner, as they can provide access to its proposed development. It is unlikely that the previous owner would be willing to offer the purchase price that staff anticipate can be negotiated with the adjoining landowner.

Conclusion

Given the above factors, City staff recommend that City Council approve the disposition of the Surplus Lands without giving the owner from whom the Surplus Lands was expropriated the first chance to repurchase it on the terms of the best offer received by the City.

CONTACT

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SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Attachment 1 - Site Plan of Surplus Lands

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