

Toronto Parking Authority Settlement Proposal with Dakin West Inc. – 33 Queen Street East

Date: November 5, 2024

To: General Government Committee

From: City Solicitor and Executive Director, Corporate Real Estate Management

Wards: 13 – Toronto Centre

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City and the Toronto Parking Authority (“TPA”) and contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The purpose of this report is for Corporate Real Estate Management (“CREM”) to seek Council authority to approve the proposed settlement terms and conditions set out in Confidential Attachment 1, between Toronto Parking Authority (“TPA”) and Dakin West Inc. (the “Tenant”) located at 33 Queen Street East.

Under the City-Wide Real Estate model, TPA's lease administration and property management functions have transferred to CREM.

RECOMMENDATIONS

The City Solicitor and Executive Director, Corporate Real Estate Management recommend that:

1. City Council approve the conditional settlement set out in Confidential Attachment 1;

2. City Council adopt the confidential instructions to staff set out in Confidential Attachment 1; and
3. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it is about litigation or potential litigation that affects the City and Toronto Parking Authority and contains advice or communications that are subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial implications of the proposed settlement are discussed in Confidential Attachment 1.

DECISION HISTORY

Toronto Parking Authority's Board Received Information Concerning Proposed Settlement

On October 18, 2024, the Board of the Toronto Parking Authority was presented with information regarding the proposed settlement, and approved the recommendation that information concerning the proposed settlement remain confidential on the basis of solicitor client and/or litigation privilege.

A copy of that decision is available here: <https://secure.toronto.ca/council/agenda-item.do?item=2024.PA11.9>

Toronto Parking Authority's Management of Real Estate Issues is Delegated to CREM

On December 5, 2017, City Council approved item 2017.EX.29.5 – City Wide Real Estate, which created a City-wide delegated real estate authority to CREM from various City related agencies, including the TPA, to CREM, in accordance with the City's new Real Estate Services Delivery Model.

A copy of that decision is available here: [Agenda Item History - 2017.EX29.5 \(toronto.ca\)](#)

COMMENTS

In 1995, the Parking Authority of Toronto entered into a lease agreement on behalf of the City of Toronto, dated February 1, 1995, with Dakin West Inc. (the "Tenant"), for a term of ten years and one month concerning the premises municipally described as Unit 2, 33 Queen Street East, Toronto, Ontario (the "Leased Premises").

The Toronto Parking Authority (“TPA”) was established on January 1, 1998, and the assets and liabilities of the Parking Authority of Toronto were assumed by the TPA.

Since the original lease agreement, four separate lease amending and extending agreements have been executed, including the most recent one, commencing March 1, 2020 and continuing to and including February 28, 2025 (the “Lease Agreement”).

The Tenant has subleased the Leased Premises to various franchisees who operate INS Markets. Up until April 2020, the Tenant, or the sub-tenants, made all monthly payments required under the Lease Agreement. Shortly after the start of the COVID-19 pandemic, the franchisee at the Leased Premises failed to make payments and eventually vacated the Leased Premises. The rental arrears are from the period July 2020 to May 2021, totalling \$41,566.27.

Regardless of the sub-tenant vacating the premises and failing to pay rent, Dakin West Inc. is the party to the Lease Agreement and therefore responsible for the rental arrears. The non-payment constituted a breach of the Lease Agreement and the obligations thereunder.

The City sent a Notice of Default letter dated June 29, 2022, and again on September 29, 2022 in accordance with the Lease Agreement.

The matter was referred to litigation, and subsequently TPA and CREM engaged in communications with the Tenant to explore settlement of the current dispute. Under the City-Wide Real Estate model, TPA's lease administration and property management functions have transferred to CREM.

A conditional settlement has been reached as a result of negotiations between the City, TPA and the Tenant. City Council approval of the settlement terms and amount are being sought through this report, the particulars of which are outlined in Confidential Attachment 1.

CONTACT

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SIGNATURE

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ATTACHMENTS

Confidential Attachment 1 - Confidential Information