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DISPOSITION OF EXPROPRIATED LAND TORONTO-YORK SPADINA SUBWAY EXTENSION, PROJECT 90996

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report dated August 22, 2011, from the Commissioner of Corporate Services.

1. RECOMMENDATION

It is recommended that:

1. Council as approving authority, approve the disposition of the lands expropriated to facilitate the Toronto-York Spadina Subway Extension to the Toronto Transit Commission without giving the owners from whom the land was taken a first right of repurchase, in accordance with section 42 of the *Expropriations Act*.

2. PURPOSE

This report seeks Council's approval to dispose of lands expropriated for the Toronto-York Spadina Subway Extension (TYSSE) without affording the original owners the right to repurchase. This is necessary to fulfill an obligation to transfer the lands to the Toronto Transit Corporation (TTC) for the purpose of operating the subway.

3. BACKGROUND

Lands have been acquired for the Toronto-York Spadina Subway Extension Project through expropriation

Council at its meeting held on September 23, 2010, by its enactment of By-Law No. 2010-68, authorized the expropriation of the necessary lands from three property owners: 724352 Ontario Ltd. (UPS), 2748355 Canada Inc. (Bentall), and Toromont Industries Ltd. Council at its meeting held on February 17, 2011, by its enactment of By-Law No. 2011-6, authorized the expropriation of the necessary lands from Toromont Industries Ltd. and Calloway REIT (Sevenbridge) Ltd. (Smart Centres).

The Regional Municipality of York, the City of Toronto and the TTC entered into two memoranda of understanding

The Region is party to two memoranda of understanding with respect to the Toronto-York Spadina Subway Extension. On December 15, 2008, the Region and the City of

Toronto entered into a Memorandum of Understanding (MOU) to govern the capital cost allocation for the project. This MOU also sets out the principles of ownership of the subway lands and infrastructure. A further MOU was executed between the Region, the City and TTC setting out the principles for operation and maintenance of the TYSSE. These agreements provide for the Region to acquire all the lands for the TYSSE within the Region and subsequently to transfer certain lands to TTC for its infrastructure, including tunnel construction.

Council approved the transfer of property rights to TTC under certain conditions

On February 17, 2011, Council authorized the transfer of property rights to TTC in the following cases:

- i) where the lands are required for tunnel construction and related easements and where tendering for construction is imminent
- ii) where the interests available are of limited value (e.g. Licences, temporary easements) and there is no compelling interest in the Region taking title
- iii) provided the Region's interest in the surface rights is not compromised

Transfer of property rights is proposed where lands are required for construction

In accordance with Council authority, the Region is preparing to transfer property rights to TTC to facilitate construction. The two main construction contracts for construction in the Region have now been awarded. The Highway 407 Station and Northern Tunnels Main Contract was awarded on March 4, 2011. The Vaughan Corporate Centre Station Main Contract was awarded on July 3, 2011. Staff expect to be in a position to complete the transfer of property rights from the Region to TTC in the fall of 2011.

4. ANALYSIS AND OPTIONS

The *Expropriations Act* gives expropriated owners a right of repurchase

Section 42 of the *Expropriations Act* provides that the expropriating authority cannot dispose of expropriated lands without the approval of the approving authority, without giving the owners from whom the land was taken the right of repurchase. In order to transfer property rights to TTC, the Region requires Council, as approving authority, to approve the disposition of the lands expropriated without giving the owners from whom the land was taken a first right to repurchase it.

This provision is typically applied where expropriated lands have become surplus to the requirements of the expropriating authority. In this case, however, the lands are still to be used for their intended purpose, but the Region is transferring title as contemplated in the

Capital Cost MOU. Staff are of the opinion that it is prudent to obtain Council approval to comply with the strict provision in the Act.

5. FINANCIAL IMPLICATIONS

Expenditures incurred by the Region for land acquisitions will be initially fully reimbursed by the project fund. Ultimately, the Region will be billed its 13.35% share of total project expenditures.

6. LOCAL MUNICIPAL IMPACT

The TYSSE will provide subway service in the Region. The project will have significant implications for the City of Vaughan and is critical to the achievement of its vision for the corridor and its Vaughan Metropolitan Centre.

7. CONCLUSION

It is recommended that the disposition of the lands expropriated to facilitate the Toronto-York Spadina Subway Extension to the Toronto Transit Commission without giving the owners from whom the land was taken a first right to repurchase it be approved.

For more information on this report, please contact Chris Harker, Manager Realty Services, Property Services Branch at Ext. 1899.

The Senior Management Group has reviewed this report.