



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Litigation Update Regarding Option to Purchase Retail Component of Development at 935 Eglinton Avenue West (Car Park 655)

Date: May 14, 2024

To: Board of Directors, Toronto Parking Authority

From: President, Toronto Parking Authority and City Solicitor

Wards: Ward 12, Toronto-St. Paul's

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report pertains to litigation involving Toronto Parking Authority (TPA) and contains advice that is subject to solicitor-client privilege.

SUMMARY

This is a report on the status of the legal action commenced by TPA on January 21, 2019 against BSaR (Eglinton) Ltd. and BSaR (Eglinton) LP (both together referred to as BSaR), and BSaR's principals, Tarek Sobhi, and Tyler Hershberg. In the legal action, TPA is claiming damages in the amount of \$7.0 million for breach of contract related to an option held by TPA to purchase the retail unit (Retail Component) of a joint venture development at 935 Eglinton Avenue West (the Property).

RECOMMENDATIONS

The President, Toronto Parking Authority, and the City Solicitor recommend that:

1. The Board of Directors of Toronto Parking Authority direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial impacts related to the ongoing legal action are discussed in Confidential Attachment 1.

DECISION HISTORY

At its meeting of November 17, 2009 (TPA Board Minute #09-161), TPA Board of Directors authorized staff to proceed with negotiating the terms and conditions of an agreement of purchase and sale (APS) with BSaR based on a non-binding Letter of Intent (LOI).

At its meeting of May 18, 2010 (TPA Board Minute #10-074), TPA Board of Directors approved the APS with BSaR involving the sale of the development rights through a conveyance to BSaR of a stratified interest in City-owned lands to be declared as surplus at Municipal Car Park 655, 935 Eglinton Avenue West.

The City's internal approval process of declaring the subject site surplus to the City's needs was followed and the Property was declared surplus on August 6, 2010 by Delegated Approval Form Tracking No.: 2010-161.

At its meeting of February 7, 2011, City Council adopted the recommendations in Item GM1.13 – Purchase and Sale Transaction of 935 Eglinton Avenue West – Municipal Car Park No. 655 and authorized the sale of the Property.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.GM1.13>

At its meeting of December 14, 2020, TPA Board of Directors received a report on the status of the legal action commenced by TPA on January 17, 2019 against BSaR and BSaR's principals, Sobhi and Hershberg, (the Action).

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PA20.11>

At its meeting of April 6, 2021, TPA Board of Directors received an update report on the status of the Action.

<https://secure.toronto.ca/council/agenda-item.do?item=2021.PA22.11>

At its meeting of July 18, 2023, TPA Board of Directors received an update report on the status of the Action.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PA5.11>

COMMENTS

Confidential Attachment 1 provides an update on the status of the litigation against BSAr and BSAr's principals, Tarek Sobhi, and Tyler Hershberg.

CONTACT

Michele A. Wright, Deputy Director, Litigation, Legal Services,
416-397-5342, Michele.A.Wright@toronto.ca

Jeffrey Dea, Vice President, Growth & Strategy, Toronto Parking Authority,
437-243-6545, Jeffrey.Dea@greenpmobility.com

SIGNATURE

W. Scott Collier, President
Toronto Parking Authority

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Litigation Update Regarding Option to Purchase Retail Component of Development at 935 Eglinton Avenue West (Car Park 655)