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DELIVERED BY EMAIL
(ggc@toronto.ca)

General Government Committee
City of Toronto
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Dear Members of the General Government Committee:

**Re: General Government Committee - January 8, 2024 Meeting
Item GC9.13 - Expropriation of Properties for the Extension of Beecroft Road -
Stage 2 (Ward 18)
Comment 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.

We write to provide comments regarding the subject matter for distribution to the members of the City of Toronto General Government Committee (“**Committee**”) in advance of the January 8, 2024 Committee meeting.

The Owners ask the Committee to recommend to City Council that it approve a partial taking of the Subject Properties, not a full taking as proposed in the staff report.

Background

On June 15, 2022, City Council authorized City staff to initiate expropriation proceedings required for the purpose of constructing the Beecroft Road extension (the “**Project**”).

The City issued Notices of Application for Approval to Expropriate Lands dated August 19, 2022 (the “**Notices**”) to the Owners regarding the Subject Properties. The Notices state the City of Toronto will require a fee simple taking of the entirety of each of the Subject Properties.

The Owners requested a hearing of necessity. Concurrently, the City and Owners engaged in without prejudice discussions to negotiate the conveyance of the required lands to the City and the Owners would be happy to continue down this path.

The Ontario Land Tribunal (“**Tribunal**”) conducted a hearing of necessity regarding the Subject Properties on March 16, 2023.

On November 29, 2023, the Tribunal issued a decision concluding that the expropriation of the Subject Properties are fair, sound and reasonably necessary.

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:

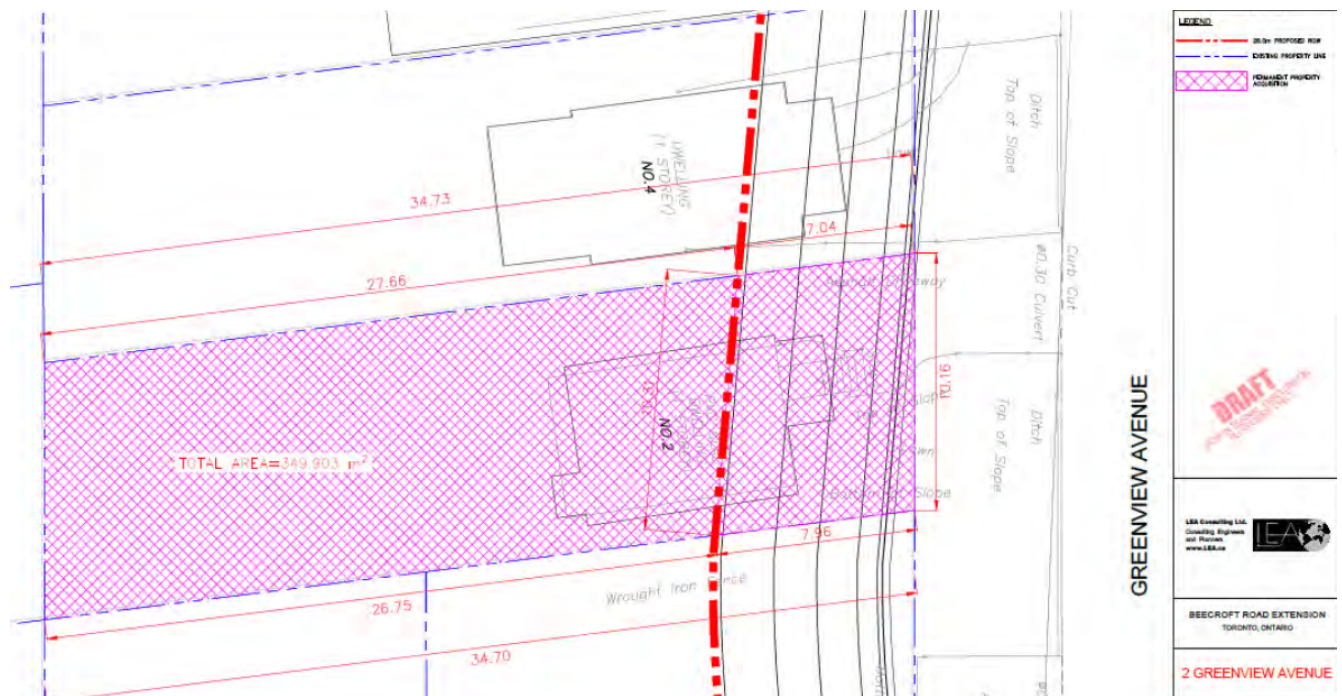


Figure 1: 2 Greenview Avenue



Figure 2: 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 arrange a termination agreement 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 injurious affection if the City expropriates the entirety of the Subject Properties.

A Partial Taking May Avoid a Claim for Injurious Affection

In addition to the Subject Properties, the Owners, together or individually, own 38 and 40 Finch Avenue West and 7 Eldora Avenue. These properties are within the block bounded by Finch Avenue West, Eldora Avenue, Hendon Avenue and Greenview Avenue and generally contiguous to the

Subject Properties. 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.

If the City expropriates only the Required Lands and not the entirety of the Subject Properties, the Owners claim for injurious affection against the City will be significantly reduced and possibly be eliminated.

A full taking of the Subject Property 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, giving rise to what we anticipate will be a significant claim for injurious affection.

The Committee Can Recommend a Partial Taking

Pursuant to s. 8(1) of the *Expropriations Act*, the City has three options once it receives a report from the 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].

We ask that the Committee recommend to City Council that the proposed expropriation be modified to acquire only the Required Lands pursuant to s. 8(1)(c) of the *Expropriations Act*.

The reason for this request is three-fold:

1. Only the Required Lands are necessary for the City to proceed with the Project;
2. The claim for injurious affection arising from the proposed full taking of the Subject Properties will be significant given the assembly of adjacent properties for the purpose of redevelopment by the Owners; and,
3. 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 absurd outcome that will introduce significant complexity, delay and costs, all of which can be avoided if the City expropriates only the Required Lands.

Conclusion

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 and we ask the Committee to recommend that City Council approve a partial taking of the Subject Properties, being limited to the Project Requirements.

We will attend in person at the January 8, 2024 meeting to present to the Committee on this item. We welcome any questions at the meeting or in advance. We look forward to continuing working with the City to find a mutually beneficial solution.

Yours truly,

BORDEN LADNER GERVAIS LLP



Lee English

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cc Client
Councillor Cheng