

Application for Approval to Expropriate Temporary Easements at 2295 and 2333 Dundas Street West - Stage 1

Date: October 16, 2023

To: General Government Committee

From: Executive Director, Corporate Real Estate Management

Wards: 4 - Parkdale-High Park

SUMMARY

This report seeks authority to initiate expropriation proceedings for temporary easement interests over parts of 2295 Dundas Street West and 2333 Dundas Street West (the "Property Requirements") required to facilitate renovations of an adjacent City-owned building at 2299 Dundas Street West (the "City Building") to accommodate residents and clients from Shelter, Support and Housing Administration's Seaton House.

In January 2020, City Council approved the initiation of expropriation proceedings to acquire the original property requirements with two separate property owners: 1) 2295 Dundas Street West ("Property Owner A"); 2) 2333 Dundas Street West ("Property Owner B"). As a result of negotiations in 2020, Property Owner A agreed to enter into an amicable agreement to register a temporary easement against the property (the "Amicable Easement"). This would have allowed the City to carry out the necessary work with respect to 2295 Dundas Street West. Unfortunately, a negotiated agreement with Property Owner B could not be finalized and consequently the work was not completed. As the Amicable Easement is due to expire on December 31, 2023, City staff are recommending that Stage 1 expropriation proceeding be initiated to protect project timelines, should the ongoing negotiations to extend the duration of the Amicable Easement be unsuccessful.

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 affected 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

The Executive Director, Corporate Real Estate Management recommends that:

1. City Council authorize the initiation of expropriation proceedings for temporary easements over parts of 2333 Dundas Street West and 2295 Dundas Street West, as set out in Attachment A (the "Property Requirements") for the purposes of facilitating the renovation of the adjacent City-owned building at 2299 Dundas Street West (the "City Building").
2. City Council grant authority to serve and publish the Notices of Application for Approval to Expropriate for the Property Requirements, 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

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 the capital account CHS-040-03.

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 Requirements, 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 impact information.

DECISION HISTORY

At its meeting on November 9, 2021, City Council adopted EC25.6 "2022 Shelter Infrastructure Plan, Community Engagement Review and Amendments to Contracts and Purchase Orders to Support Shelter Services," authorizing the General Manager,

Shelter, Support and Housing Administration to enter into new or amend existing agreements, other than leases or other property transaction documents for which delegated authority has been granted to Corporate Real Estate Management, as required, to open and operate shelters outlined in the 2022 Shelter Infrastructure Plan including 2299 Dundas Street West.

<https://secure.toronto.ca/council/agenda-item.do?item=2021.EC25.6>

On December 18, 2020, the City registered a temporary easement over the Property Requirements at 2295 Dundas Street West, expiring no later than December 31, 2023, as authorized by DAF 2020-183.

https://www.toronto.ca/wp-content/uploads/2020/08/8cf1-2020-183_2295-Dundas-St-W.pdf

At its meeting on January 29, 2020, City Council adopted GL11.6 title "Expropriation of Temporary and Permanent Easements at 2333 and 2295 Dundas Street West for a Municipal Shelter."

<https://secure.toronto.ca/council/agenda-item.do?item=2020.GL11.6>

On September 4, 2018, the Offer to Sell from UGO IV INC. to acquire the Property was authorized to be accepted by the City as per Delegated Authority Form 2018-302.

https://www.toronto.ca/wp-content/uploads/2018/09/972b-2018-302_-2299-Dundas-DAF.pdf

COMMENTS

Background

In March 2019, the City acquired the City Building as a transition shelter site to accommodate residents and clients from Seaton House who are being relocated. The Seaton House is operated by SSHA, and is the City's largest men's shelter with four programs to help up to 543 homeless men in downtown Toronto.

Accessibility for Ontarians with Disabilities Act ("AODA") legislative requirements were necessary as part of the work planned to convert the existing 4 story building into a transitional shelter site. To comply with the AODA requirements, it was necessary for the City to increase the roof height of the overall structure, which required approval by the Committee of Adjustments. Although variances were approved by the Committee of Adjustments, an appeal was filed resulting in the need to attend a hearing with the Toronto Local Appeal Body ("TLAB"). Awaiting a Hearing date with the TLAB, the project was delayed until the Appellant ultimately withdrew their appeal on December 16, 2021.

Further changes to program requirements and ensuring inclusion of City Council adopted Net Zero commitments, resulted in changes to the overall design. However, the project was tendered in the summer of 2023 and is expected to close on October 16, 2023.

Negotiations with the Property Owners

In January 2020, City Council approved the initiation of expropriation proceedings to acquire the original property requirements with Property Owner A and Property Owner B. Through negotiations with the Property Owner A and Property Owner B, changes were made to the renovation plans for the City Building (as described in the preceding section) and the property requirements were refined to the new Property Requirements set out in Appendix A.

As a result of negotiations in 2020, Property Owner A agreed to enter into an Amicable Agreement with the City to register a temporary easement against the property. That temporary easement, registered on December 18, 2020, would have allowed the City to carry out the necessary work with respect to 2295 Dundas Street West. Unfortunately, a negotiated agreement with Property Owner B could not be finalized and consequently the work was not completed. As the Amicable Easement is due to expire on December 31, 2023, City Staff are recommending that Stage 1 expropriation proceeding be initiated to protect project timelines, if negotiations to extend the duration of the Amicable Easement are unsuccessful.

The City's Requirement for the Property Requirements

The Property Requirements set out in Appendix A are required because the City Building is a zero-lot-line property. The City cannot carry out the necessary and required renovations without temporary access to both 2295 and 2333 Dundas Street West.

The Property Requirements will allow the City to complete localized repairs on the north wall of the City Building where the brick is deteriorated and provide the application of a new protective coating system on the entire north wall in order to prevent water penetration and to complete other ancillary works as may be required to facilitate renovations to the site, including without limitation, crane swings or hydro relocations. The City will provide garage roof protection during all times of the construction work. In August 2019, staff informed the affected property owners about the easement needs. In October 2019, the affected property owners were provided with compensation details.

Conclusion

Staff continue to negotiate with respect to extending the duration of the Amicable Easement, and with respect to the property requirement needed from the owner of 2333 Dundas Street West. However, staff recommend the initiation of expropriation proceedings for the Property Requirements in order to maintain Project timelines. If the City Building does not open by the closure date of the Seaton House in late 2024, it will be difficult to identify and secure an alternative site.

CONTACT

Alison Folosea, Director, Transaction Services, Corporate Real Estate Management, 416-338-6943, Alison.Folosea@toronto.ca

Lisa Barroso, Director, Project Management Office, Corporate Real Estate Management, 416-338-0237, Lisa.Barosso@toronto.ca

Loretta Ramadhin, Director, Infrastructure, Planning, and Development, Shelter,
Support and Housing Administration, 416-392-7169, Loretta.Ramadhin@toronto.ca

SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Appendix A - Description of Property Requirements
Appendix B - Plan 66R-31378 for 2295 Dundas Street West
Appendix C - Draft Plan for 2333 Dundas Street West

Appendix A - Description of Property Requirements

2295 Dundas Street West

A Temporary Easement or rights in the nature of a temporary easement for a period of 18 months commencing on a date to be specified in writing by the City to the property owner no less than 90 days prior to the first day of entry and shall continue for 18 months, expiring no later than December 31, 2027 for the purposes of facilitating access to and renovations of the City Building at 2299 Dundas Street West, including but not limited to the installation of roof protection, scaffolding, and the right to enter and occupy machinery, tools and equipment as may be necessary, over those lands designated as Part 1 on Plan 66R-31378 (attached as Appendix B).

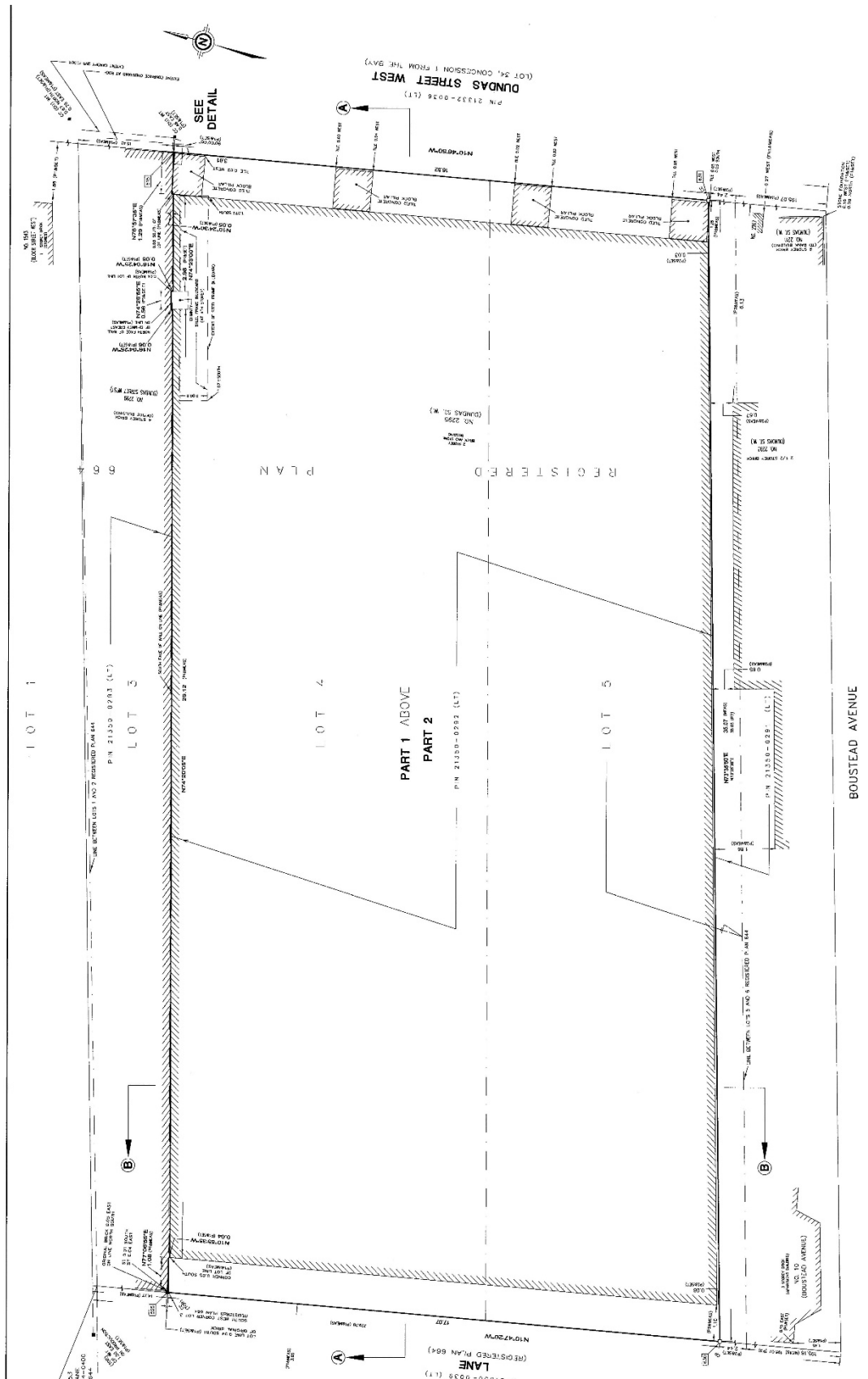
Legal Description: Part of PIN No. 21350-0292 (LT): PT LT 3-5 PL 664 CITY WEST AS IN CA575913 SUBJECT TO AN EASEMENT IN FAVOUR OF LOT 2, PART LOTS 1, 3, 4, PLAN 664 AS IN CA520251 AS IN AT5566932 CITY OF TORONTO

2333 Dundas Street West

A Temporary Easement or rights in the nature of a temporary easement for a period of eighteen (18) months commencing on or after January 1, 2024, on a date to be specified in writing by the City to the property owner no less than ninety (90) days prior to the first day of entry and shall continue for 18 months, expiring no later than December 31, 2027 for the purposes of facilitating access to and renovations of the City Building at 2299 Dundas Street West, including but not limited to the installation of construction hoarding, fencing and protective measures, construction staging and storage of supplies and equipment, the removal and reconstruction of hardscaping, and the right to enter and occupy with all vehicles, machinery, tools and equipment as may be necessary, over those lands shown as Parts 1, 2, 3, 4, and 5 on the draft plan (attached as Appendix C).

Legal Description: Part of PIN No. 21350-0294 (LT): PT LT 1, 45 PL 664 CITY WEST

Appendix B - Plan 66R-31378 for 2295 Dundas Street West



Appendix C - Draft Plan for 2333 Dundas Street West

