

TORONTO TRANSIT COMMISSION

MEETING DATE September 25, 1990

DATE September 13, 1990

REPORT NO. 9

DUNDAS WEST SUBWAY STATION

CONNECTION TO GO TRANSIT - PROPERTY REQUIREMENTS

RECOMMENDATION

It is recommended for approval by the Commission that:

- a) the additional property rights necessary to provide a subsurface pedestrian tunnel connection between the easterly end of the Dundas West Subway Station and the GO Transit Bloor stop be acquired from 690981 Ontario Limited(o/a The Crossways Complex - Creccal Trust & Investment Ltd.);
- b) negotiations to acquire the additional property rights by purchase continue;
- c) failing successful negotiations the additional property rights be acquired by expropriation;
- d) the Municipality of Metropolitan Toronto be requested to acquire the additional property rights on behalf of the Commission;
- e) the Ministry of Transportation of the Province of Ontario, the Council of the Municipality of Metropolitan Toronto and the Council of the City of Toronto be provided with copies of this report; and
- f) staff be authorized to take such other action as may be necessary to implement the foregoing.

(A.F.L.) (J.H.J.) (J.P.) (N.E.B.)

FUNDING

This project is funded 100% by the Ministry of Transportation of the Province of Ontario (MTO) and is part of their Fare Integration and Service Co-ordination Initiative.

HISTORY

Lease by TTC, Metro and City of Toronto

At its meeting of June 18, 1968, the Commission authorized joining with Metropolitan Toronto and the City of Toronto, as lessors, to lease the Commission owned property at the former Vincent loop, the City of Toronto owned property (the former Vincent Street) and a strip of property owned by Metropolitan Toronto to Corporate Foods Ltd. (Canada Bread). The long term lease was for a first term of thirty-three years which commenced May 1, 1968 and contained options for the renewal of the lease for two further terms of thirty-three years each.

The lease also contained the provision for a subsurface easement above the Bloor-Danforth subway for subway maintenance, repair and reconstruction.

Development Proposal - Consolidated Building

At its meeting of January 18, 1973, the Commission authorized execution of an agreement which assigned the existing lease to Consolidated Building Corporation Limited.

Consolidated Building Corporation proposed to construct on these lands 455 dwelling units, a 634-room hotel, a retail shopping area, some office accommodation, 721 indoor parking spaces and an entrance connection between the easterly portion of the Dundas West Subway Station, their development and the proposed GO Transit Bloor stop. The development would be called "The Crossroads".

Consolidated Building further reported that they were prepared to bear the following costs:

- Installation of a stairway and two escalators from the development mall at street level to the future control area below grade;
- Construction of a control area below grade with a knock-out panel for future connection to GO Transit. The development would also be equipped with floor panels in the ground floor and the first and second parking levels for the future construction of stairs and escalators required for access between the ground floor and the transit control area; and
- Demolition and relocation of the existing fan shaft in order to accommodate its truck delivery and loading docks.

In order to accommodate the control area and relocated fan shaft, the existing easement in the P2 parking area had to be enlarged slightly. By Memorandum of Agreement dated May 31, 1974, the Municipality of Metropolitan Toronto, TTC and the City of Toronto altered and enlarged the subsurface easement area to permit future construction and operation of the entrance connection.

The Commission also advised Consolidated Building that it was prepared to enter into an agreement for the installation of the pedestrian entrance connection and execution of an agreement to cover construction, operation, maintenance and liability when an entrance connection was warranted.

No Progress with Entrance Connection or Tunnel

Discussions took place off and on during the late 1970's and early 1980's, but neither the entrance connection nor the tunnel to GO Transit were proceeded with, largely for budget reasons. Subsequently, Consolidated Building used the subsurface easement area for parking.

During this period as well, a number of amalgamations and assignments took place which resulted in the present assignee, the Crossways Complex (690981 Ontario Limited) assuming the long-term lease in late 1986. No entrance connection or tunnel to GO Transit had been constructed and no discussions were held with Crossways at this time.

Provincial Initiative

In August 1988, the Ministry of Transportation Ontario (MTO) requested that the Commission's technical staff carry out a feasibility study of the possibility of a connection between the Dundas West Subway Station and the GO Transit Bloor stop. At its meeting of February 24, 1989, the Province's Fare Integration and Service Coordination (FISC) Steering Committee endorsed the project as an excellent opportunity to improve commuter transfer between the TTC and GO Transit.

At the meetings of May 9, 1989 and March 6, 1990, respectively, the Commission authorized design engineering work and additional design funds by the Engineering and Maintenance Branch. These costs would be back-charged to MTO which agreed to pay 100% of the costs.

DISCUSSION

Additional Property Rights Required

When design was underway, it became evident that additional property rights were required to accommodate the connection to GO Transit i.e. temporary access, temporary storage area and a slight adjustment to the easement.

In September, 1989, TTC staff with input from Metro and the Province met with Crossways staff to discuss the additional subsurface rights required adjacent the Commission's existing easement and to discuss and obtain right of temporary access for construction.

At the time, Crossways appeared agreeable to receiving compensation for the additional rights required. TTC staff also explained that the former lessee (Consolidated Building Corporation) were keenly interested in providing a connection from their retail mall to the control area and that they were willing to fund the construction and installation of stairways and escalators to their development.

Crossways stated categorically that due to the nature of the area (increased vandalism and loitering, etc.), they were not interested in connecting to the proposed control area which would lead to the Dundas West Subway Station and GO Transit.

While these discussions were being held, TTC staff had commenced the approval process with the City of Toronto.

Committee of Adjustment/Land Use Committee

In August, 1989 an application was submitted to the Committee of Adjustment on behalf of Crossways and the TTC to reduce the number of parking spaces from 721 to 706. Crossways was agreeable. However, consideration was deferred because changes to the existing site specific by-law 339-80 needed to be dealt with first by the Land Use Committee. In the meantime, the Crossways staff had been informed by a City of Toronto representative that Crossways should provide a connection from their mall to the subway station. Upon receiving this information, Crossways revoked its application to the Committee of Adjustment which had been rescheduled for a Hearing in February, 1990. In the meantime (December, 1989 and January, 1990), however, the Land Use Committee had approved the deletion of parking spaces and City Council adopted the Committee Report.

City staff then wrote Crossways stating that a connection would not be required if Crossways did not want one. Crossways, however, reported to TTC staff that they were not interested in resubmitting their application to the Committee of Adjustment until compensation was settled to its satisfaction. TTC then presented an offer to Crossways in December, 1989, of \$30,000 plus compensation for noise, vibration, loss of retail revenue and other similar disturbances during construction. Such amount would be calculated and provided after construction. In February, 1990, Crossways submitted a counteroffer of \$1,000,000 for the loss of parking spaces and easements. The counteroffer was not based on an appraisal and Crossways considered it to be non-negotiable.

Impasse Reached

At this time, discussions reached an impasse. A final meeting was arranged in March, 1990 with Crossways and staff from the TTC Legal Branch, Property Management and Engineering Departments and staff from Metro and MTO to discuss the offer in an attempt to explain the Provincial process of compensation (i.e. monitoring during the construction stage the compensable items and agreeing on suitable compensation after the construction is completed). Meeting representatives also explained that the plans had been revised to minimize the additional property rights to be acquired.

Crossways did not agree with this concept of compensation and disputed existence of the subsurface easement. Metro tried to convey to Crossways that the matter should be discussed with a lawyer who specializes in expropriation issues. Crossways stated categorically that they would only agree to \$1,000,000 as compensatory payment and were not prepared to discuss anything less.

Final Offer

On August 3, 1990 a final offer was sent to Crossways in an endeavour to determine if an agreement could be reached before TTC requested Metro to commence proceedings leading to expropriation. The final offer of \$104,000 included temporary right of access and inconvenience, etc., while the original offer had these items to be paid as compensatory payment after construction. Crossways was given until August 10, 1990 to accept the final offer and advised that expropriation proceedings would be initiated thereafter.

Final Counteroffer by Crossways

A counteroffer of \$355,000 was submitted by Crossways and included nonrelated issues such as construction of more commercial area above their concourse area and removal of an adjacent owner's vehicles from a mutual right-of-way. Crossways also requested that the TTC obtain approval of these issues on their behalf. Discussions are continuing with MTO, the City of Toronto and Metropolitan Toronto in an endeavour to finalize the offer and to acquire the subsurface rights through purchase. The TTC, however, will not act on Crossways¹ behalf to obtain the requested approvals on the nonrelated issues. If these attempts fail, Metro will then be requested to proceed with acquiring the subsurface property rights through expropriation as recommended herein.

JUSTIFICATION

The additional property rights which are the subject of this report must be obtained if the Dundas West Pedestrian Connection to GO Transit is to proceed as desired by the Ministry of Transportation of the Province of Ontario.