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## POTENTIAL LAND ACQUISITION AND/OR EXPROPRIATION FOR ONTARIO LINE:

What Impacted Property Owners Should Know

By Mandy Ng and Steven Ferri

The Ontario Line is a planned rapid transit line stretching from Exhibition Place to Don Mills Road and Eglinton Avenue East. Owners of property along the proposed Ontario Line who may be impacted by the construction thereof, have recently received letters from Metrolinx. These letters advise that their lands “will be needed to accommodate the construction of the Ontario Line” and invites property owners to contact Metrolinx for a meeting to discuss the project.

Knowing that your property may be impacted by a transit project is stressful. If your property is impacted by a transit project, we hope to assist you by providing answers to the most common questions raised by property owners.

**I received a letter notifying me that my property may be impacted by a transit project and may be needed to accommodate the construction of a transit project. Am I being expropriated?**

A letter notifying you that your property may be impacted and needed for a transit project does not mean that your property is being expropriated at this time. An expropriation is a taking of land without your consent by an expropriating authority through a formal process under the *Expropriations Act*, R.S.O 1990, c. E.26 (“*Expropriations Act*”). The formal expropriation process begins when the expropriating authority (e.g. Metrolinx) serves a “Notice of Application for Approval to Expropriate” (“Notice”) on all registered owners and publishes the Notice in a local newspaper for three consecutive weeks. The Notice is the first step the government or a public body takes to obtain approval to expropriate land under the *Expropriations Act*.

**Can I stop Metrolinx from taking my property?**

If you have not received a “Notice of Application for Approval to Expropriate” (“Notice”), that means that Metrolinx has not formally initiated the process to expropriate your property. If Metrolinx has not formally started the expropriation process, there is no “taking” to stop at this point. However, there may be other avenues to provide your input during the planning process for a transit project.

Typically, once an owner receives the Notice, then there may be legal options to

oppose the taking. One of these options is to request a Hearing of Necessity, where an Inquiry Officer hears evidence and determines whether the proposed expropriation is “fair, sound and reasonably necessary.” However, the government has eliminated the ability of an owner to request a Hearing of Necessity for expropriations that are for the purpose of the Ontario Line, as we discussed in our article “[Delivering Transit Faster in the GTA: Building Transit Faster Act Becomes Law](#)”.

### **Should I engage in negotiations with Metrolinx for the sale of my property?**

You have no obligation to negotiate with Metrolinx for a purchase and sale agreement. Any negotiation or agreement with Metrolinx is voluntary. Expropriating authorities will often try to acquire land through negotiations with the owner to reach a purchase and sale agreement. It is usually faster and more cost-effective for expropriating authorities to acquire land through a purchase and sale agreement than through an expropriation.

If you decide to negotiate with Metrolinx for the purchase and sale of your property, we highly recommend that you seek professional legal advice before entering into any agreement in order to protect your rights and ensure that you are being compensated fully and fairly.

### **If Metrolinx expropriates my property, how will I be compensated?**

Upon a formal registered expropriation, your compensation entitlements are prescribed by the *Expropriations Act*. The purpose of the *Expropriations Act* is to provide full and fair compensation to the person whose land is expropriated. The categories of compensation under the *Expropriations Act* are broad, and some of these include the market value of lands taken, disturbance damages, damages for the reduction in market value caused to the remaining land (i.e. injurious affection), and other damages that are the “natural and reasonable consequence of the expropriation”.

For property owners whose entire home is expropriated and is forced to move, the *Expropriations Act* compensates owners for the relocation of their residence. For example, compensation for moving costs, out-of-pocket expenses, and allowances for inconvenience to find a new home.

For property owners or tenants who operate a business on expropriated lands, the *Expropriations Act* provides compensation for business losses incurred as a result of the expropriation.

The above is not an exhaustive list of the types of compensation available to an expropriated owner. We highly recommend that you seek professional legal advice if you are impacted by an expropriation.

### **I cannot afford a lawyer. What should I do?**

When an expropriating authority, such as Metrolinx, approaches you to acquire your property, legal advice is highly recommended in order to protect your rights and ensure that you are being compensated fully and fairly.

Upon a formal registered expropriation, the *Expropriations Act* provides the reimbursement of reasonable legal, appraisal, and other professional costs incurred by the owner for the determination of compensation, subject to certain rules if the matter goes to a hearing.

However, if your property has not yet been expropriated, the expropriating authority is not required to reimburse owners for their reasonable legal, appraisal, and other professional costs incurred during the pre-expropriation negotiation

process. We understand that hiring a lawyer can create financial hardship to some owners. Please do not hesitate to contact us and we can find a solution.

If you are impacted by the proposed Ontario Line, please do not hesitate to contact us to discuss the process and how we can help you protect your rights and ensure that you are fully and fairly compensated

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