

## **Application for Approval to Expropriate a portion of the One Foot Reserve near Bantry Avenue - Stage 1**

**Date:** September 18, 2023

**To:** General Government Committee

**From:** Executive Director, Corporate Real Estate Management

**Wards:** 12 - Toronto-St. Paul's

### **SUMMARY**

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This report seeks authority to initiate expropriation proceedings for a fee simple interest in a portion of a one-foot reserve at the end of Bantry Avenue, for the purposes of inclusion in a pedestrian walkway to be constructed from Montclair Avenue south towards Bantry Avenue and then to the public street known as Lower Village Gate. The pedestrian walkway will provide critical access to the TTC St. Clair West Subway Station and the Cedarvale Ravine as part of a private condominium development at 63-91 Montclair Avenue.

This is Stage 1 of the expropriation process. Should City Council adopt the recommendations in this report, staff will serve and publish the Notice of Application for Approval to Expropriate in accordance with the Expropriations Act (the "Act"). Owners will have 30 days to request a hearing into whether the City's proposed taking is fair, sound and reasonably necessary.

Staff will report back to City Council with a Stage 2 report, providing details on property values and other costs, and if a hearing is requested, the report of the Ontario Land Tribunal. The proposed expropriation would only be effected after adoption by City Council (as approving authority) of the Stage 2 report, and by registration of an expropriation plan, which would then be followed by the service of further notices as required by the Act.

Before the City could take possession of the expropriated property, offers of compensation based on appraisal reports must be served on each Registered Owner as defined in the Act.

### **RECOMMENDATIONS**

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The Executive Director, Corporate Real Estate Management recommends that:

1. City Council authorize the initiation of expropriation proceedings for a fee simple interest in a portion of the one-foot reserve on Registered Plan 711 illustrated as Part 5 on draft reference plan attached as Attachment A (the "Property"), for the purposes of inclusion in a pedestrian walkway to be constructed from Montclair Avenue to the public street known as Lower Village Gate.
2. City Council grant authority to serve and publish the Notices of Application for Approval to Expropriate Land for the Property, to forward to the Ontario Land Tribunal any requests for hearings received, to attend the hearing(s) to present the City's position, and to report the Ontario Land Tribunal's recommendations to City Council for its consideration.

## **FINANCIAL IMPACT**

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The costs to serve and publish the required Notices of Application for Approval to Expropriate, together with any costs related to attendance at the hearing(s), if any, will be funded from Cost Centre UR0001. All costs, once completed are to be invoiced to Montclair Developments Inc., in accordance with an Expropriation Indemnity Agreement entered into by the City and Montclair Developments Inc. executed on May 2, 2023. Therefore, the Stage 1 expropriation will be cost neutral to the City.

Before proceeding with the expropriation, staff will report to City Council through the General Government Committee for approval of the expropriation (the "Stage 2 Report"). The Stage 2 Report will identify the estimated funding requirement and the funding source for the market value of the Property, as well as any other anticipated costs including disturbance damages, legal and appraisal costs, land transfer tax costs, and all other associated costs stipulated under the Act.

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

## **DECISION HISTORY**

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City Council authorized a settlement of a zoning by-law amendment application (20 160786 SET 12 OZ) from Montclair Developments Inc., by adoption of Item CC39.12 on February 2, 2022. The Settlement was presented to the Ontario Land Tribunal. The City Council decision is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.CC39.12>

## **COMMENTS**

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### **Background**

Expropriation of a Portion of the One Foot Reserve near Bantry Avenue - Stage

As a result of the settlement (the "Settlement"), Montclair Developments Inc.'s (the "Applicant") zoning bylaw amendment was issued by the Ontario Land Tribunal, allowing for the future construction of two towers at 63-91 Montclair Avenue (the "Development").

As part of the Development, the Applicant will construct a walkway, which will run along the westernmost side of the development site, rising from Montclair Avenue towards Bantry Avenue to the south, connecting to the public portion of Lower Village Gate (the "Walkway"). The location of the Walkway is shown on the drawing attached as Attachment B.

The Walkway will be maintained by the condominium corporation resulting from the Development, and will provide critical access to the TTC St. Clair West Subway Station and the Cedarvale Ravine for the benefit of the greater community. The Walkway will improve the current access, which does not meet accessibility standards, and is desirable from a planning perspective. The Walkway was a critical component of the Settlement, and was the result of a mediated outcome between a number of City Divisions, and the Applicant.

### **The City's Requirement for the Property**

While most of the Walkway will be constructed on the development site, owned by the Applicant, part will be on City-owned property. The Walkway also traverses a portion of a one-foot (0.65 square metre) reserve shown as Part 5 on the draft reference plan attached as Attachment A and shown as third-party lands outlined in Attachment B (the "Property"). The registered owners of the Property are deceased, making it difficult for the Applicant to secure a transfer of the Property required for the Walkway.

Given the importance of the Walkway from a planning and transportation perspective, as part of the Settlement, the City agreed to initiate expropriation proceedings to acquire the Property at the Applicant's expense. Once expropriated, the Property will be incorporated into the Walkway and will remain in City ownership.

The City and the Applicant entered into an Expropriation Indemnity Agreement with respect to the costs that will be incurred by the City to expropriate the Property. The Applicant will be responsible for constructing the Walkway. Future maintenance and indemnity obligations in favour of the City, will reside with the condominium corporation created as a result of the Development.

### **CONTACT**

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### **SIGNATURE**

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Patrick Matozzo  
Executive Director, Corporate Real Estate Management

## **ATTACHMENTS**

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Attachment A - Draft Reference Plan  
Attachment B - Drawing of Walkway





# Attachment B - Drawing of Walkway

