

Expropriation of Properties for the Extension of Beecroft Road – Stage 2

Date: December 20, 2023

To: General Government Committee

From: Executive Director, Corporate Real Estate Management

Wards: 18 – Willowdale

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 June 15 and 16, 2022, City Council authorized the initiation of expropriation proceedings for the fee simple interests of the ten properties municipally known as 2,4, 6, 18, 22, and 24 Greenview Avenue, 36, 38 and 41 Hendon Avenue and 5754 Yonge Street for the purpose of constructing Transportation Services' Beecroft Road Extension Project (the "Project").

This report relates to the second stage of the expropriation process. During the first stage and in accordance with the Expropriations Act (the "Act"), Notices of Application for Approval to Expropriate were served on all applicable "registered owners", who had 30 days to request a hearing of necessity (a "Hearing") into whether the proposed taking is fair, sound, and reasonably necessary.

On March 6, 2023, a Hearing was held by the Ontario Land Tribunal with respect to the fee simple interests required from the owners of the properties municipally known as 2 and 4 Greenview Avenue. The City subsequently received a report from the Ontario Land Tribunal on November 29, 2023, concluding that the proposed takings of 2 and 4 Greenview Avenue are fair, sound and reasonably necessary.

To comply with the legislative requirements of the Act, the report of the Ontario Land Tribunal, attached as Appendix A to this report, must be considered by City Council before it exercises its discretion as approving authority under the Act to approve the expropriation of 2 and 4 Greenview Avenue.

No Hearing was requested or held in respect of 6, 18, 22 or 24 Greenview Avenue; 36 or 41 Hendon Avenue; or 5754 Yonge Street. A Hearing was requested for 38 Hendon Avenue, but was subsequently withdrawn by the property owner and no Hearing occurred.

This report seeks the approval of City Council, as approving authority under the Act, of the proposed expropriation of the nine properties municipally known as 2, 4, 6, 18, 22 and 24 Greenview Avenue; and 36, 38 and 41 Hendon Avenue (collectively known as the "Property Requirements"). If authorized, the Expropriation Plans will be registered and associated notices served. Statutory Offers of Compensation must be served prior to the City taking possession of the expropriated properties. 5754 Yonge Street is not included at this time due to site specific challenges and authority will be sought at a later date.

The Property Requirements are set out in Appendix B.

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 in respect of the properties municipally known as 2 and 4 Greenview Avenue attached as Appendix A.
2. City Council, as approving authority under the Expropriations Act, approve the expropriation of the fee simple interests of the properties municipally known as 2, 4, 6, 18, 22 and 24 Greenview Avenue; and 36, 38 and 41 Hendon Avenue, as set out in Appendix B, and those properties for which partial takings are required as set out in Appendix C, for the purposes of constructing the Beecroft Road Extension Project.
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 the requisite Expropriation Plans, and 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 obtain an appraisal report to value 2, 4, 6, 18, 22, and 24 Greenview Avenue; and 36, 38 and 41 Hendon Avenue, and to prepare and serve Offers of Compensation on all registered owners of 2, 4, 6, 18, 22, and 24 Greenview Avenue; and 36, 38 and 41 Hendon Avenue, at the appraised value, all in accordance with the requirements of the Expropriations Act. If amicable acquisitions of the Property Requirements cannot be completed to accommodate the timelines of the Beecroft Road Extension Project.

5. City Council authorize the Director, Corporate Real Estate Management, or their designate, to sign the Offer of Compensation for the owners of the Property Requirements, on behalf of the City.

6. City Council authorize the public release of the confidential information contained in Confidential Attachment 1 once there has been a final determination of the compensation payable to the owners of the Property Requirements by arbitration, appeal or settlement to the satisfaction of the City Solicitor.

FINANCIAL IMPACT

Confidential Attachment 1 to this report identifies the initial estimated values of the Property Requirements.

Funding to acquire the Property Requirements and to disburse all anticipated costs associated with the proposed expropriation is available in the 2023-2032 Approved Capital Budget and Plan for Transportation Services under account CTP822-01-01 Beecroft Extension, categorized as growth related.

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

DECISION HISTORY

On June 15 and 16, 2022, City Council adopted item GL31.13 to initiate expropriation proceedings for the Properties and other lands not included in this Stage 2 Report. The Council decision associated with this approval can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.GL31.13>.

On February 17, 2022, as part of EX30.2 2022 Capital and Operating Budgets, Transportation Services received approval for its 2022 Capital Budget and 2023-2031 Capital Plan, detailed in Appendix 6 of the 2022 Staff Recommended Operating Budget Notes, including \$20.740 million to advance the design, property acquisition, and construction of the Beecroft Extension. The Council decision associated with this approval can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.EX30.2>

In 1993 the Uptown Service Road and Associated Road Network Environmental Assessment was completed. The study recommended the creation of the Uptown Service Road by extending Beecroft Road between Park Home Avenue and Drewry Avenue, which has been gradually implemented during the last 20 years. The last remaining segment to be implemented is the northwestern portion from Hendon Avenue to Drewry Avenue and that is the subject of this report.

COMMENTS

Background

The Project is an integral piece of the transportation network infrastructure required to support growth and development priorities in North York Centre. It includes the widening of Greenview Avenue between Finch Avenue West and Hendon Avenue, as well as the construction of an extension of Beecroft Road between Hendon Avenue and Drewry Avenue. The extended street will consist of four travel lanes (two lanes per direction), bike lanes, sidewalks, and tree and planting areas.

In accordance with Council direction, it was ultimately deemed appropriate to commence expropriation proceedings. As such, Notices of Application for Approval to Expropriate were served on all applicable registered owners of the Property Requirements and 5754 Yonge Street, on August 19, 2022, and published in the newspaper, on August 19, August 26 and September 2, 2022, as is required by the Act.

The Hearings of Necessity

On October 12, 2022, the City received notice of a request for a Hearing as to whether the fee simple interests required from the owners of the properties municipally known as 2 and 4 Greenview Avenue are fair, sound and reasonably necessary. The City also received notice of a request for a Hearing on August 29, 2022 as to whether the fee simple interest required from the owner of the property municipally known as 38 Hendon Avenue was fair, sound and reasonably necessary but this request was subsequently withdrawn by this owner on March 9, 2023 and no Hearing was held.

No Hearing was held in respect of 6, 18, 22 or 24 Greenview Avenue; 36 or 41 Hendon Avenue; or 5754 Yonge Street. The time limitation set out in the Act for giving notice of such a request has expired.

On March 16, 2023, a Hearing was held and the Ontario Land Tribunal (the "O.L.T.") heard evidence on behalf of the City. Subsequently, the O.L.T. provided its report (the "Report") to the City on November 29, 2023. In the Report, the O.L.T. found that the City's proposed taking of 2 and 4 Greenview Avenue were reasonable and met the test of subsection 7(5) of the Act, which stipulates the proposed taking be "fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority". See Appendix A for a copy of the Report.

The Act also requires the City to render its Stage Two approval decision and serve it on the applicable owners within 90 days of receiving the Report.

Conclusion

While staff continue to negotiate with the property owners for the acquisition of the Property Requirements and to ensure the Project's construction schedule is maintained, it is recommended that City Council, as approving authority under the Act, approve the expropriation of the Property Requirements, and authorize the City, as the expropriating authority under the Act, to take all necessary steps to proceed with Stage Two of the expropriation. If authorized, the Expropriation Plans will be registered and associated notices served. Statutory Offers of Compensation must be served prior to the City taking possession of the expropriated properties.

CONTACT

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Jacquelyn Hayward, Director, Project Design & Management, Transportation Services
416-392-5348, Jacquelyn.Hayward@toronto.ca

SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Confidential Attachment 1 – Financial Implications
Appendix A – Ontario Land Tribunal's Report
Appendix B – Table of Property Requirements
Appendix C – Property Information Sketches for Partial Property Requirements

Appendix A – Ontario Land Tribunal's Report

Ontario Land Tribunal Tribunal ontarien de l'aménagement du territoire



ISSUE DATE: November 29, 2023

CASE NO(S).: OLT-22-004700

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

Expropriating Authority:	City of Toronto
Property Owner:	776022 Ontario Limited
Property Address:	2 Greenview Avenue
Municipality/UT:	City of Toronto
OLT Case No:	OLT-22-004700
OLT Lead Case No:	OLT-22-004700
OLT Case Name:	776022 Ontario Limited v Toronto (City)

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

Expropriating Authority	City of Toronto
Property Owner	2017253 Ontario Inc.
Property Address:	4 Greenview Avenue
Municipality/UT:	City of Toronto
OLT Case No:	OLT-22-004701
OLT Lead Case No:	OLT-22-004700

Heard: March 16, 2023 by Video Hearing

APPEARANCES:

Parties

City of Toronto:

776022 Ontario Ltd.
2017253 Ontario Inc.
2 and 4 Greenview Avenue

Counsel

N. Muskat

L. English

REPORT OF THE TRIBUNAL DELIVERED BY GILLIAN BURTON

Introduction and Background

[1] This is a Report to the Expropriating Authority, the City of Toronto, following the requests of the Owners of the above-noted parcels of land for a so-called Hearing of Necessity.

[2] This Inquiry was held pursuant to section 7 of the *Expropriations Act*, RSO 1990, c. E.26 as amended ("the Act") to determine whether the proposed takings ("Proposed Takings") by the City of Toronto are "fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority" as the Act states, or are "reasonably defensible" as the courts have interpreted this test.

[3] The combined Hearing was held electronically on March 16, 2023.

[4] The City of Toronto relied on the following reasons for the proposed expropriations, as set out in its Notice of Grounds (Exhibit 2):

I. Transportation Services ("TS") proposes to expropriate the properties municipally known as 2, 4, 6, 18, 22, 24, 36, 38 and 41 Greenview Avenue, 36, 38, and 41 Hendon Avenue, and 5754 Yonge Street (the "Proposed Takings") for the purposes of completing the Beecroft Road Extension Project (the "Project").

II. The Proposed Takings [...] are required as part of the Project, namely, the road widening of Beecroft Road from Finch Ave W. to Drewry Avenue, identified as a vital part of the road network in the North York Centre (*shown in Tab 1, Report to Council, in Book of Documents - Exhibit 1*).

III. In 1993 the City undertook an environmental assessment (Uptown Service Road and Associated Road Network Environmental Assessment - the "1993 EA" (*see Tab 3 in Exhibit 1*) to identify the best means of providing transportation infrastructure for the development proposed within the (then) Uptown and Downtown Plans for North York (now the "North York Centre Secondary Plan", NYCSP - Tab 4).

- IV. The Proposed Takings are located in the area identified in the 1993 EA as part of the transportation network infrastructure required to support growth and development priorities in the North York Centre.
- V. The implementation of the Beecroft Road extension (identified as the "North York Centre North Service Road" in the NYCSP) has been advancing in a phased manner since 1993. The segment between Finch Ave W. and Drewry Avenue is the last step in completing the road as planned in the 1993 EA.
- VI. The Proposed Takings will allow the City to complete the extension of the North Service Road, and support the planned densities contemplated therein.
- VII. As a result, in the City's view the Proposed Takings are fair, sound and reasonably necessary to achieve the Project.

[5] At the Hearing of this matter, the City relied on the staff report to Council dated May 24, 2022, the various attachments thereto and materials provided in the Document Disclosure Book prepared for this hearing.

[6] Mr. Muskat for the City outlined the critical nature of this segment of the Ring Road in the Secondary Plan, and that it be completed in a safe and logical manner to support planned densities. Mr. English for the owners stressed that the proposed partial takings here left these portions out of the owners' developable lands, as accumulated. They also own 38 and 40 Finch Ave. West and 7 Eldora Ave.

[7] The City's evidence was provided by Mr. C. Romero, Senior Project Manager, who outlined the development of the Ring Road since the Environmental Assessment in 1993. Finch Avenue to Drewry would be the last segment constructed. He stressed that it must be a full taking as proposed, since the structures would be seriously affected. In cross examination, he admitted he was not a transportation engineer but has been involved in many environmental assessments as an urban designer.

[8] Here the lands to be taken were first identified in the North York Centre Secondary Plan, Map 811, but only in outline. Then, as is usual, a detailed design process followed. Other nearby lands owned by Mr. English's clients were specified.

There is no building at present on #4 Greenview. Details of Official Plan designations were provided.

Findings and opinion

[9] The Tribunal agrees with the City that a full taking of the parcels proposed is required. The ownership structure is not critical here, even if the City is not so bound by restrictions as a private owner. The extent of the right of way has been known for many years. The owner's development intentions should not govern here but the public interest in effective transportation.

[10] Therefore, the Tribunal would recommend the taking of the fee simple interest in the lands know municipally as 2 and 4 Greenview Avenue in the City of Toronto and legally described as PT LT 76 PLAN 2419 NORTH YORK AS IN TB536063; S/T & T/W TB536063; TORONTO (N YORK) CITY OF TORONTO, being all of PIN 10141-0196 (LT) and, a CONSOLIDATION OF VARIOUS PROPERTIES – PART OF LOTS 76, 77 ON PLAN 2419 AS IN TB628546, NORTH YORK, CITY OF TORONTO, being all of PIN 10141-0705 (LT) respectively.

"G. Burton"

G. BURTON
MEMBER

Ontario Land Tribunal

Website: 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.

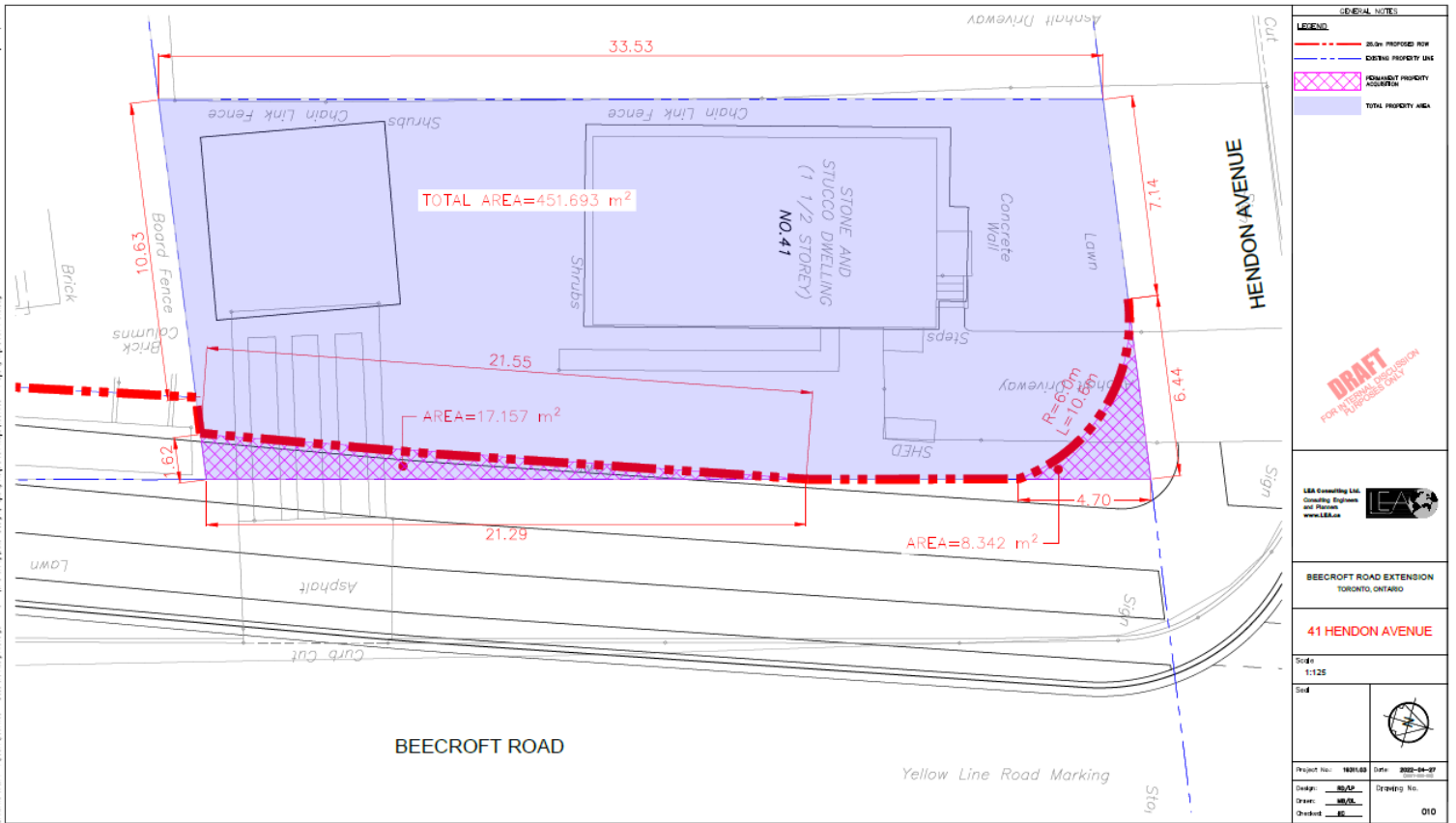
Appendix B - Table of Property Requirements

Municipal Address	Legal Description	Property Interests
2 Greenview Avenue	Pt Lt 76 Plan 2419 North York as in TB536063; S/T & T/W TB536063 (N York) City of Toronto BEING ALL OF PIN 10141-0196 (LT)	Fee Simple Ownership of full property, being all of PIN 10141-0196 (LT)
4 Greenview Avenue	Consolidation of various properties- Part of Lots 76, 77 on Plan 2419 as in TB628546; North York, City of Toronto BEING ALL OF PIN 10141-0705 (LT)	Fee Simple Ownership of full property, being all of PIN 10141-0705 (LT)
6 Greenview Avenue	PART OF LOT 77 PLAN 2419 AS IN NY504864, NORTH YORK; CITY OF TORONTO BEING ALL OF PIN 10141-0704 (LT)	Fee Simple Ownership of full property, being all of PIN 10141-0704 (LT)
18 Greenview Avenue	LOT 79 PL 2419 DESIGNATED AS PART 1 ON 66R29011 BEING ALL OF PIN 10141-0778 (LT)	Fee Simple Ownership of full property, being all of PIN 10141-0778 (LT)
22 Greenview Avenue	LOT 80 PL 2419 NORTH YORK TORONTO (N YORK), CITY OF TORONTO BEING ALL OF PIN 10141-0201 (LT)	Fee Simple Ownership of full property, being all of PIN 10141-0201 (LT)
24 Greenview Avenue	LOT 81 PL 2419 NORTH YORK TORONTO (N YORK), CITY OF TORONTO BEING ALL OF PIN 10141-0202 (LT)	Fee Simple Ownership of full property, being all of PIN 10141-0202 (LT)
41 Hendon Avenue	PT LT 85 Plan 2419 North York as in TB549471; Toronto (N York) City of Toronto BEING ALL OF PIN 10141-0205 (LT)	Fee Simple Ownership, Land outlined in drawing from LEA Consulting, dated April 27, 2022 for the Beecroft Road Extension. Project No. 19311.03 Drawing No. 010, in Appendix "B"

<p>36 Hendon Avenue</p>	<p>PT LT 61 PL 2419 NORTH YORK BEING PT 2 64R13780, TORONTO (N YORK), CITY OF TORONTO BEING ALL OF PIN 10141-0313 (LT)</p>	<p>Fee Simple Ownership, Land outlined in drawing from LEA Consulting, dated April 27, 2022 for the Beecroft Road Extension. Project No. 19311.03 Drawing No. 011, in Appendix "B"</p>
<p>38 Hendon Avenue</p>	<p>PT LT 61 PL2419 NORTH YORK BEING PART 1 64R13780; TORONTO (N YORK), CITY OF TORONTO BEING ALL OF PIN 10141-0312 (LT)</p>	<p>Fee Simple Ownership of full property, being all of PIN 10141-0312 (LT)</p>

Appendix C – Property Information Sketches for Partial Property Requirements

41 Hendon Avenue



36 Hendon Avenue

