

MEMO / NOTE DE SERVICE



To / Destinataire	Mayor and Members of Council	File/N° de fichier:
From / Expéditeur	Marian Simulik General Manager and City Treasurer, Corporate Services Department / Directrice gé Direction générale des Services organisationnels	
Subject / Objet	By-laws Approving the Expropriation of Properties and authorizing the making of an application to expropriate properties required for the Stage 2 Light Rail Transit Project	Date: 11 July 2018

PURPOSE

This Memorandum details the two by-laws required to support the expropriation procedures for property interests required for the Stage 2 Light Rail Transit Project:

- A by-law to approve the expropriation of the properties that were subject to the Council approved initiation of expropriation on May 10, 2017 (Document 1); and
- A by-law to initiate the expropriation process to acquire new property interests required (Document 3).

SUMMARY

Authorization to proceed with expropriation of the Subject Property Interests

On March 8, 2017, City Council directed the Corporate Real Estate Office (CREO) to proceed with the acquisition of the property interests required to facilitate the construction, use and maintenance of the Stage 2 Light Rail Transit Project and related works. On May 10, 2017 [Council approved By-law 2017-176 \(the “2017 Application By-law”\)](#) authorizing the making of an application for approval to expropriate certain property interests.

Staff recommends that Council adopt the draft Approval of Expropriation By-law (Document 1) to approve the expropriation of certain property interests (Subject Property Interests) that were subject to the Council approved initiation of expropriation on May 10, 2017.

Consistent with the City’s Real Property Acquisition Policy, CREO staff have been in contact with owners and occupants of the properties included in the Application By-law. In order to give additional notice to certain owners and occupants while ensuring that required property interests are secured in time to meet current timelines established for

the delivery of the Project, Staff seeks approval to proceed with the expropriation of the Subject Property Interests.

Authorization to initiate the expropriation process for the 2018 Application By-law Properties

The preliminary engineering process of the Stage 2 Light Rail Transit Project has identified additional property interests that require expropriation. As such, staff recommends that Council adopt the draft 2018 Application By-law (Document 3) for the purpose of authorizing the making of an application for approval to expropriate property interests identified in Schedule "A" and illustrated in Schedule "B" of draft 2018 Application By-law.

It is important to note that initiating expropriation proceedings, approval of the expropriation, and completing the expropriation of property does not mean the City will cease negotiations. Staff will continue efforts to achieve a negotiated resolution of all property acquisition matters.

DISCUSSION

Authorization to proceed with expropriation of the Subject Property Interests

Further to the 2017 Application By-law approved by Council on May 10, 2017, the City was authorized to make an application for approval to expropriate the Subject Property Interests identified in that By-law.

The Subject Properties Interests are located at the following municipal addresses and are illustrated on sketches for reference purposes in Document 2:

1. 2446 Leitrim Rd (Trillium 6a);
2. 2474 Leitrim Rd. (Trillium 8a);
3. 2500 Leitrim Rd. (Trillium 9a);
4. 1172 Walkley Rd. (Trillium 53);
5. 555 Anand Pr. (Trillium 54);
6. 2640 Mac St. (Trillium 58c);
7. 2666 Mac St. (Trillium 59c);
8. 2636 Mac St. (Trillium 75a);
9. 2680, 2650 and 2700 Queensview (West 15c, 16c, 96a);
10. 1190 Richmond (West 76a);
11. 2505 Hanlon Ave. (West 93);
12. 2504 Hanlon (West 97);
13. 727 Richmond Rd.(West 56c);

14. 1400 Blair Pl. (East 7); and
15. 2144 East Acres Rd. (East 9).

The acquisition process to date can be summarized as follows:

- In accordance with Section 6(1) of the Expropriations Act, Council must initiate the expropriation by directing staff to serve Notices of Application for Approval to Expropriate (“Notice of Application”), on the registered owners of legal interests in the lands to be expropriated. Of the properties identified in the Application By-law, Staff identified certain priority properties and sent Notices of Application by registered mail to the appropriate owners, interest holders, and occupants of those properties, including the owners, interest holders, and occupants of the Subject Property Interests on December 5, 2017. Pursuant to the Expropriations Act, the notices were published once a week for three consecutive weeks commencing December 7, 2017 and ending on December 21, 2017 in English and French newspapers having general circulation in the Ottawa Region.
- Within 30 days of the service of the Notices of Application or the first publication of the notices, persons entitled to receive the Notice of Application may request a hearing of necessity which must inquire if the taking of the lands or any part of the lands required by the City is “fair, sound and reasonably necessary” for the construction of the Stage 2 Light Rail Transit Project. The City has not received a request for a hearing of necessity in regards to the expropriation of the Subject Property Interests identified in Document 1.

The statutory basis and requirement for the Approval of Expropriation By-law:

- Section 6(1) of the Municipal Act, 2001, S.O. 2001, c. 25 states that the power of the City to acquire land “includes the power to expropriate land in accordance with the Expropriations Act.” Section 4 of the Expropriations Act requires an expropriating authority, in this case the City, to receive “approval of the approving authority”, in this case, Council, before expropriating any land.
- It will be necessary to proceed with the expropriation of the Subject Property Interests to meet current acquisition timelines for construction. In cases where the acquisition timelines allow, Staff will make efforts to provide additional notice to the owners and occupants, over and above the requirements of the Expropriations Act, in order to increase certainty for the expropriated owners and occupants of the Subject Property Interests and to assist the owners and occupants with business planning.

Summary of the expropriation process once authority to proceed is granted with the Approval of Expropriation By-law:

- In accordance with Section 9 of the Expropriations Act, Council, as the approving authority, must confirm its approval of the expropriation of the Subject Property Interests.

- After receiving Council's approval in the form of the Approval of Expropriation By-law, Staff may proceed to register the required expropriation plans on title to the lands and to serve Notices of Expropriation, Election and Possession in accordance with sections 9, 10 and 39 of the Expropriations Act.
- Owners of the Subject Property Interests identified in the Approval of Expropriation By-law, and other registered interest holders with respect to interests in that property (e.g. tenants appearing on the assessment roll, mortgagees), will receive the Notices of Expropriation, Election and Possession, in accordance with the Expropriations Act.
- An offer of compensation under Section 25 of the Expropriations Act (the "Offer") will be presented to owners or other interest holders within three months of the registration of the expropriation plan. The amount offered to the owners or interest holders will be determined by an independent, third party appraisal firm and a copy of the appraisal report will be presented with the Offer.

Authorization to initiate the expropriation process for the 2018 Application By-law Properties

The preliminary engineering process of the Stage 2 Light Rail Transit Project has identified additional property interests that require expropriation.

The purpose of draft 2018 Application By-law attached as Document 3 is to initiate the expropriation process to acquire these property interests, listed in Schedule "A" and generally described in the sketches included in Schedule "B" to the draft 2018 Application By-law.

In accordance with Section 4 of the *Expropriations Act*, Council, acting as the approving authority, must authorize the making of an application to expropriate. Once this approval is granted, notice of the City's intent to seek approval to proceed with an expropriation will be served in accordance with the legislation and will also be published once a week, for three consecutive weeks in English and French newspapers having general circulation in the Ottawa Region.

Mayor and Councillors' Concurrence

The concurrence of the Mayor and Councillors Qaqish (Ward 22), Brockington (Ward 16), Deans (Ward 10), Tierney (Ward 11), Darouze (Ward 20), Leiper (Ward 15), Monette (Ward 1) and Taylor (Ward 7) has been obtained prior to including both draft by-laws in the Council Agenda.

FINANCIAL IMPLICATIONS

The current approved capital authority for the Stage 2 Light Rail Transit Project (Capital Project #907926) includes an allocation for property acquisition and related expenditures. Staff have estimated costs associated with these draft by-laws, including costs associated with expropriation, and have concluded that such costs can be met within the approved budget allocation.

If you require further information with respect to the information in this memorandum, please feel free to contact either Gordon MacNair, Director, Corporate Real Estate Office, at extension 21217, or myself at extension 14159.

Marian Simulik

General Manager and City Treasurer / Directrice générale et Trésorière municipale
Corporate Services Department / Direction générale des Services organisationnels

cc: Senior Leadership Team
Gordon MacNair, Director, Corporate Real Estate Office
Chris Swail, Director, O-Train Planning
Caitlin Salter-MacDonald, Program Manager, Committee and Council Services
Branch

Encl.: Document 1: Draft by-law to approve the expropriation of properties that were subject to the Council approved initiation of expropriation on May 10, 2017 (Approval of Expropriation By-law)

Document 2: Property Requirement Plans illustrating the Subject Property Interests in the Approval of Expropriation By-law, for reference purposes only

Document 3: Draft by-law for the purpose of authorizing the making of an application for approval to expropriate (2018 Application By-law) property interests identified in Schedule "A" and illustrated in Schedule "B"