

Expropriation of 1430 Gerrard Street East for Permanent Affordable Rental Housing - Stage 2

Date: December 20, 2023

To: General Government Committee

From: Executive Director, Corporate Real Estate Management

Wards: 14 - Toronto-Danforth

REASON FOR CONFIDENTIAL INFORMATION

This report deals with a proposed or pending acquisition or disposition of land by the City of Toronto (the "City").

SUMMARY

On March 9, 2022, City Council authorized the initiation of expropriation proceedings for the entirety of the property municipally known as 1430 Gerrard Street East (the "Property") for the purpose of creating permanent affordable rental housing.

On October 6, 2023, a hearing was held by the Ontario Land Tribunal (the "O.L.T.") in respect of the proposed full fee expropriation. The City subsequently received a report from the O.L.T. on December 11, 2023, concluding that the proposed taking is fair, sound and reasonably necessary in the achievement of the objectives of the City.

To comply with the legislative requirements of the Expropriations Act, the report of the O.L.T., attached as Appendix A, must be considered by City Council before it exercises its discretion as approving authority to approve the expropriation.

This report seeks the approval of City Council, as approving authority under the Expropriations Act, of the proposed expropriation and authorization for the City, as expropriating authority under the Expropriations Act, to serve all required statutory notices and make offers of compensation in accordance with the Expropriations Act.

The Property is set out in Appendix B and shown on the draft expropriation plan as Appendix B1.

Following the completion of expropriation proceedings, staff will report back to Council on any next steps or direction required to advance the permanent affordable housing program at the site.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management recommends that:

1. City Council, as approving authority under the Expropriations Act, consider the report of the Ontario Land Tribunal attached as Appendix A.
2. City Council, as approving authority under the Expropriations Act, approve the expropriation of the entirety of the property municipally known as 1430 Gerrard Street East (the "Property"), as set out in Appendix B and as identified as Part 1 on the draft Expropriation Plan attached as Appendix B1.
3. City Council authorize the City, as expropriating authority under the Expropriations Act, to take all necessary steps to comply with the Expropriations Act, including but not limited to the preparation and registration of an Expropriation Plan, and the service of Notices of Expropriation, Notices of Election and Notices of Possession, as may be required.
4. City Council authorize the Director, Transaction Services, Corporate Real Estate Management, or their designate, to prepare, execute and serve offers of compensation based on a report appraising the market value of the Property in accordance with the requirements of the Expropriations Act.
5. City Council authorize the public release of the confidential information contained in Confidential Attachment 1 once there has been a final determination of all compensation payable to the owners by arbitration, appeal, or settlement to the satisfaction of the City Solicitor.

FINANCIAL IMPACT

Confidential Attachment 1 to this report identifies the initial estimated value of the Property to be expropriated.

Funding to expropriate the Property and disburse all anticipated costs associated with the proposed expropriation has been included in the Housing Secretariat's 2024 Capital Budget, pending Council approval.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial information.

EQUITY IMPACT

The HousingTO 2020-2030 Action Plan (“HousingTO Plan”) is centred on a human rights-based approach to housing which recognizes that housing is essential to the inherent dignity and well-being of a person and to building inclusive, healthy, sustainable and complete communities. The actions in the HousingTO Plan reflect and advance the City’s commitment to the progressive realization of the right to adequate housing, as outlined in the Toronto Housing Charter.

A key component of the HousingTO Plan is to increase the supply of permanent affordable rental and supportive housing to vulnerable and marginalized residents, including women and other equity-deserving groups. Approval of the recommendations in this report will bring the Property under public, non-market ownership to permanently secure 23 units of affordable and supportive housing.

DECISION HISTORY

At its meeting on March 9, 2022, City Council adopted Item PH31.4 “Creating Transitional and Supportive Housing Opportunities at 1430 Gerrard Street East - Authority to Sublease, Exempt Property Taxes and Initiate Expropriation Proceedings” thereby authorizing the Executive Director, Corporate Real Estate Management to continue negotiations for the acquisition of the Property Requirements and to initiate the expropriation process if deemed necessary.

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH31.4>

At its meeting of December 16, 17, and 18 2020, City Council adopted Item No. PH19.11, “Emergency Housing Action” which included the City’s 24-month COVID-19 Housing and Homelessness Response Plan to create 3,000 new permanent affordable and supportive housing units. It also reiterated various requests of other orders of government to improve program delivery and ensure the success of new residents of these homes.

<https://secure.toronto.ca/council/agenda-item.do?item=2020.PH19.11>

At its meeting December 17-18, 2019, City Council adopted PH11.5 “HousingTO 2020-2030 Action Plan” as the framework to address Toronto’s housing and homelessness challenges by 2030. This Plan includes a number of actions and targets to address critical needs across the housing spectrum including emergency shelters and transitional housing, social and supportive housing, market and affordable rental housing and home ownership.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH11.5>

At its meeting of November 8, 2016, City Council adopted CD15.9 “An Interim Home for the Red Door Shelter” which approved the relocation of the Red Door Shelter within Ward 30,

and authorized the City to enter into a lease for a 5-year term with the option to extend, for the property at 1430 Gerrard Street East and to develop and implement a transitional housing program for families at the property.

<https://secure.toronto.ca/council/agenda-item.do?item=2016.CD15.9>

COMMENTS

Background

The Property was first leased by the City in 2016 to provide a temporary location for the Red Door Shelter, while construction on its permanent location at 875 Queen Street West was underway. In 2021, the shelter relocated to its new permanent home. As part of the Emergency Housing Initiative launched in Fall 2020, the City extended the lease at the Property for another five-year term (to 2026) and undertook minor renovations to rapidly create 23 transitional and supportive homes. The City sub-leased the Property to WoodGreen in 2021 who operate a transitional housing program for single mothers and their children experiencing or at risk of homelessness.

Throughout this time, City staff have undertaken negotiations with the owners to acquire the Property but have been unsuccessful, putting the long-term certainty of the affordable rental housing project at risk. City staff continue to explore a possible acquisition of the Property outside of the expropriation context with the owners and the mortgage holders who have commenced enforcement proceedings under their mortgages. In March 2022, Council directed staff to commence expropriation proceedings.

Pursuant to City Council's authority and in accordance with the Expropriations Act, Notices of Application for Approval to Expropriate were served on the registered owners and published in the newspaper.

The Hearing of Necessity

On November 28, 2022, the City received from Iqbal Multani on behalf of Gurnam Multani and Surjit Multani (collectively, the "Owners") notice of a request for a hearing as to whether the proposed taking is fair, sound and reasonably necessary.

The hearing of necessity (the "Hearing") was held on October 6, 2023 by the O.L.T. with D.S. Colbourne, Vice-Chair, presiding as the Inquiry Officer. During the Hearing, the O.L.T. heard evidence on behalf of the City from Vinkie Lau of the City's Housing Secretariat Division. The owner's son, Iqbal Multani, attended the Hearing, but did not give evidence. Mr. Colbourne provided his report (the "Report") to the City on December 11, 2023, which is attached as Appendix A.

In the Report, Mr. Colbourne noted that that the City's proposed taking would allow the City to safely and reliably provide affordable rental and transitional housing and concluded that the proposed expropriation was fair, sound and reasonably necessary in the achievement of the City's objectives.

Conclusion

For the reasons provided in the Report and to enable the City to acquire the Property in order to increase the permanent affordable rental housing stock in the City beyond the remaining three years of the City's lease of the Property, it is recommended that City Council, as approving authority under the Expropriations Act, approve the expropriation of the Property, and that City Council authorize the City, as the expropriating authority, to take all necessary steps to proceed with the expropriation.

Once an Expropriation Plan is registered and the Property is expropriated, the Expropriations Act requires the City to serve offers of compensation based on a report appraising the market value of the Property as of the applicable date selected by the owners of the Property. This report seeks authority to serve the offers of compensation on the registered owners in accordance with the requirements of the Expropriations Act.

Following the completion of expropriation proceedings, staff will report back to Council on any next steps or direction required to advance the permanent affordable housing program at the site.

CONTACT

Alison Folosea, Director, Transaction Services, Corporate Real Estate Management, 416-338-2998, Alison.Folosea@toronto.ca

Noah Slater, Director, Housing Secretariat, Revitalization and Improvement, 416-397-4165, Noah.Slater@toronto.ca

SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Confidential Attachment 1 - Financial Implications
Appendix A - Report of the Ontario Land Tribunal
Appendix B - Property Interests to be Expropriated
Appendix B1 - Draft Expropriation Plan
Appendix C - Location Map and Street View of Property
Expropriation of 1430 Gerrard Street East - Stage 2

Appendix A - Report of the Ontario Land Tribunal

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: December 11, 2023 **CASE NO(S):** OLT-23-000175

PROCEEDING COMMENCED UNDER subsection 6(2) of the Expropriations Act, R.S.O. 1990, c. E.26

Expropriating Authority:	City of Toronto
Property Owner:	Gurnam and Surjit Multani
Subject:	Expropriation/Hearing of Necessity
Description:	Determination of Compensation
Property Address:	1430 Gerrard Street E
Municipality/UT:	Toronto/Toronto
OLT Case No:	OLT-23-000175
OLT Lead Case No:	OLT-23-000175
OLT Case Name:	Multani v. Toronto (City)

Heard: October 06, 2023, by video hearing

APPEARANCES:

Parties	Counsel*/Representative
City of Toronto	M. Longo*
Gurnam & Surjit Multani	Iqbal Multani

[1] This is a Report to the Expropriating Authority, The City of Toronto (“City”), following the request by the son, Iqbal, on behalf of the owners of the property for a Hearing of Necessity.

[2] This inquiry was held pursuant to section 7 of the Expropriations Act, RSO 1990, c. E.26 (the “Act”) to determine whether the proposed taking by the City is “fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority” as the Act states, or is “reasonably defensible” as the courts have interpreted this test.

[3] The Hearing was held on October 6, 2023, by video hearing.

[4] The City proposes to expropriate the property 1430 Gerrard St. E. (“Subject Site”), in order to allow the City and its shelter operator partners to continue operation of transitional housing on a site selected by the City for a configuration, location, and with facilities that have been demonstrated to be well suited for fulfilling this important municipal purpose.

[5] This is part of the City’s “Emergency Housing Action”, which included the City’s “24-Month COVID-19 Housing and Homelessness Recovery Response Plan” to create 3000 new permanent affordable and supportive housing units. The HousingTO’s objectives are critical, as the City is facing significant and ongoing challenges across the housing continuum and there is a great need for affordable housing in Toronto.

[6] The City leased part of the subject premises in 2016 to create the temporary home for the Red Door Shelter. The current lease of the premises expires in 2026. The City desires to establish the Subject Site as a shelter on a long-term basis, and to have the certainty that it be kept as such. The City has also considered alternate programming and using the Subject Site as long-term, deeply affordable accommodations.

[7] The City requires greater certainty relating to the property in order to structure relationships with shelter operators or to be able to offer long-term affordable units.

[8] The City has already spent significant monies improving kitchen facilities at the premises.

[9] The City approached the owners to negotiate the purchase of the premises, but no agreement has been reached to date. A complication arose recently with respect to the negotiations as follows: “In a decision dated August 14, 2023 the Ontario Court of Appeal rendered a decision relating to certain mortgage debts owed by the owners of the Subject Site.” At paragraph 3, the Court discusses separate proceeding relating to charges on the Subject Site noting: “The 430 Gerrard St. E. mortgage is secured and registered on five other properties owned by the owners; and there is an aggregate indebtedness for the collective properties of \$16,803.73. On May 16, 2023 a court order

was issued lifting an interim stay of enforcement proceedings against the various properties.”

[10] This brings into question the ability of the City to negotiate an extension of its existing lease, and whether title to the property will be under cloud for an undetermined period of time.

[11] The proposed taking will allow the City to safely and reliably provide affordable rental and transitional housing opportunities.

[12] The only evidence provided was that of Vicky Lau who is in charge of the housing programme for the City. As set out, she outlined the pressing municipal purpose for transitional housing and longer-term affordable housing. Her testimony was not challenged. There was no other evidence related to the purpose of the inquiry or of any alternatives.

[13] A representative of Dramel Limited and Melvyn Solmon, both involved in the financing of the property were present online, but made no submissions.

[14] The owner’s son Iqbal, who requested the Hearing did not give evidence, but directed queries to the witness and counsel related to the allegations of lack of cooperation of the owners.

[15] Based on the evidence of Ms. Lau I find that the taking is “fair, and reasonably necessary” for the purposes of the City in supporting its housing programme.

“D.S. Colbourne”

D. S. COLBOURNE
VICE-CHAIR

Ontario Land Tribunal

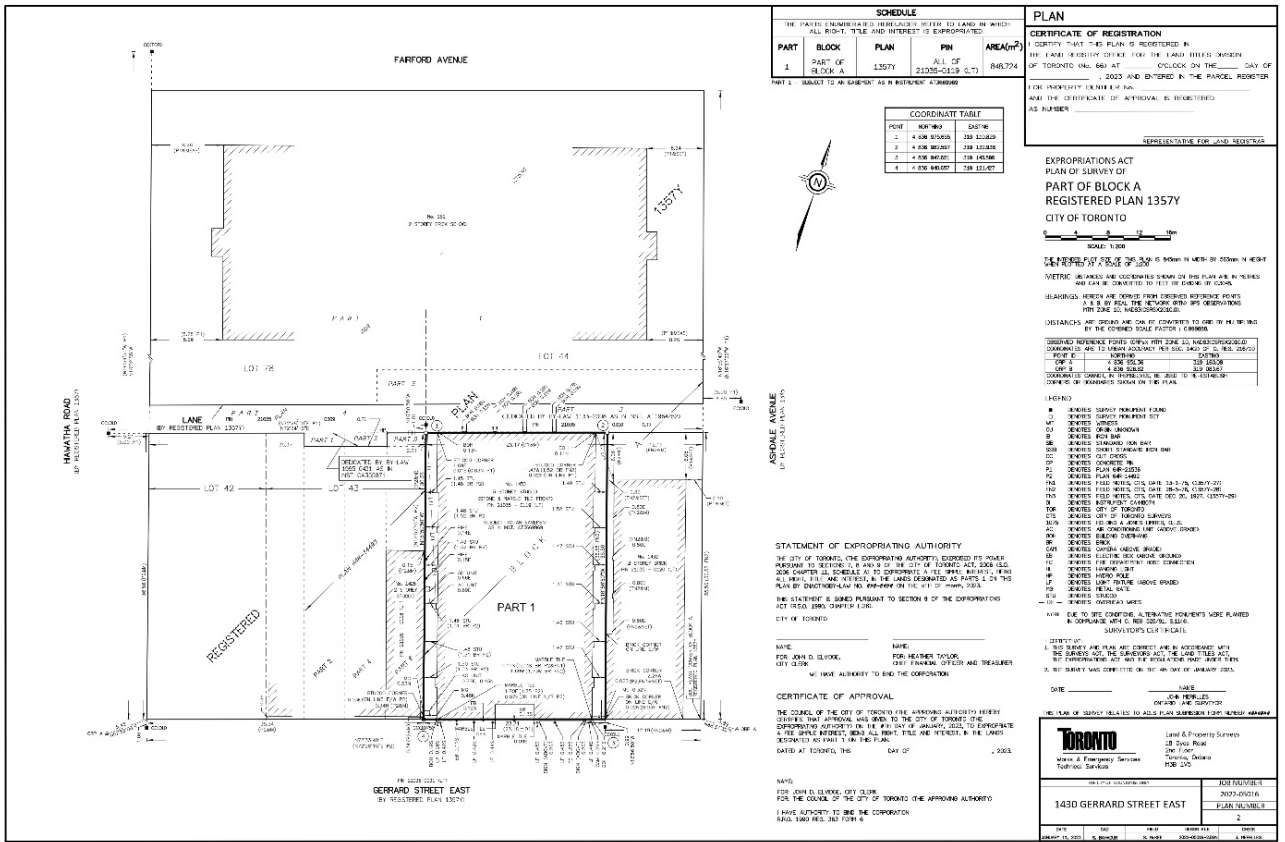
Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Appendix B - Property Interests to be Expropriated

Part of Block A, Plan 1357, Toronto, as described in Instrument Number CA448074; Together with Instrument Number CA448074; City of Toronto; Subject to an easement as described in Instrument Number AT3669969, being the whole of PIN 21035-0119 (LT) and municipally known as 1430 Gerrard Street East, Toronto.

Appendix B1 – Draft Expropriation Plan



SCHEDULE

THE PAID FEE NUMBER IS INDICATED BY REF TO LAND IN WHICH ALL RIGHTS, TITLE AND INTEREST IS EXPROPRIATED.

PART	BLOCK	PLAN	PIN	AREA (sqm)
1	PART OF BLOCK A	13571	ALL OF 21030-019 (6,7)	848,724

PART 1 SUBJECT TO AN EASEMENT AS SHOWN HEREIN AT 13571.

COORDINATE TABLE

POINT	NAD 83	UTM
1	4 696 976 658	119 116 849
2	4 696 976 657	119 116 849
3	4 696 976 657	119 116 849
4	4 696 976 657	119 116 847

PLAN

CERTIFICATE OF REGISTRATION

I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF TORONTO ON THE _____ DAY OF _____, 2023 AND ENTERED IN THE PARCEL REGISTER WITH FILE NUMBER OF REG. AS FOLLOWS:

REGISTERED PLAN AND REGISTRATION NUMBER:

EXPROPRIATION ACT

PLAN OF SURVEY OF PART OF BLOCK A REGISTERED PLAN 13571 CITY OF TORONTO

SCALE: 1:300

THIS PLAN SHOWS THE PART OF BLOCK A AS SHOWN IN METRIC BY ORDER IN METRIC METRIC UNITS AND ACCORDING TO THIS PLAN AND IN METRIC UNITS CAN BE CONVERTED TO FEET USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS:

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STATEMENT OF EXPROPRIATING AUTHORITY

THE CITY OF TORONTO, THE EXPROPRIATING AUTHORITY, EXERCISES ITS POWER PURSUANT TO SECTION 29 OF THE CITY OF TORONTO ACT, 2006 (C.S. 6.1), AS AMENDED, TO EXPROPRIATE THE PARTS OF THIS PLAN AS DESCRIBED IN THIS PLAN. THE PARTS OF THIS PLAN AS DESCRIBED IN THIS PLAN ARE SHOWN IN THIS PLAN AND IN METRIC UNITS CAN BE CONVERTED TO FEET USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS:

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CERTIFICATE OF APPROVAL

THE COUNCIL OF THE CITY OF TORONTO HAS APPROVED THIS PLAN FOR THE PURPOSES OF THE CITY OF TORONTO ACT, 2006 (C.S. 6.1), AS AMENDED, TO EXPROPRIATE THE PARTS OF THIS PLAN AS DESCRIBED IN THIS PLAN. THE PARTS OF THIS PLAN AS DESCRIBED IN THIS PLAN ARE SHOWN IN THIS PLAN AND IN METRIC UNITS CAN BE CONVERTED TO FEET USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS:

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NOTES

FOR THE CITY OF TORONTO, I, _____, CLERK OF THE CORPORATION, HAVE APPROVED THIS PLAN FOR THE PURPOSES OF THE CITY OF TORONTO ACT, 2006 (C.S. 6.1), AS AMENDED, TO EXPROPRIATE THE PARTS OF THIS PLAN AS DESCRIBED IN THIS PLAN. THE PARTS OF THIS PLAN AS DESCRIBED IN THIS PLAN ARE SHOWN IN THIS PLAN AND IN METRIC UNITS CAN BE CONVERTED TO FEET USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS: METRIC UNITS ARE DERIVED FROM UNITS DERIVED FROM FEET BY USING THE FOLLOWING FACTORS:

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Toronto

Land & Property Services
City of Toronto
Main & Emergency Services
Toronto, Ontario
M5C 2C8

1430 GERRARD STREET EAST

FILE NUMBER: 2023-01016
PLAN NUMBER: 2

DATE: 2023-01-16

Appendix C - Location Map and Street View of Property

