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File No. 018298.000024

February 1, 2024

DELIVERED BY EMAIL
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Toronto City Council
City Hall
100 Queen Street West
Toronto ON M5H 2N2

Dear Members of Council:

Re: Toronto City Council – February 6, 2024 Meeting
Item GC 9.13 - Expropriation of Properties for the Extension of Beecroft Road -
Stage 2 (Ward 18)
Letter on behalf of Owners of 2 & 4 Greenview Avenue, Toronto

We are counsel to 776022 Ontario Limited and 2017253 Ontario Inc. (together, the “**Owners**”), the registered owners of 2 and 4 Greenview Avenue, Toronto (the “**Subject Properties**”), respectively. The Owners are related companies and are affiliated with Oulahen Team Realty Inc. (among other companies), a family-owned real estate company with experience in brokering, constructing and developing properties throughout the City of Toronto.

The Owners request City Council amend City staff recommendations to acquire only the parts of the Subject Properties required for the Beecroft Road extension (“**Project**”) and not expropriate the full properties.

The Owners’ situation is unique and warrants careful consideration by City Council. The Owners own or control a number of properties within the block bounded by Finch Avenue West, Eldora Avenue, Hendon Avenue and Greenview Avenue. Our client has acquired these parcels to redevelop the lands for higher density commercial/residential uses, which will enjoy excellent access to transit being located within walking distance to the Finch subway station and local bus routes.

A full taking of the Subject Properties is not required to facilitate the Project and will have a significant, negative impact on the redevelopment potential of the adjacent properties under the control of the Owners. A full taking will expose the City to what we anticipate will be a significant claim for

damages, in addition to the claim for the market value of the expropriate lands, that the Owners will advance in the dispute resolution process pursuant to the *Expropriations Act*. From a public interest perspective, a full taking will also delay or impair the ability to increase housing supply in this area.

We also request that City Council approve payment of \$400.00 to the Owners as costs for the March 16, 2024 Hearing of Necessity in this proceeding. For example, Item GC9.11 on the February 6, 2024 City Council meeting agenda recommends such costs be paid to the owners who requested a Hearing of Necessity in that matter. It is only fair to pay the costs to the Owners in this circumstance.

The Owners Have Assembled A Number of Nearby Properties for Redevelopment

In addition to the Subject Properties, the Owners, together or individually, own 38 and 40 Finch Avenue West and 7 Eldora Avenue. In addition, after our presentation to General Government Committee on January 8 2024, 2017253 Ontario Inc. executed an agreement of purchase and sale to acquire the lands municipally known as 42 Finch Avenue West and is now the equitable owner. The deal will close in April, 2024. The acquisition of 42 Finch expands our clients’ holdings between Eldora Avenue and Greenview Avenue north of Finch Avenue West. This recent expansion significantly increases the development potential and significantly increases the City’s exposure to a claim for damages if the City proceeds with a full taking of both the Subject Properties.

The Owners holdings in this block are shown in the following figure. A larger version of this figure is attached as Schedule A. A summary of land ownership information and history for this area is attached as Schedule B.



Figure 1: Lands Assembled by Owners (Blue) and City-Owned Lands (Orange)

Only a Partial Taking is Required

The extent of the proposed taking is wholly unnecessary to permit the Project to proceed. The City requires only the lands to the right of the bold, red, dashed line in the figures shown below:



Figure 2: 2 Greenview Avenue



Figure 3: 4 Greenview Avenue

The portion of the Subject Property to the east of the red line are the “**Project Requirements**”. The lands to the west are the “**Remaining Lands**”.

Demolition of Structures

As evidenced at the hearing of necessity, the only reason the City approved a full taking of the Subject Properties was the presence of structures on each of 2 and 4 Greenview Avenue. This concern has, in part, been resolved and can be wholly resolved prior to the expropriation.

The structure on 4 Greenview Avenue was demolished in 2017 and the property is now a vacant lot. Our client worked with the tenant of the building on 2 Greenview Avenue to terminate their lease and the building is now vacant. Our client has also submitted a permit to demolish the existing building on the property. The Owners are willing to work with the City to expedite demolition of the structure on 2 Greenview Avenue to facilitate a partial taking or to consider interim solutions that will allow the partial taking to proceed while the demolition process is underway.

Given the Owners' willingness to proceed with demolition of the structure on 2 Greenview Avenue, there is no reason to proceed with a full taking of the Subject Properties. This is especially so given the potential exposure to the City for a significant claim for damages if the City expropriates the entirety of the Subject Properties.

While expropriating 2 Greenview Avenue in the manner proposed herein may create a temporary encroachment if the building is not demolished before the City expropriates the lands, there is no legal prohibition on proceeding in this manner. For example, the [Region of Halton Highway Dedication Guidelines](#) anticipate that, in some circumstances, lands to be dedicated for a highway may have buildings or other encroachments on the lands at the time of the acquisition (see Section 5.0).

The Owner is willing to enter into an encroachment agreement for a zero (or minimal) cost allowing the City of Toronto to demolish 2 Greenview in a reasonable time if the City decides it wants to be in control of the demolition.

Risk Assessment Favours A Partial Taking

There is limited risk to the City in proceeding to expropriate only the Required Lands. The Owners will proceed with the dormant demolition application for the vacant building on 2 Greenview immediately if the City approves only a partial taking of the Subject Properties. It is possible the building will be demolished before the City expropriates the lands and, if not, will remain for only a short period of time thereafter.

If the City expropriates only the Required Lands and not the entirety of the Subject Properties, the Owners' claim for damages against the City will be significantly reduced and possibly eliminated. Both the consequence and likelihood of any negative outcome arising from this potential, short-term condition are low.

On the other hand, there is a known and significant risk to the City that, if it expropriates the Subject Properties in their entirety, the Owners will advance a significant claim for damages given the impact of the taking on the redevelopment potential of the balance of their lands in this block. There is also a moderate to high risk that a full taking will reduce the ability to increase housing supply through the redevelopment of the Owners' lands.

If the City effects the full taking, it is likely the Remaining Lands will be surplus to the City's needs and will eventually be sold back to the Owners. This is an outcome that can and should be avoided as it will introduce significant complexity, delay and costs to both the Project and the redevelopment of the Owners' lands.

City Council Can Approve a Partial Taking

Pursuant to s. 8(1) of the *Expropriations Act*, the City has three options once it receives a report from the Ontario Land Tribunal following a hearing of necessity. The City can:

- (a) approve the proposed expropriation;
- (b) not approve the proposed expropriation; or
- (c) **approve the proposed expropriation with such modifications as the approving authority considers proper, as long as the modifications do not affect the lands of a registered owner who was not a party to the hearing.** [Emphasis added].

City Council has the ability to acquire only the Required Lands pursuant to s. 8(1)(c) of the *Expropriations Act*. There will be no delay in the Project timelines if the City approves only a partial taking. City Council need only direct staff to prepare the expropriation plans accordingly.

Conclusion

We ask City Council approve a partial taking of the Subject Properties, being limited to the Project Requirements shown in Figures 2 and 3.

The City has the authority to approve only a partial taking in this circumstance. There is no legal impediment to approve a partial taking of the Subject Properties. A partial taking is the most cost-effective and sensible approach to the expropriations of the Subject Properties required for the Project.

We look forward to continuing working with the City to find a mutually beneficial solution, but City Council's intervention at this critical juncture is necessary to avoid a protracted and costly expropriation process.

Yours truly,

BORDEN LADNER GERVAIS LLP

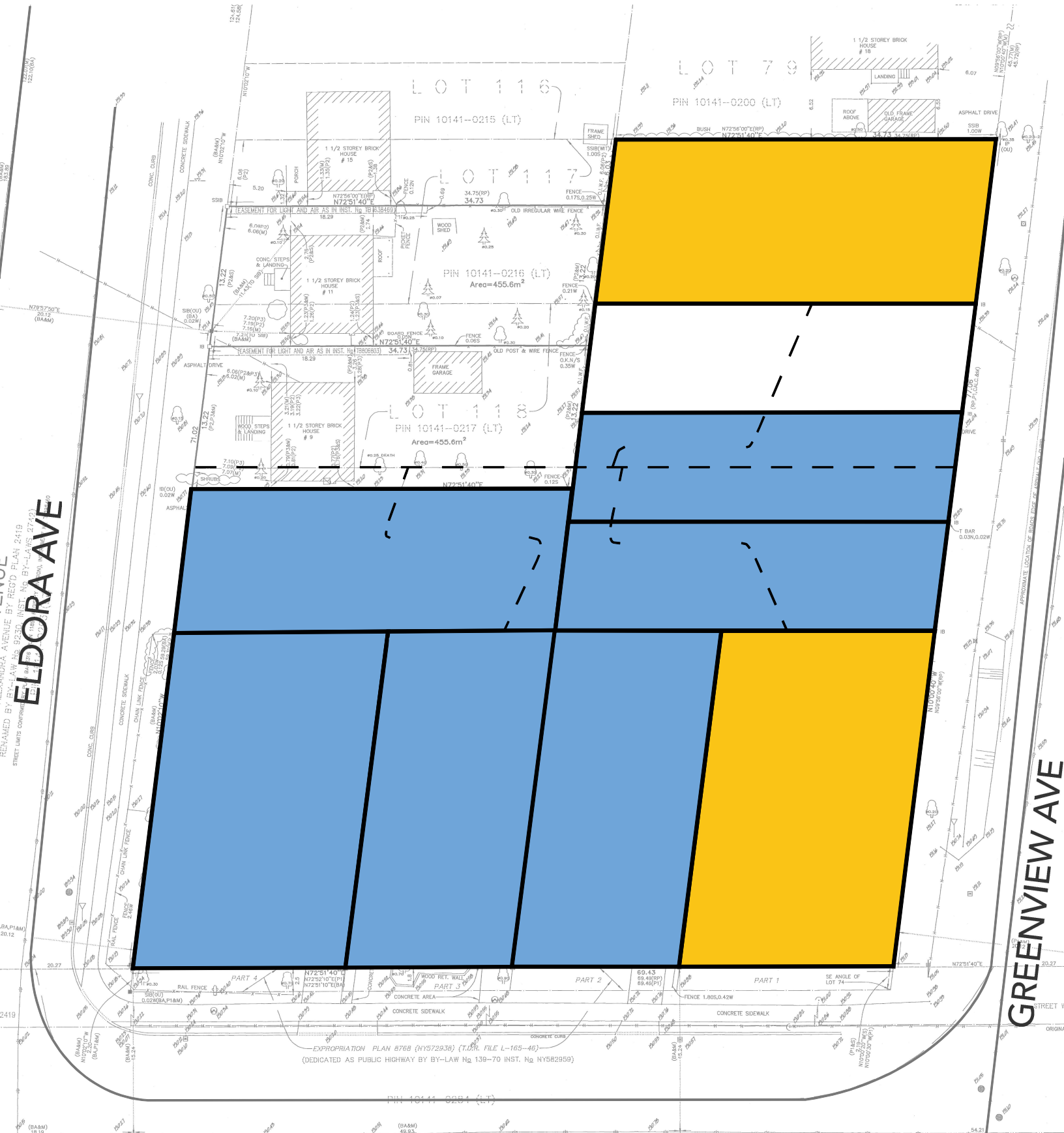


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Schedule A



ELMOL
REMOVED BY BY-LAW No 8230 INST. No BY-LAW 37423
STREET LIMITS CONTROLLED BY BY-LAW 37423
ELDORA AVE

GREENVIEW AVE

FINCH AVE WEST

(FORMERLY JOHNSON AVENUE AND WIDENED BY REG'D PLAN 2419)
ROAD ALLOWANCE BETWEEN LOTS 20 AND 21, CONVESSION 1 WEST OF YORGE STREET

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Schedule B

Land Ownership Information and History

Municipal Address	Lot Number	Current Owner/Equity Owner	Date Acquired
7 Eldora Avenue	Lot 119	776022 Ontario Limited (Oulahen controlled) 2017253 Ontario Inc. (Oulahen controlled)	September 14, 2015
42 Finch Avenue West	Lot 121	2017253 Ontario Inc. (Oulahen controlled)	January 10, 2024
40 Finch Avenue West	Lot 120	2017253 Ontario Inc. (Oulahen controlled)	January 28, 2015
38 Finch Avenue West	Lot 75	2017253 Ontario Inc. (Oulahen controlled)	February 10, 2005
36 Finch Avenue West	Lot 74	City of Toronto	August 1, 2016
2 Greenview Avenue	Part of Lot 76	776022 Ontario Limited (Oulahen controlled)	August 30, 1988
4 Greenview Avenue	Part of Lots 76 and 77	2017253 Ontario Inc. (Oulahen controlled)	August 20, 2008
6 Greenview Avenue	Part of Lot 77	Private owner	September 12, 2016
8 Greenview Avenue	Lot 78	City of Toronto	May 1, 2007