

**Report to  
Rapport au:**

**Finance and Economic Development Committee  
Comité des finances et du développement économique  
5 November 2019 / 5 novembre 2019**

**and Council  
et au Conseil  
27 November 2019 / 27 novembre 2019**

**Submitted on October 25, 2019  
Soumis le 25 octobre 2019**

**Submitted by  
Soumis par:  
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**Ward: SOMERSET (14)**

**File Number: ACS2019-PIE-CRO-0010**

**SUBJECT: Approval to expropriate property rights required at 32 Elgin Street for operation and maintenance of the Stage 1 Confederation Line**

**OBJET: Approbation pour l'expropriation des biens-fonds requis au 32, rue Elgin pour l'exploitation et l'entretien de la Ligne de la Confédération, étape 1**

#### **REPORT RECOMMENDATIONS**

**That the Finance and Economic Development Committee recommend that Council approve:**

- 1. The expropriation of a stratified leasehold interest below the lower limit of a tunnel segment previously acquired at 32 Elgin Street in order to accommodate the final depth of the tunnel required for the Stage 1 Confederation Line Project, as set out in the attached Schedule A to Document 1;**
- 2. The enactment of the by-law, attached as Document 1, to approve the expropriation of said property; and**
- 3. The registration of the Expropriation Plan and the service of Notices of Expropriation, Election and Possession pursuant to Sections 9, 10 and 39 of the *Expropriations Act R.S.O. 1990* (the "Act").**

#### **RECOMMANDATIONS DU RAPPORT**

**Que le Comité des finances et du développement économique recommande au Conseil d'approuver ce qui suit :**

- 1. L'expropriation d'un droit de tenure à bail stratifié sous la limite inférieure d'un tronçon de tunnel précédemment acquis au 32, rue Elgin, afin de permettre le creusement du tunnel à sa profondeur définitive, une opération prévue dans le cadre de l'étape 1 du projet de la Ligne de la Confédération, tel qu'il est décrit dans l'annexe A du document 1, ci-jointe;**
- 2. L'adoption du règlement, ci-joint en tant que document 1, afin d'approuver l'expropriation dudit bien-fonds;**
- 3. L'enregistrement du plan d'expropriation et la signification des avis d'expropriation, de choix de la date du calcul de l'indemnité et de prise de**

***possession, conformément aux articles 9, 10 et 39 de la Loi sur l'expropriation, L.R.O. 1990 (la « Loi »).***

## **BACKGROUND**

City Council, by its approval of the \$2.13B Stage 1 Ottawa Light Rail Transit Project (“Confederation Line”) at its meeting of December 19, 2012 ([ACS2012-ECS-RIO-0004](#)), authorized the funding of property acquisition required for the Confederation Line. The Confederation Line Project includes a 2.5-kilometre tunnel under the downtown core connecting to three underground stations.

On July 19, 2013, the City expropriated property rights for a portion of the tunnel below the Chambers Building, located at 32 Elgin Street, by registering Expropriation Plan OC1499088. The expropriated property rights were a 686 square metres subterranean leasehold interest parcel which had a lower vertical limit varying between 30.2 to 33.4 metres below grade and an upper vertical limit of 17.5 to 20.8 metres below grade. At the time of expropriation, this was the expected depth of the Confederation Line tunnel at this location. In completing the design of the tunnel, the City’s contractor determined that additional depth was required below the lower limit of the stratified tunnel segment expropriated in Plan OC1499088 in order to support the tunnel’s structure. The lands required for the additional depth are described in Schedule A to the attached Draft By-law, and have a lower vertical limit varying between 33.7 to 36.2 metres below grade.

The National Capital Commission (NCC) holds the Fee Simple interest in these lands and a Memorandum of Understanding dated October 9, 2012 was concluded with the NCC for the required property interests and reported to Council on December 19, 2012 ([ACS2012-ECS-RIO-0004](#)). The NCC have agreed to convey to the City the additional depth in easement; however, they are not willing to assist the City in removing the leasehold interest from these lands. As such, expropriation is required to acquire the necessary portion of the leasehold interest in the tunnel segment.

On June 22, 2016 ([ACS2016-PAI-REP-0016](#)), City Council approved an application for approval to expropriate the necessary portion of the leasehold interest as described above, including the enactment of By-law 2016-214. The purpose of this report is to obtain City Council approval to expropriate the leasehold interest, thus ensuring that all necessary interest in the subject property required to operate the Confederation Line vests with the City.

## **DISCUSSION**

The Confederation Line property interest which is the subject of this report is a stratified leasehold interest below the lower limit of a previously expropriated tunnel segment, described in more detail in Schedule "A" of the Draft By-law attached hereto as Document 1, and being Parts 6 and 9 of reference Plan 4R-31196 attached hereto as Document 2.

Due to engineering refinements, it was determined that lowering the underside of the Confederation Line tunnel below the lower vertical limit acquired through expropriation at 32 Elgin Street would deliver a better ridership experience by reducing the slope gradient of the Confederation Line corridor as it dips below the Rideau Canal.

Although the City is working with the owner of the leasehold interest toward an amicable settlement, expropriation is the most efficient method of ensuring that all necessary interest in the land vests with the City.

Expropriation proceedings for the subject property commenced with Notice of Application for Approval to Expropriate Land, being sent to parties registered on title by registered mail on January 2, 2019. Pursuant to the *Act*, the notice was also published in the *Ottawa Citizen* and *Le Droit* once a week, for three consecutive weeks commencing on January 4, 2019. The last date to request an inquiry (Hearing of Necessity) pursuant to Section 6 of the *Act* was February 3, 2019. No requests for a Hearing of Necessity were received.

Subject to Council approval of this report, staff will register an Expropriation Plan on title, serve all registered parties with Notices of Expropriation, Election and Possession, together with a copy of the registered Expropriation Plan, pursuant to the *Act*.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications related to implementing the recommendations in this report.

## **RURAL IMPLICATIONS**

The requirements are within the Urban Boundary of the City of Ottawa. The acquisition of property required for the Confederation Line project will not generate any rural implications.

## **CONSULTATION**

Public consultation for the Ottawa Light Rail Transit Project was part of the Provincial and Federal Environmental Assessment process and included open houses and public notices.

## **COMMENTS BY THE WARD COUNCILLOR**

Councillor McKenney is aware of the proposed expropriation and has voiced no objections or concerns with staff's recommendation.

## **LEGAL IMPLICATIONS**

Provided that the City follows the procedures set out in the *Expropriation Act* and outlined in this report and the Draft By-law attached hereto as Document 1, there are no legal impediments to implementing the recommendations set out in this report

## **RISK MANAGEMENT IMPLICATIONS**

Acquisition of the land requirements is necessary to ensure that the City holds appropriate property interests for all lands required for operation and maintenance of the Confederation Line. Failure to approve the expropriation could impact the City's ability to meet its contractual obligations.

## **FINANCIAL IMPLICATIONS**

Appropriate budgetary provisions have been made within 905176 to account for all acquisitions required for the Confederation Line Project.

## **ACCESSIBILITY IMPACTS**

There are no accessibility impacts associated with this report.

## **TERM OF COUNCIL PRIORITIES**

This report addresses the following Term of Council Priorities:

- ES1 – Support and environmentally sustainable Ottawa
- TM1 – Ensure sustainable transit services;
- TM2 – Maximize density in and around transit stations;
- TM3 – Provide infrastructure to support mobility choices;
- TM4 – Promote alternative mobility choice;
- GP3 – Make sustainable choices;

- FS2 – Maintain and enhance the City’s financial position; and
- EP3 – Support growth of the local economy

### **SUPPORTING DOCUMENTATION**

Document 1 Draft By-law to expropriate an additional subterranean tunnel segment under property municipally known as 32 Elgin Street

Document 2 Reference Plan 4R-31196

### **DISPOSITION**

Following Council’s approval, Realty Services and Legal Counsel will register an Expropriation Plan on title, serve all registered parties with Notices of Expropriation, Election and Possession, together with a copy of the registered Plan of Expropriation, pursuant to the *Act*.

**Document 1 – Draft By-law to expropriate an additional subterranean tunnel segment under property municipally known as 32 Elgin Street**

CITY OF OTTAWA

BY-LAW NO. 2019 – \_\_\_\_\_

A by-law of the City of Ottawa to approve the expropriation of an additional subterranean tunnel segment under property municipally known as 32 Elgin Street for the purposes of the Confederation Line Light Rail Transit project, as more particularly described in **Schedule “A”** to this by-law.

WHEREAS Council of the City of Ottawa (“**City**”) adopted Report to Council Reference No. ACS2016-PAI-REP-0016 authorizing commencement of the application for approval to expropriate the lands described in **Schedule “A”** attached hereto (the “**Lands**”) for the purposes of the Ottawa Light Rail Transit system (“**OLRT**”) including, but not limited to, for the purposes of facilitating the construction, operation and maintenance of light rail infrastructure, tunnel guideway corridors, tunnel portals and all other improvements and works ancillary to the OLRT.

AND WHEREAS pursuant to Section 6(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended (“**Municipal Act**”), the power of a municipality to acquire land under the *Municipal Act* or any other *Act* includes the power to expropriate land in accordance with the *Expropriations Act, R.S.O. 1990, c.E.26*, as amended (hereinafter referred to as the “**Expropriations Act**”);

AND WHEREAS the *Expropriations Act* authorizes City Council to expropriate lands for municipal purposes;

AND WHEREAS a Notice of Application for Approval to Expropriate Land for the Lands was served and published, as required by the *Expropriations Act*;

AND WHEREAS the application has not been referred to a hearing by any of the owners of the Lands;

AND WHEREAS the City has been unable to reach an agreement with the registered owners to acquire the Lands;

NOW THEREFORE THE COUNCIL OF THE CITY OF OTTAWA HEREBY ENACTS AS FOLLOWS:

1. THAT approval is hereby granted for the expropriation by the City of Ottawa of the Lands described in **Schedule "A"** attached to this by-law, for the above described purposes.
2. THAT the City Clerk is hereby authorized to execute on behalf of City Council the Certificate of Approval and the Expropriation Certificate set out on the Expropriation Plan and all other notices and documents which are necessary to carry out the provisions of this by-law.
3. THAT the City Clerk is hereby authorized to cause the Expropriation Plan to be registered in the Land Registry Office for the Land Titles Division of Ottawa (No. 4) and thereby effect the expropriation of the said Lands.
4. THAT a Notice of Expropriation be served upon the registered owners together with a copy of the Expropriation Plan and a Notice of Election, relating to the date of assessment of compensation.
5. THAT an appraisal report estimating the market value of the Lands be obtained from an accredited appraiser.
6. THAT a Notice of Possession be served requiring possession of the Lands at least three months after the date of service of said notice.
7. THAT the City is hereby authorized to enter and take possession of the expropriated lands on the day permitted under the *Expropriations Act*, or pursuant to any Court Order thereunder, or pursuant to any agreement entered into between the relevant owners and the City.
8. THAT an offer of an amount in full compensation for the registered owner's interest in the Lands, and an offer for immediate payment of 100% of market value as estimated by the expropriating authority, all in accordance with s. 25 of the *Expropriations Act* be served, together with a copy of the appraisal report on which the offer of compensation is based.

9. THAT the staff and authorized representatives of the City are authorized and directed to do all things required arising from the authorizations provided for by this by-law.
10. THAT this by-law comes into force on the day it is passed.

ENACTED and PASSED this \_\_\_\_ day of \_\_\_\_\_, 2019.

CITY CLERK

MAYOR

SCHEDULE "A" - BY-LAW NO 2019 – \_\_\_\_\_

Those lands in the City of Ottawa described as follows:

All right, title and interest in the stratified portion of the following lands:

Part of PIN 04115-0332 (LT) being a strata interest in Part of the Leasehold Interest in Lots 27 and 28 South Sparks Street, Numbering Eastward and Lots 27, 28 and Part of Lot 29 North Queen Street, Numbering Eastward, Plan 3922, Ottawa, designated as Parts 6 and 9 on Plan 4R-31196.

