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Ref: 2012-CC27.9

November 8, 2012

Mr. Andy Byford  
Chief Executive Officer  
Toronto Transit Commission  
1900 Yonge Street  
Toronto, Ontario  
M4S 1Z2

PRESENTED TO  
THE COMMISSION

DEC 19 2012

Dear Mr. Byford:

**Subject: City Council – New Business – CC27.9  
Tunnel Vision: an Investigation into the Toronto Transit Commission  
Second Exit Project at Donlands and Greenwood Stations**

City Council on October 30, 31 and November 1, 2012, adopted the following:

1. City Council adopted the recommendations contained in this investigation report (October 23, 2012) from the Ombudsman.

Ombudsman Recommendations

Taking into account all the evidence gathered in this investigation, I recommend the following:

1. That the TTC develop a process/procedure by December 31, 2012, for notifying Councillors of new construction projects that are scheduled to take place in their wards.
2. That a communication policy and process be created by February 1, 2013, for notifying property owners of construction projects, and include but not be limited to the following:
  - i. Residents should be informed as early as possible about construction projects.
  - ii. Flyers should be distributed in appropriately marked envelopes.
  - iii. Information in the notice should clearly describe the nature of the project, its objectives and potential impact.
  - iv. A link to the TTC's website for additional information should be included and kept up to date.
  - v. Public consultation information, including a copy of or access to TTC's relevant policies and procedures.

3. That a documented process be developed by February 1, 2013, specifically for property owners facing potential acquisition. Such a process must include, but not be limited to:
  - i. Letters by registered mail to property owners directly affected by construction projects as early as possible.
  - ii. Those letters should be sent before general public notification about the project.
  - iii. The TTC should follow-up with each property owner within one week, to ensure that letters were received and understood.
  - iv. The TTC should inform property owners as early as possible about the procedures and expectations for using temporary easements on selected properties during the construction phase.
  - v. The opportunity to meet face-to-face with TTC staff before general public notification about the project.
  - vi. Access to relevant TTC's policies and procedures (eg. property acquisition and public consultation.)
  
4. That a public consultation policy and process be developed by December 31, 2012, to include, but not be limited to:
  - i. Ongoing information posts on the TTC website.
  - ii. Accessible information and regularly posted and updated on the website including: presentations, meetings notes, related reports or studies, status updates and any other information that may be relevant.
  - iii. If there is a lead representative for the community, it is the TTC's onus to communicate information to this representative.
  - iv. Opportunities for the public to provide feedback and participate in the decision making process.
  
5. That training be conducted by December 31, 2012, with relevant TTC staff to ensure they have the appropriate consultation and communication skills.
  
6. That communication/notice be sent from the CEO or a senior executive by November 30, 2013, regarding the current status of the Donlands and Greenwood Projects and next steps to be implemented along with timelines.
  
7. That directives be established by February 1, 2013, documenting the responsibilities of the TTC and the City's Real Estate Division to minimize role confusion and improve communication to the public.
  
2. City Council request the Chief Executive Officer and the Chair of the Toronto Transit Commission to forward the proposed TTC public consultation policy and process to the City Manager for circulation to Members of Council for their information.
  
3. City Council forward a copy of the Ombudsman's Investigation Report into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations to the Toronto Transit Commission for consideration.

Yours truly,

A handwritten signature in black ink, appearing to be 'M. Toft', written in a cursive style.

for City Clerk

M. Toft/gc

Attachment

Sent to: Ombudsman  
Chief Executive Officer, Toronto Transit Commission


**TORONTO** Decision Document

## City Council

### New Business - Meeting 27

CC27.9	ACTION	Amended		Ward:All
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### **Tunnel Vision: an Investigation into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations**

#### **City Council Decision**

City Council on October 30, 31 and November 1, 2012, adopted the following:

1. City Council adopt the recommendations contained in the investigation report (October 23, 2012) from the Ombudsman.

#### Ombudsman Recommendations

Taking into account all the evidence gathered in this investigation, I recommend the following:

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- project.
- iii. The TTC should follow-up with each property owner within one week, to ensure that letters were received and understood.
  - iv. The TTC should inform property owners as early as possible about the procedures and expectations for using temporary easements on selected properties during the construction phase.
  - v. The opportunity to meet face-to-face with TTC staff before general public notification about the project.
  - vi. Access to relevant TTC's policies and procedures (eg. property acquisition and public consultation.)
4. That a public consultation policy and process be developed by December 31, 2012, to include, but not be limited to:
    - i. Ongoing information posts on the TTC website.
    - ii. Accessible information and regularly posted and updated on the website including: presentations, meetings notes, related reports or studies, status updates and any other information that may be relevant.
    - iii. If there is a lead representative for the community, it is the TTC's onus to communicate information to this representative.
    - iv. Opportunities for the public to provide feedback and participate in the decision making process.
  5. That training be conducted by December 31, 2012, with relevant TTC staff to ensure they have the appropriate consultation and communication skills.
  6. That communication/notice be sent from the CEO or a senior executive by November 30, 2013, regarding the current status of the Donlands and Greenwood Projects and next steps to be implemented along with timelines.
  7. That directives be established by February 1, 2013, documenting the responsibilities of the TTC and the City's Real Estate Division to minimize role confusion and improve communication to the public.
  2. City Council request the Chief Executive Officer and the Chair of the Toronto Transit Commission to forward the proposed TTC public consultation policy and process to the City Manager for circulation to Members of Council for their information.
  3. City Council forward a copy of the Ombudsman's Investigation Report into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations to the Toronto Transit Commission for consideration.

### **City Council Decision Advice and Other Information**

The Ombudsman gave a presentation to City Council on her investigation report.

### **Summary**

In accordance with section 170(2) of the City of Toronto Act, 2006 (COTA), I am providing the attached report which represents a concluded investigation into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations.

### **Background Information (City Council)**

(October 23, 2012) Covering Report from the Ombudsman submitting an Investigation Report into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations (CC27.9)

<http://www.toronto.ca/legdocs/mmis/2012/cc/bgrd/backgroundfile-51453.pdf>

(October 23, 2012) Investigation Report from the Ombudsman on an Investigation into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations

<http://www.toronto.ca/legdocs/mmis/2012/cc/bgrd/backgroundfile-51454.pdf>

CC 27.9



# OMBUDSMAN INVESTIGATION REPORT

## Tunnel Vision: an Investigation into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations

<b>Date:</b>	October 23, 2012
<b>To:</b>	City Council
<b>From:</b>	Ombudsman
<b>Wards:</b>	All
<b>Reference Number:</b>	

CITY CLERK'S OFFICE  
SECRETARIAT SECTION  
21 OCT 23 PM 3:53

### SUMMARY

In accordance with section 170(2) of the *City of Toronto Act, 2006* (COTA), I am providing the attached report which represents a concluded investigation into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations.

### RECOMMENDATIONS

**The Ombudsman recommends that:**  
City Council adopts the recommendations contained in this investigation report.

**Financial Impact**  
This report has no financial impact.

### DECISION HISTORY

This investigation was conducted pursuant to section 171(1) of COTA, which allows the Ombudsman to investigate any decision, recommendation, act or omission in the course of the administration of the City. This function is conferred and exercised independently of Toronto City Council. Under this power, I may make findings and recommendations as I deem necessary to address any problems, which I may then report to Council.

### COMMENTS

My report makes seven recommendations to the CEO of the TTC and the City Manager. They are made in the public interest and intended to provide systemic improvements.

The City Manager and the City Clerk have accepted my recommendations.

**CONTACT**

Fiona Crean

Ombudsman

Tel: 416-392-7061

Email: [fcrean@toronto.ca](mailto:fcrean@toronto.ca)

**SIGNATURE**



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Fiona Crean

Ombudsman

**ATTACHMENT**

Tunnel Vision: an Investigation into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations





**Tunnel Vision:  
An Investigation into the  
Toronto Transit Commission Second Exit Project  
at Donlands and Greenwood Stations**

**Fiona Crean  
Ombudsman**



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## 1.0 Executive Summary

1. In June 2010, the Toronto Transit Commission (TTC) informed area residents near Donlands and Greenwood stations of its intention to construct two second exits on Strathmore Blvd (Strathmore). The TTC indicated in an unaddressed flyer, delivered to most properties, that four residential houses on the street, two from each neighbourhood, would be torn down to build a second TTC exit (Project). The flyer also notified residents of a public meeting, scheduled less than two weeks later, to discuss the design and construction implications of the Project.
2. The Ombudsman received complaints from a group of residents questioning the TTC's policies and procedures relating to notice of the Project, lack of public consultation and differential treatment between the two communities affected.
3. The Ombudsman initiated an investigation to inquire into these complaints, issuing a notice of investigation on December 21, 2011.
4. The investigation revealed that although the TTC began evaluating options for the second exit location in early 2004, residents impacted by the Project were only notified in mid 2010 - a few months before the TTC planned to begin construction. As a result, neither Donlands nor Greenwood communities were afforded the opportunity to adequately review the TTC's plans and participate in a public consultation process. The Ombudsman concluded that the TTC failed to meaningfully engage in a public consultation.
5. In addition to providing minimal notice, the TTC's communication with affected residents was very poor. The investigation found that the TTC failed to notify two of the four property owners, whose homes it planned to acquire, in advance of delivering the general flyer to the community. It did not initiate face-to-face contact with any of the four property owners prior to the first public meeting. Subsequently, the TTC failed to notify a fifth property owner that it planned to acquire his home in advance of the second public meeting at which it revealed these plans.
6. The TTC was reluctant to provide information about the Project with residents. It shared its newly selected exit location for Greenwood station at the second public meeting without first consulting the affected property owner. The Ombudsman found it particularly egregious that the TTC only contacted the property owner on the day of the Commission meeting where it would be requesting the Commission's approval for the acquisition of the property. The property owner received an hour's notice to prepare a deputation before the TTC Commission.

7. Two days after the second public meeting, the TTC Commission meeting was held in which the TTC requested that the Project for both stations be approved for construction. Residents deputed at the meeting and asked that the matter be deferred. The Commission did not defer the Project, but ordered the TTC, in moving forward, to engage in a public consultation process with the two communities.
8. The Ombudsman noted that the TTC treated the two communities differently. This was evident when the TTC agreed to return to the Commission with recommendations for Greenwood, but not for Donlands. It also provided a package of information to one community and not the other. In making its decisions, it appeared as though the TTC used its discretion at Greenwood, but not at Donlands.
9. Although public meetings took place with TTC staff and experts were retained to review additional public options, the evidence showed that the manner in which the public consultation took place lacked credibility and had the effect of being misleading. The TTC's initial option for Donlands remained its preferred option throughout the process. The TTC approached the property owners whose homes it wished to acquire early on in the process to inquire about their willingness to sell. After spending time and money to retain experts to provide an independent report on various options, the TTC did not use the report which did not support its preferred option. Thereafter, and halfway through the consultation process, the TTC began referring to an internal rule it created which was used to reject almost all of the public options. This resulted in the TTC's final selection of its original preferred option.
10. Despite requests from residents for transparency, the TTC continued to make decisions without communicating with the public. The TTC failed to inform directly affected homeowners whether their homes were still required and cancelled a public meeting without communicating the status of the Project to area residents. When City Council deferred budget on the construction for both exits, the TTC failed to notify the public that work would continue on the design aspects of the Project.
11. No TTC policy, process or procedures for communicating construction projects to Councillors and residents currently exist. Neither is there a public consultation policy. There are no directives delineating responsibilities between the TTC and the City for communicating construction projects to affected property owners.

12. The Ombudsman made seven recommendations.
  - A process and procedure for notifying Councillors of new construction projects that are scheduled to take place in their ward
  - A process and procedure for notifying property owners about construction projects
  - A documented process specifically for property owners facing potential acquisition
  - A public consultation policy and process
  - Training relevant TTC staff to ensure they have the appropriate consultation and communication skills
  - Communication/notice be sent from the CEO or senior executive regarding the current status of the Donlands and Greenwood Projects and next steps to be implemented
  - Establish directives documenting the responsibilities of the TTC and the City's Real Estate Division
  
13. The TTC and the City agreed to implement the Ombudsman's recommendations along with associated timelines.

## **2.0 The Complaint**

14. In July 2011, my office received complaints from area residents near Donlands station (Complainants) regarding the conduct of the TTC<sup>1</sup> in relation to the Second Exit Project for Donlands and Greenwood stations (Donlands and Greenwood Project).
15. The Complainants had issues with the Donlands Project, which the TTC announced at the same time as the Greenwood Project.
16. The Complainants' concerns related to the fair, transparent and ethical application of safety standards across two different TTC construction projects. They used Greenwood station as a comparator to Donlands station and alleged that the TTC used standards for safety and community impact in an arbitrary and inconsistent manner.
17. The Complainants also alleged that the TTC "invented" internal safety standards outside the legislation to justify its original preferred option for Donlands station.

## **3.0 The Investigation**

18. My office conducted preliminary inquiries with TTC staff about the Donlands Project.
19. Notice of my formal investigation was issued on December 21, 2011.
20. My investigator interviewed employees of the TTC, City public servants, affected residents, the urban design team hired by the TTC, relevant City Councillors, and the lead Complainants. My investigator reviewed Commission and City Council meetings, notes, minutes and DVDs, various legislation, policies and conducted related research. My office also consulted with an independent engineering firm specializing in fire and life safety issues.

### **The Issues**

21. The investigation considered the following issues:
  - a) Whether there was adequate public consultation and public notice about the Project; and

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<sup>1</sup> Reference to the TTC relates to TTC staff, while reference to the Commission relates to the governing body that is managed by a seven-member Board of Commissioners, composed of City Councillors.

- b) Whether the site-selection criteria for the evaluation of the proposed sites were established fairly, communicated consistently and uniformly applied.

## 4.0 The Facts

### 4.1 History of the Second Exit Project

- 22. In its lifetime, the TTC has had three major fires.<sup>2</sup> After the last one in 1997, the TTC initiated the Fire Ventilation Upgrade Project, from which the Second Exit Project was established.<sup>3</sup>

#### 4.1.1 TTC Reports

- 23. The TTC requires approval from the Commission before initiating construction projects. Various teams within the TTC prepare reports containing recommendations for the Commission's approval. Based on discussions that take place at the meeting, the Commission will then make a final decision.
- 24. A senior project manager of Construction for the TTC (Senior Project Manager) explained that once a TTC report is signed, it is distributed for the next Commission meeting. Reports are made public the day the Commission meets.
- 25. On August 31, 2005, TTC report, "Fire Ventilation Upgrade – Second Exit Program – Four Stations Conceptual Layouts" was approved. One of the design principles included in the report was: "dead end" distance shall be a maximum of 23 metres<sup>4</sup> (dead-end distance rule). Dead ends occur in passages with no exits. The dead-end distance rule helps prevent passengers from being trapped in a passage. The longer the dead end distance, the longer it will take a passenger to travel to an exit. If a fire is situated right after an exit of a long dead-end distance, passengers are trapped with no alternative exit.
- 26. On September 26, 2006, TTC report, "Fire Ventilation Upgrade – Second Exit Program – Two Stations Conceptual Layout" was approved. One of the design principles included in the report was: "Locate second exit to provide a maximum "dead" distance on platform level of 9 metres."<sup>5</sup>

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<sup>2</sup> Union Station Fire in March 1963, Christie Station Fire in October 1976, and Greenwood Wye Tunnel Fire in August 1997.

<sup>3</sup> The history of the Fire Ventilation Upgrade Project and Second Exit Project can be found at Appendix A.

<sup>4</sup> The Senior Project Manager advised that 23 metres is the old version, while the current one is 25 metres.

<sup>5</sup> My investigator was told that this must have been a mistype, and it should have been 25 metres. There is no documentation showing that this error was ever corrected.



#### **4.1.2 TTC's Preferred Options**

27. At the December 16, 2009, Commission meeting, TTC staff presented the conceptual layouts and property requirements for the Greenwood and Donlands Projects in a confidential attachment. By this time, the TTC had selected their preferred locations for the Greenwood and Donlands Projects and it was at this meeting that the Commission approved the Projects. The TTC had selected properties A and B for the Greenwood second exit and properties X and Y for the Donlands second exit.
28. The Property Development Department of the TTC (Property) then became involved. Property met with the Construction Department of the TTC (Construction) to discuss what the latter needed in terms of physical facilities and staging for the Projects. Property then conducted a search, with the City of Toronto Real Estate Services Division's (City Real Estate) assistance, for a list of all property owners directly affected by the Projects.<sup>6</sup>
29. On December 18, 2009, a project manager of Construction prepared a "Requisition for Property Services" for Greenwood station. This document requested TTC's approval to allow detailed survey and soil investigations, construction easement and permanent sub-surface easement from affected properties, and permanent acquisition of the land to allow commencement of construction at the beginning of 2011. By January 8, 2010, the TTC provided full approval.
30. At the June 2, 2010 Commission meeting, it authorized the public release of the second exit concept designs for Greenwood and Donlands stations in order to hold a "public information session."
31. The June 2, 2010 Commission report noted that the plan initially was to hold the "community information meeting" after the TTC received approval from City Council. It was determined, however, following discussions with City staff, that it would be more beneficial to hold the meeting before City Council approved the Projects.

#### **4.1.3 TTC Policy – Property Acquisition & Notification Protocol**

32. A development coordinator of Property (Development Coordinator) told my investigator that City Real Estate is responsible for purchasing all property on behalf of the TTC and that TTC staff use two documents as guides

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<sup>6</sup> The Development Coordinator told my investigator that Property was also responsible for preparing letters to property owners directly affected by the project in advance of the public meeting, to advise them of the project and provide them with an opportunity to obtain additional information prior to the public meeting. Property was not involved in drafting or distributing the general flyers that Construction sent out.

when dealing with new construction projects and property acquisition: "Notification Protocol – TTC Real Estate Matters" and "12.2.1 Disposal of Surplus Property, Acquisition of Real Property."

33. The latter document is in the City of Toronto Corporate Policy Manual to ensure that when acquiring property, it is purchased at market value and in accordance with project schedules. The policy does not provide direction for communicating construction projects or property acquisition with residential property owners.
34. "Notification Protocol – TTC Real Estate Matters", published in November 2002, recommends a protocol for notifying City Councillors about construction projects with real estate issues.<sup>7</sup> This document sets out the acquisition process from the time the TTC submits a requisition form.<sup>8</sup> Once this is signed, the ward Councillor will have been briefed on the project and again when City Real Estate staff prepare Council reports for TTC acquisition.
35. Since 2002, nothing more detailed has been created, apart from this document.

#### **4.2 Notice to Councillor and Community**

36. The TTC first advised then ward 29 Councillor about the Greenwood and Donlands Projects on August 25, 2009, eight months after it had selected its preferred locations for both Projects.
37. The Councillor told my investigator that the TTC did not provide him with a policy or written procedure for receiving or communicating TTC construction projects in residential neighbourhoods.
38. The Senior Project Manager confirmed that currently, the TTC does not have a policy requiring its staff to notify Councillors of pending construction projects.
39. On March 22, 2010, the TTC met with then ward 29 Councillor to discuss the public information process for communicating the Greenwood and Donlands Projects. He told my investigator that locations for the second exits had already been selected.
40. As he understood that it was his obligation to share such projects with his constituents in a timely manner, the Councillor requested that the TTC

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<sup>7</sup> The notification protocol relates to the purchase of new property, the sale of surplus property, the redevelopment of existing property and provides Councillors the opportunity to offer input.

<sup>8</sup> A requisition form is generally initiated when the project reaches the 30% design stage.

arrange a public information session prior to Council approving the projects.

41. The Councillor advised the TTC that it was responsible for notifying the public.
42. The TTC and the Councillor selected June 29, 2010 as the date for the first public information meeting. The latter explained that the alternative would be to wait until after the summer, which he did not think was acceptable.
43. The Councillor told my investigator that the reason he became involved when he did, was that he received calls from residents in the neighbourhood who noticed TTC staff surveying their street. It was his understanding that the TTC would not begin work on the Project until after it notified the community.
44. The Councillor also requested that the TTC arrange meetings with the four property owners directly affected before the first public meeting.
45. On or about May 10, 2010, the TTC completed drafting the "Community Meeting Notice." In reviewing earlier drafts, my investigator noted that they included the fact that the TTC was looking for the "community's feedback." The word "feedback" was later removed and replaced with the word "comments" in the final notice.
46. The Development Coordinator explained to my investigator that the purpose of the community information meeting was to "present the concept designs to the community."
47. In reviewing TTC emails, my investigator discovered that during this same time, the TTC decided that it would only send one form letter to all properties affected, "regardless of the extent of the takings/easements."
48. On June 2, 2010, a project manager of Construction (Project Manager) emailed City Real Estate to advise a property officer (Property Officer) that the Councillor had agreed to June 29, 2010 for the public meeting. The Project Manager wrote that the Councillor had asked that the four property owners most affected by the Project be contacted prior to the public meeting.
49. In response, the Property Officer wrote that she did not object to the TTC initiating contact with the property owners and advised the Project Manager that this was usually the TTC's responsibility. My investigator was later advised that City Real Estate only becomes involved in projects

after budget has been approved and 30% of the design work has been completed. The Project at this point had not reached that stage.

50. The Property Officer told my investigator that the TTC was responsible for arranging initial meetings with property owners, which she would then attend. She was not aware of any policy or guidelines setting out this process or delineating responsibilities.
51. The Project Manager wrote back to the Property Officer stating that City Real Estate staff had met with affected property owners on past projects and suggested that they speak in person to address this issue, as well as confirm the number of property owners they needed to contact.
52. The Development Coordinator told my investigator that the Property Officer advised her that she did not have time to meet or take calls with any property owners in advance of the public meeting and requested that the form letters exclude the option to meet with TTC and City staff in advance of the public meeting. The Development Coordinator could not explain why the Property Officer had made this decision. The Property Officer explained to my investigator that it was likely because she was too busy with other TTC projects.
53. My investigator was later advised that at the time, the Property Officer was working two jobs as a result of a hiring freeze.
54. The Development Coordinator advised my investigator that the TTC did not contact any property owners directly affected by the Project because she believed that it was City Real Estate's responsibility.
55. In reviewing TTC emails, my investigator discovered that in 2010, the TTC's practice was to "send letters to property owners whose property may be required for the construction of a project, in advance of the distribution of any public notices, and offer them the opportunity to meet with TTC and City of Toronto staff." Additionally, the TTC was to send notices to area residents in advance of a public meeting.
56. On or about June 17, 2010, the TTC delivered flyers to area residents<sup>9</sup> to inform them about the Projects and advise them of a "community information meeting" scheduled for June 29, 2010 at St. David's Church.
57. Residents advised my investigator that the one-page, double-sided flyer was folded into a blank envelope with the words typed on the front of the envelope "To Occupant" and dropped into area residents' mailboxes.

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<sup>9</sup> The distribution list for Greenwood included 52 houses, while the distribution list for Donlands included 50 houses.

58. The flyer said, "Toronto Transit Commission, Meeting Notice, Community Information Meeting, Donlands and Greenwood Second Exit Project." The flyer stated that the TTC had developed designs for both exit buildings. It was "now looking for the community's comments on the proposed Second Exit conceptual designs."
59. The flyer included both a map and a coloured aerial photo of the blocks surrounding Donlands and Greenwood stations, with two red boxes covering the locations the TTC had selected for the second exit buildings.
60. For additional information on the design, a telephone number for the "TTC Construction Comment line" and an email address to [second\\_exits@ttc.ca](mailto:second_exits@ttc.ca) were provided. This was identical to the information included in the form letter that residents facing full or partial expropriation received. That letter, dated June 11, 2010, was received either the same day that the flyer was delivered or sometime later that week.
61. The TTC provided the following information in the letter:
- Based on a Fire and Life Safety Assessment Study, a second exit was required at Greenwood/Donlands stations;
  - A community information meeting would be held to present the design for the Project;
  - To assess the properties, field/survey crews would be working in the area;
  - As soon as the design of the project was "sufficiently advanced", City Real Estate, responsible for acquiring property on behalf of TTC, would submit a report to City Council for approval to purchase the property;
  - Soon after, TTC and City Real Estate staff would contact the affected property owners;
  - Surveys, appraisals and other property-related assessments would be conducted and a meeting with the property owner would take place to discuss an offer price; and
  - Prior to reaching an agreement, City Council approval would be required.
62. The letter did not offer property owners the opportunity to meet with TTC or City staff prior to the public meeting.

63. More than one property owner affected did not receive the letter, including the owners of Greenwood properties A and B.

#### 4.2.1 Community Response to Notice

64. A property owner in the Donlands neighbourhood told my investigator that he observed someone dressed in a TTC uniform place an envelope in his mail slot. It was a blank envelope addressed "To Occupant".
65. When he opened the envelope, the information was unclear to him. Two aerial views of the neighbourhood were presented on a sheet of paper and a big red square shaded the corner of Dewhurst and Strathmore indicating the location of the second exit. In reading the letter, he stated:

It was actually quite surprising and shocking...I had to read the letter quite a few times because I wasn't really getting it...It wasn't clear to me, because I couldn't understand, how there could be a second exit when there were two houses...two families who live there... So, it just didn't really sink in... Most people I spoke to later in the day, didn't think that it meant a house being torn down or any kind of expropriation in any kind of way...We just didn't believe a house should be taken down, and there was no mention in the letter of that house being expropriated or taken down, it was just a red dot or red square over that existing house. So there was no explanation...no mention of expropriating our land either, just this general letter, the letter wasn't even addressed to me, it was "to occupant" it was a general form letter. I felt that it was handled poorly, no thought by the TTC, how they delivered their message to the people...I felt pretty angry as I became more aware that this possibly meant tearing down houses and ripping up front yards.

66. Residents from both communities advised my investigator that they were "shocked" by how they received notice of the Projects, particularly those who potentially faced full or partial acquisition.

67. Another property owner in the Donlands neighbourhood told my investigator that he found the letter "really disturbing." It reminded him of:

...major political announcements that are made on Friday afternoons so the press isn't around. They were given notice in a way that didn't allow the community to really respond in any organized manner to what was being proposed.

68. Two separate community groups for Donlands and Greenwood stations soon emerged, with lead representatives from each community (Donlands and Greenwood Group).
69. Property owners with specialized skills offered their assistance to the groups, including engineers, lawyers, an urban planner, a web designer, and various consultants.
70. None of the residents interviewed by my investigator initially understood the TTC's rationale for the second exit locations.
71. Residents began calling and emailing the TTC. In reviewing the TTC's responses and in speaking with witnesses, my investigator noted that for the most part, the TTC responded generically. The answers provided were often general and vague and did not answer the questions directly.
72. The lead representative for the Donlands Group, Ms. T, told my investigator that she contacted the project manager of the Fire Ventilation Upgrade Project of Construction (Project Manager of FVUP) to learn more about the meeting:

As we learned more about the meeting, we found out he had plans. It was clear that it wasn't a consultation effort...It was very clear to me immediately that, a) it was a done deal and b) there was no consultation planned and that we really didn't have much of a chance to do anything. It was going to the TTC Commission and then to the General Management Committee and then Council for a vote within a matter of days or weeks after that.

73. As to whether adequate notice had been provided to the public, the lead representative of the Greenwood Group told my investigator:

No...For a variety of reasons, it wasn't enough notice. The timing, there was like a two week period between the notification and the public meeting. The notice

indicated, including the two people who owned the houses, that two houses were going to be demolished in favour of the second exit. The process must have taken years in order to determine which houses it had come to. Two weeks notice and three months before them going to start construction seems too short to me."

74. As for the manner in which the TTC communicated the Project, he stated:

The TTC handled communications appallingly badly, there's no doubt about that; but they weren't doing it to hurt anyone's feelings, they were doing it by following a probably somewhat broken process, but it made everyone feel bad.

75. Prior to the meeting, residents told my investigator that they noticed TTC contractors surveying and assessing properties near the Donlands and Greenwood Project.
76. Most residents advised that they understood the safety importance of the Project and did not object to having a second exit in their neighbourhood. The residents' main objection was the location of the second exits and the lack of public consultation.

#### **4.2.2 TTC's Response to Notice**

77. Many TTC staff told my investigator they were not aware that residents received the form letter on the same day or after the general flyer was delivered. No TTC staff knew how the flyer was delivered to area residents.
78. The Senior Project Manager told my investigator that the letter being sent at the same time or after the flyer was an oversight. He also stated, along with other TTC staff, that the delivery of the letter was problematic and in retrospect, they believed that the TTC should have handled the matter differently.
79. The Project Manager of FVUP told my investigator that the TTC sent two different sets of form letters: 1) to property owners potentially facing full acquisition and 2) to property owners potentially facing partial acquisition. Another senior project manager of Construction for the TTC shared this view.



80. The Senior Project Manager was not sure whether contact was made with affected property owners in advance of the meeting. He told my investigator that he assumed the process was taken care of and that everything was in order.
81. After my investigator explained to the Senior Project Manager how residents directly affected by the Project received notice, he told my investigator that it was an "oversight" that residents directly affected by the Project were not contacted:
- On other locations, at least to the homeowners that are being affected, they make a point of at least going to see them ahead of time or at least a phone call, but in this one, I don't think that was done for this particular location. And that most likely would have added fuel to this issue.
82. The Development Coordinator advised my investigator that the TTC normally does not follow up to confirm receipt of letters, nor does it generally send registered letters to each property owner. Although initially she advised my investigator that the letters were hand-delivered, she later corrected her statement, after conducting further research, to say that Canada Post had delivered the letters.
83. Upon finding out about the manner in which the community received notice, the Councillor in place at the time stated that it was "inexcusable."

#### **4.2.3 Community's Request for Information**

84. After receiving notice of the meeting, Ms. T requested information from the TTC about the Donlands Project. She told my investigator:

We asked for a lot of information in advance of that meeting and really had to be persistent and advocate beyond what I would call a reasonable amount to even get a voice at that meeting and to get answers.... there's still questions that we don't have answers to. It was quite baffling to me...we don't live in a particularly affluent area or anything like that but we happened to have a group of people who were quite motivated and had the right skill set I think to advocate for our position.

But I can only imagine, had this happened in a community where you just didn't have that luck of the draw, the right people to speak up for them, the

shovels would have already been in the ground and it wouldn't have been fair. So, I feel like this is an issue not only for our community, but there are so many other communities that this is planned for, I just think the process has to be fair...

We were never against a second exit. In fact, all the alternatives we put forward, would have still required partial expropriation of our properties...It wasn't about, let's get this out of our community, it was just about, if this is going to happen, let's make sure that its done in a way that preserves as much of the community as we can and make sure that everybody at least could sleep well knowing that we were fairly treated.

85. Prior to the public meeting, on two separate dates, Ms. T requested the TTC criteria for the site selection for the Donlands Project. Although the TTC assured her that it would provide all relevant information, nothing was provided.
86. Two property owners in the Donlands neighbourhood, whose homes were both potentially affected by the Projects, told my investigator that they asked the TTC to set up web conferencing so that they could participate in the public meeting. The TTC advised that this request was not possible.

#### **4.2.4 TTC Meeting with the Owner of Property Y**

87. The following day, after receiving the letter from the TTC advising him of the Donlands Project, the owner of property Y, called the Project Manager of FVUP.
88. After speaking with the Project Manager of FVUP, the property owner called the Property Officer and arranged a meeting that same day.<sup>10</sup>
89. The property owner told my investigator that at this meeting, the Property Officer explained the acquisition and expropriation process, the impact of the Project and his legal rights. The Project itself was not discussed.
90. TTC staff told the property owner and his spouse that the best location was his property and that it was the TTC's plan to build the exit at property X and Y. The TTC did not propose other locations for the Donlands Project.

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<sup>10</sup> The meeting would have also included the owners of property X, but they were out of town.

91. The owner of property Y said he did not receive much documentation and did not have enough time to consult a lawyer. He told my investigator that he felt as though he did not need to "lawyer up" yet, as it was only the beginning of the process.

#### **4.3 Community Information Meeting - June 29, 2010**

92. On June 29, 2010, the TTC held its "community information meeting" for the Donlands and Greenwood Projects. TTC staff asked people to sign in to the meeting and provided attendees with an information package.<sup>11</sup> Comment forms were made available to anyone who wished to fill them out and approximately 150-200 people attended.
93. Ms. T told my investigator that information boards including pictures of the "Street Plan & Section", "Elevations & Materials", "Street Perspectives" of the new second exit building, and the "Context Plan" for both stations surrounded the room. The illustrations of the new second exit buildings included mature trees and hedges all around. She described the poster boards as "misleading" as the pictures depicted old growth trees, like a "rainforest." Whereas in reality, all old growth trees would be torn out to construct the second exit.
94. In reviewing the TTC's presentation, my investigator noted the following:
- The TTC presented an overview of the Project to the audience. In doing this, it provided some background information about the Project, introduced the Project objectives and design principles, presented the proposed concept designs for both Donlands and Greenwood stations, and presented illustrations of both second exit buildings.
  - The preferred option for the Greenwood Project was property A and B, while the preferred option for the Donlands Project was property X and Y.
  - The TTC advised that the preferred options would be recommended at the July 14, 2010 Commission meeting. The attendees were also notified that a second public meeting to review both TTC and public options was scheduled on July 12, 2010.

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<sup>11</sup> The information package noted that construction was proposed to start in late 2011 with the expected completion date by mid-2014.

95. A property owner who attended the meeting recalled to my investigator:

It was straight out of a movie, people yelling 'shame' and attacking the TTC basically. They had all of the higher ups, all the project managers there. And I believe the Commissioner at the time...They put up posters of the Second Exit Project and encouraged people to look around and then they sat down and discussed it. It was less of a discussion and more of the community yelling at TTC, how could you do this, that type of thing, so they didn't get into details of the Project, because they were just defending themselves essentially.

96. Following the TTC's presentation, both the Donlands and Greenwood Groups presented their views on the proposed second exit for their respective station and included alternate locations for the TTC to consider.

97. A question and answer session then ensued, with TTC staff responding. In reviewing the TTC's minutes of the meeting, the following was noted:

- Some of the audience expressed upset about the Project and how the locations were selected without public consultation.
- When the issue of poor notification was raised, the TTC acknowledged the residents' concerns and advised that it would review the procedure for property acquisition to ensure better communication and consultation with the public.
- One question raised was how the TTC could evaluate all public options presented within two weeks, if work on the Projects had started in 2002. The TTC responded:

Since 2002 high level preliminary concepts were developed for 14 stations: the scope of the Project was redefined and proposed concepts were jointly developed for most of the 14 stations. Efforts were concentrated in progressing work at stations where the second exits had more defined solutions. Work now progresses on the remaining stations including Donlands and Greenwood. TTC will apply past engineering due diligence and glean information from previous studies to assess the options presented by the community. More time may be required to review and TTC will advise the community accordingly prior to the next meeting.

- Some other information received included: that an environmental impact assessment had not been conducted and was not required; for both stations, all feasible options had been considered, keeping in mind the design principles; and some sites were not preferred due to constructability, distance and/or security issues.
98. Construction staff agreed to meet with the assigned representatives of both the Donlands and Greenwood Groups to review the public options.
  99. TTC staff agreed to provide additional information at the next meeting to address comments relating to design principles, standards, codes and selection criteria for options and locations for the second exit.
  100. The TTC made a commitment to provide relevant information surrounding the Project, including: "second exit design criteria and design principles, relevant design standards, selection criteria and Fire Life Safety Study."
  101. The Senior Project Manager advised my investigator that his staff left the meeting feeling "totally overwhelmed"; they had not expected the community's reaction and were "unprepared." It was the first time in his experience that such opposition was displayed at a public meeting.
  102. All residents near Donlands and Greenwood that my investigator interviewed, who attended the meeting, reported that the intent of the meeting was to notify the public.
  103. The Councillor elected in 2010 and a resident at the time, told my investigator that the intent of the meeting was to notify the public and that the TTC had already decided the location of the second exit building:

By June 2010, when the TTC came forward with their proposal, it wasn't so much a proposal as it seemed like a fait accompli... 'cause they already decided what they were doing, and how it was going to look... by the end of June, when they were having this public meeting, they were moving forward to a Commission meeting in July, this was a done, this appeared to be a done deal.

#### **4.4 Properties A and B**

104. The owner of property "C" told my investigator that her neighbour alerted her to the Greenwood Project, when she was asked whether her parents, the owners of property B, had sold their house to the TTC. She did not know what her neighbour was talking about and was planning to "toss" out the unaddressed envelope; instead, she opened it.

105. She and her parents were shocked when they read the flyer. It was unclear to them what it meant as they had not received the TTC's letter.

106. Her parents, who had been living at their property for over 50 years, were elderly and her father was terminally ill. She told my investigator that this was not a good time for them to move.

107. When the owner of property C called the number noted on the flyer to obtain more information about the Greenwood Project, the Project Manager of FVUP told her that she would have to attend the public meeting. The Manager told my investigator that he only recalled the resident asking about the Project in general.

108. The owner of property C felt that the TTC should have contacted her family prior to notifying the public:

You don't find out someone is going to expropriate your home in unaddressed mail by accident. Chances are, if my neighbours had not alerted us to what was in there, I probably would not have read it...Not only was it not enough notice, it was not the way to notify affected home owners.

109. She told my investigator that the decision to acquire her parents' home appeared arbitrary:

It came out like this was a done deal and I didn't think there was any room... When they first came out, this was not a discussion; this meeting was to notify us that this was happening. They were fully intending to go ahead and take my parents home, at least that's the way it appeared... It really seemed like they made their decision, they chose their location, to the point where they seemed arrogant enough to publicly announce it without speaking to the homeowners. That, I think was the biggest flaw.

110. When she and her mother arrived at the public meeting, she asked that the poster illustrating the location of the second exit for Greenwood be taken down. Her mother found the image so disturbing when she saw it, she began crying.

111. The TTC Chair at the time told the owner of property C that there had been an error in the way the TTC provided notice. She received an oral apology at a subsequent community information meeting for the manner in

which the TTC had notified her family of the Project. No letter of apology was provided.

112. After the meeting, she told my investigator that no one from the TTC contacted her or her family to provide a status update. Her attempts to speak with TTC staff continued and she recalled that approximately one month after the June 29, 2010 meeting, her parents received a letter advising them of the Project.
113. The owner of property A told my investigator that she and her spouse were "completely blindsided" when they heard about the Greenwood Project through their tenant, who had learned about the Project through the media.
114. She said that they were angry about not being notified, having never received a letter, a flyer or a call from the TTC.
115. TTC staff told her that they did not have her contact information. She informed my investigator that this was difficult to believe, as they are registered with the City for tax purposes.
116. The evidence to my investigator from a project manager of Construction was as follows:

The owners did not live in the house and they were willing to sell from day one. Because in the public meeting, I think they approached me, and they said, okay if this is approved, when is this happening? I said, you know what, I don't know, this is just the start, I have no idea. But I think, for them it did not matter, it was an investment property, they can sell and go somewhere else and invest. That's why there was no communication with them at anytime apart from that one brief encounter.
117. The owner of property A told my investigator that when she spoke with TTC staff at the meeting, she asked to be kept up to date and provided them with her contact information. TTC staff told her that they would keep in touch.
118. Since that conversation in June 2010, the TTC has had no further contact with the owner. At the time my investigator interviewed her, she remained uncertain whether the TTC was still considering acquiring her property.

## **4.5 Request for Information**

119. On June 30, 2010, Ms. T sent the Senior Project Manager an email requesting a list of criteria for the Donlands site selection. Also requested were copies of the relevant policies and procedures applied in developing the Project and additional information with respect to tunnel length.
120. On July 4, 2010, another representative of the Donlands Group sent the Senior Project Manager an email requesting the TTC design criteria for its site selection. The TTC did not respond.
121. On November 18, 2010, the Project Manager of FVUP noted that Ms. T requested a written description of the decision-making process, including the design principles and code references. In an email to a senior project manager of Construction, he wrote:

I responded that our decision-making process and design criteria were illustrated in the presentations. They continued to insist on another written form that they could better understand. Finally, they resolved that at least a summary of the presentations should be provided.

### **4.5.1 The Property D Proposal**

122. The Senior Project Manager told my investigator that soon after the first meeting, residents near Greenwood station proposed property D to the TTC as an alternative location for the second exit building.<sup>12</sup> Residents described this property as vacant and abandoned.
123. The owner of property D told my investigator that no one in the community met or spoke with him to inquire about his property or his interest in selling it.

### **4.5.2 Information from TTC**

124. On or before July 8, 2010, the TTC notified the lead representative of Greenwood that it had a package of information for him, which he picked up that day.

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<sup>12</sup> The exit passageway would run south of the station and underneath the backyards of two other properties.



125. Ms. T subsequently discovered that the Greenwood Group had received a package of information but the Donlands Group had not. She told my investigator she felt that the TTC treated the Donlands Group differently:

It didn't feel equivalent or fair. It's like they had a cordial, friendly relationship with Greenwood and we were never given that... the documents were all given to Greenwood and we had to get them from the Greenwood people<sup>13</sup>... they didn't like us, they really didn't like us and I think, all the evidence suggests to me, that they had an answer that they wanted to form fit for Donlands and we were forcing them to produce all this other information and documentation and, we were sort of a thorn in their side, they really didn't want to deal with us, they just wanted to move forward with this.

126. All TTC staff interviewed by my investigator denied that the Donlands Group was treated differently. They explained that Greenwood presented an option early on that the TTC could accept, while no public options were viable for Donlands. As a result, the TTC suggested that the Donlands Group was left with the perception that it was treated differently.
127. Initially, TTC staff claimed that it had provided two information packages for both the Greenwood and Donlands Groups. It was not until the Project Manager of FVUP obtained a copy of the transmittal, at my investigator's request, that he realized only one package had been provided.
128. The TTC's information package did not include a copy or relevant sections of the National Fire Protection Association 130 (NFPA 130). The Donlands Group purchased a copy of the NFPA 130 and conducted its own research to determine the relevant sections related to the Project.
129. The Project Manager did not think two days was sufficient time for the Donlands Group to prepare. He explained that the documentation was highly technical. "No one can read all those documents in two days and understand what's in them."

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<sup>13</sup> Ms. T told my investigator that her group had approximately 2 days to review the information package.

130. A senior project manager of construction concurred that two days was inadequate:

We had expert engineers working on it for months. Really, the question is what they were going to do with that information. Were we going to allow them months to go away and develop their own concepts? ...Surely, if they were able to come up with options, they'd need months to do it properly. We hired people and paid them hundreds of thousands of dollars, it took them months and now we are going to have the general public going out and do it in what a day or two? I don't think that was the idea, that they were going to develop their own concepts, other than say, why don't you build it here, why don't you build it there.

#### **4.5.3 A Concerned Resident**

131. A property owner of over 35 years in the Donlands neighbourhood recalled receiving a flyer about the Donlands Project. According to the flyer, his property potentially faced partial expropriation.
132. Initially, he did not pay too much attention as his spouse had recently been diagnosed with an illness.
133. After speaking with neighbours and finding out more, on June 25, 2010, he emailed the TTC for additional information:

...My wife is disabled and there is a disability parking spot in front of our house. I need to know how you will accommodate my wife so that she can get from the house to the car, especially if there will be temporary barriers to block off the sidewalks. This is the main concern for us because this will be a lengthy project and when winter hits, it'll be extremely difficult for me to get her into the car. If there is a sudden emergency where she may need to visit the hospital, I need to make sure the distance between the house and the car is not too far. In short, I need to know that her safety will not be endangered because of this second-exit project.

134. The TTC responded promptly advising him that they would look into the matter and get back to him.

135. After waiting several months for a reply, he sent the TTC a second email with similar questions and concerns. The TTC never responded.
136. The property owner told my investigator that he was very "disappointed" with the TTC's conduct. In commenting about the TTC's consultation process, he stated:

The way the TTC can take away people's property, it is quite wrong, personal. Because, I buy a property, you think you own it, and you turn around, and if they need your property, they would just come and say, I give you this amount and you have to go away. I find it is quite wrong, quite unacceptable.

#### **4.5.4 Public Consultation Meeting - July 12, 2010**

137. The TTC delivered flyers notifying residents about a second public meeting to discuss the Donlands and Greenwood Projects. The meeting was called "Enhancing Public Transit, Donlands and Greenwood Subway Stations: Second Exits – Notice of the Public Consultation Meeting" and its purpose was to "provide information on the proposal to construct new secondary exits at the Donlands and Greenwood subway stations."
138. Prior to the July 12, 2010, meeting, TTC staff met with both the Donlands and Greenwood representatives to review public options. The Senior Project Manager told my investigator that the TTC investigated all the public options presented by the community and did the required due diligence for every option suggested. The Senior Project Manager recalled communicating to the representatives of the Donlands Group that their options were not viable because they did not meet all TTC criteria.
139. For this meeting, the TTC used a facilitator. The Facilitator's notes included the following:
  - After the Facilitator introduced himself, the TTC Chair, welcomed the audience. The TTC Manager of Engineering then reviewed background information including an explanation of the design criteria and principles.
  - She explained a screening process for evaluating the factors. The first screen included the project objective/design principles and the second screen, included neighbourhood impact, property requirements, constructability, security and cost. The presentation indicates that in order for the TTC to consider the factors set out in the second screen, the factors in the first screen have to be met. The criteria set out in the second screen are then used to assess options.

140. The Manager of Engineering presented six TTC options for Greenwood station first.

- A matrix was used to illustrate how the options were evaluated. See Appendix B for a copy of the July 12, 2010 matrices. Four of the five criteria were scored by ordinal ranking.<sup>14</sup> The lower the ranking, the better the option. The scoring was as follows: 0 ranked as “better”, 1 ranked as “neutral”, 2 ranked as “moderate”, “worse”, “severe” and a 4 also ranked as “severe.” There was no explanation as to how the criteria were weighted.
- TTC Option 6 (properties A and B) was selected as the TTC’s “preferred option” as it scored 4, the lowest of the six TTC options.
- Two public options for Greenwood station were then considered, with an additional TTC option. A matrix was also used to illustrate how these options were evaluated. An additional factor, “Project Objective Design Principles” was included. 0 ranked as “better”, 1 ranked as “neutral” and “moderate”, 2 ranked as “worse” and “severe”, and 3 ranked as “extreme”. No explanation was provided in the presentation as to how the criteria were weighted.
- Public Option P1, (property D) scored 6, while Public Option P2, an exit to the Danforth scored 9. The additional TTC option, for exit stairs on Strathmore scored 7. The “Project Objective Design Principles” for Option P1 and the TTC additional option ranked 1 for “neutral”, while Option P2 ranked 2 for “worse.”
- The TTC concluded that Public Option P1 was acceptable and that it would proceed with this option, however, should some “unforeseen condition arise,”<sup>15</sup> the TTC would return to its original preferred option and “advise the community.”

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<sup>14</sup> Neighbourhood Impact, Property Requirements, Constructability and Security were scored, while Construction Estimate was not.

<sup>15</sup> An unforeseen condition is “something that during the design of the second exit would make the construction of the second exit impossible or unusually difficult.” “Toronto Transit Commission, Donlands and Greenwood Stations Second Exits, Public Consultation Meeting, Summary Report, July 12, 2010,” prepared by TTC’s consulting firm.

141. The Manager of Engineering then presented the six TTC options considered for Donlands station:
- Three options included properties X and Y, two options included two other residential homes and another option included four residential homes. The TTC options for Donlands station included three locations. A matrix was also used to illustrate how these options were evaluated. The scoring for the four criteria included the following: 0 ranked as "better", 1 ranked as "neutral", 2 ranked as "worse" and "severe." No explanation was provided in the presentation as to how the criteria were weighted.
  - The TTC's preferred option for Donlands was Option 3, (properties X and Y), which scored 5, the lowest of the six TTC options.
  - Three public options for Donlands were then considered, with an additional two TTC options. A matrix was also used to illustrate how these options were evaluated and an additional factor was also added to this matrix, "Project Objective Design Principles." Similar but not exactly to Greenwood station, 0 ranked as "better" and "minor", 1 ranked as "neutral" and "moderate", 2 ranked as "moderate" and "worse". No explanation was provided as to how the criteria were weighted.
  - Public Option P3 was deemed acceptable to the TTC. This selection required road narrowing and would turn Dewhurst into one-way. Public Option P3 was contingent on acceptance by the Transportation Services Division.
  - With the exception of Public Option P3, being ranked 1 as "neutral", the "Project Objective Design Principles" for the remaining options were ranked 2 for "worse." The TTC advised that it would proceed with Public Option P3, however, should it not be "workable", it would return to its original preferred option and "advise the community."
142. The Manager of Engineering told the audience that in two days, at the Commission meeting, the TTC would recommend to have both second exit designs approved for construction. This would take place before the TTC completed considering the viability of the two selected options. The Facilitator's meeting minutes included the following:
- The Greenwood representative thanked the TTC for listening to the public and accepting Public Option 1. He also asked for a clear definition of what would constitute an "unforeseeable condition" and that the public be made aware of this before returning to the TTC's preferred option 6.

- Ms. T expressed frustration about the lack of communication and collaboration and reviewed her top priorities and concerns surrounding the proposed location for the Donlands Project. She also requested a delay of the Project to give the community time to review all relevant information and conduct a proper consultation.
  - TTC staff advised that it could not "delay this project any further." It advised the audience that it would present and recommend the two viable options to the Commission with one alternative option for each station as well. In presenting this, the TTC would also prepare a report about the consultation process.
  - More than one person inquired whether the TTC had contacted the owner of property D. TTC staff advised that it had not, although efforts were made and would continue. The Project Manager of FVUP told my investigator that staff left voicemail messages, although he was not sure whether direct contact was made.
  - More than one person asked about the maximum length of the passageway, as the TTC had rejected a number of public options based on its length. Staff responded with half a platform length or 75 metres and advised that it is trying to find the fastest route from the platform to the exit.
  - In response to whether the TTC was in compliance with the OBC, staff said that although the entire station would not be brought up to code, existing structures would remain unaltered, and all new construction would meet required standards.
  - Residents raised concern about the short timeframe of the TTC's communication and public consultation process. One resident said that the TTC planning process did not provide adequate opportunities for the public to have input.
  - In response to the question as to whether a protocol existed for notifying property owners who face expropriation, the TTC advised that there was and in the future they would ensure that it was followed.
143. The Senior Project Manager told my investigator that he did not know why the owner of property D had not been contacted. He thought it would have been done through Property. Although the TTC had little time, it spent all of it assessing whether any of the public options were viable. He explained that although they had not confirmed viability with the City, the TTC thought property D could work.

144. The Development Coordinator told my investigator that after the meeting, TTC staff "were able to find out who the owner [of property D] was the next day and offered them the ability to go before the Commission and make a deputation." According to her, it was Property and the City Real Estate's responsibility to identify and contact property owners to advise them of TTC projects.

#### **4.5.5 Owner of Property D Notified - July 13, 2010**

145. After the July 12, 2010, public meeting, the TTC began a process to identify the owners of Greenwood properties D, E and F.
146. On the morning of July 13, 2010, the owner of property D received a call from a newspaper reporter.
147. The reporter asked him how he felt about the TTC expropriating his property to turn it into a second exit for Greenwood station. He was "shocked." He had not received any information from the TTC.
148. The owner of property D called his daughter who also lived in the neighbourhood. Her attempt to reach the Councillor at the time was unsuccessful. She told my investigator that her Councillor "would not call us back" and that the Councillor's representative told her, "this is something you need to deal with, we are not involved."
149. From reading the newspaper, the property owner told my investigator that he learned the TTC's decision to "expropriate" his property had already been made. A senior staff for the TTC was quoted by the Toronto Star as saying, "For all intents and purposes that is the option we are recommending and...that is to have a second exit where [property D] currently stands."<sup>16</sup>
150. On the evening of July 13, 2010, staff advised my investigator that someone from the TTC had left a message for the owner of property D to contact the TTC.
151. On the morning of July 14, 2010, approximately two-and-a-half hours before the Commission meeting, the Development Coordinator called the owner of property D to advise him about the Greenwood Project. The Development Coordinator suggested meeting immediately. This was the TTC's first contact with the family.
152. The father and daughter of property D met with the Property Coordinator and a project manager of Construction at City Hall that day.

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<sup>16</sup>Toronto Star, November 29, 2011.

153. The Development Coordinator acknowledged that the TTC had not contacted the property owner until that morning. The daughter asked the Development Coordinator why the TTC had not contacted her father earlier and the Development Coordinator advised her that TTC staff had trouble locating her father's coordinates.
154. The daughter recalled the meeting was brief. The Development Coordinator reviewed the TTC's presentation and explained the Greenwood Project. She advised that the TTC was originally going to "expropriate" another house, but the neighbourhood decided that it should be their house. The daughter said that the Development Coordinator told her "it was a done deal."
155. The Development Coordinator advised both father and daughter that they could make a deputation at the meeting, if they wished that same day. They did not know what meeting the Development Coordinator was referring to, and only then were they advised of the Commission meeting. They had approximately one hour to prepare their deputation.
156. The father said he felt like a "second class citizen." He felt disrespected that the community would suggest that his property be selected for "expropriation", and the TTC would plan to arrange to do so, without contacting him first.
157. The remainder of the week for the family was described to my investigator as difficult. They were inundated with phone calls, while in the midst of taking care of the father's spouse, who was terminally ill. The prospect of having to sell his house while taking care of his ill spouse was overwhelming for the father.
158. After the Commission meeting, the daughter called the Development Coordinator for an update. The Development Coordinator could not confirm whether her parents' property was still being considered for acquisition. The daughter asked the Development Coordinator if she would keep her updated on the status of the Project, to which the Development Coordinator said "absolutely."
159. My investigator interviewed the father and daughter in April 2012, and at that time, neither had heard from the TTC.
160. With respect to notice, the daughter told my investigator that she felt as though the TTC intentionally did not leave flyers at her father's property. It did not make sense to her that everyone else in the neighbourhood had received them.



161. The TTC later recognized that it had erred when it communicated the location of property D to the public before speaking with the property owner. A senior executive told my investigator:

Given what we learned on Strathmore for Greenwood, we sort of did what we said we weren't going to do. Now, the difference being, we were unable to get a hold of them, but in hindsight, being 20/20, we should have made more of an effort, so that we didn't repeat what we promised we wouldn't repeat in the first place.

#### **4.6 Commission Meeting - July 14, 2010**

162. On July 14, 2010, the Commission held a meeting at City Hall. My investigator reviewed the records of that meeting.
163. The Manager of Engineering provided the background to the Donlands and Greenwood Projects and presented the design principles. In discussing this, she referred to the dead-end distance rule, by noting that it was preferable to minimize "dead-end distance."
164. She explained the rule relating to "exit evacuation time" (2-minute rule) by referring to the NFPA 130. This piece of United States legislation states that all passengers must evacuate the platform in 4 minutes and reach a point of safety in 6 minutes. Using these figures, she advised that it only leaves 2 minutes for passengers to travel from the platform to a "point of safety."
165. She then reviewed options, along with the public's input. Her presentation was similar to that of the July 12, 2010, public meeting.
166. In advising that Public Option P1 was agreeable to the TTC for the Greenwood Project, she noted that it had an exit travel speed<sup>17</sup> of 1.77 minutes<sup>18</sup>. This option would exceed the maximum "dead-end distance rule" by 70 metres.
167. The Manager of Engineering concluded with recommendations for the TTC to proceed with Public Option P1, with no specified address on the street.<sup>19</sup> Should there be an "unforeseen circumstance" for Public Option P1, the TTC would return to Option 6.

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<sup>17</sup> In applying the NFPA travel speed analysis.

<sup>18</sup> TTC Option 6 had an exit travel speed of 1.36 minutes.

<sup>19</sup> In addition to property D, the TTC decided to consider two other properties nearby.

168. Questions from Commission members followed.
- More than one Commissioner inquired about the owner of property D. The TTC advised that it met with the owner and daughter that morning, and they were both present at the Commission meeting.
  - When asked about attempts to contact the owner, TTC staff advised that they received his coordinates from a community member and left him a message [after the July 12 meeting], but did not receive a response. It was only after the journalist contacted the owner that the TTC made direct contact with him. Another Commissioner inquired whether, in the event the three approved options did not work, the TTC could return to the Commission for additional direction. The TTC confirmed they would do so.
169. The Donlands Project presentation was similar to that of the July 12, 2010 public meeting.
170. Public Option P3 was deemed agreeable for the Donlands Project. The Manager of Engineering explained that the advantage of this location was that it would not have to acquire any private property. She also reviewed the exit travel speed for each option.
171. In conclusion, the TTC recommended Public Option P3 to the Commission, subject to the approval of Transportation Services. Should the option not work, the TTC would return to its preferred Option 3 (which would require the acquisition of properties X and Y) and consult with the community and ward Councillor.
172. Questions from Commission members followed the presentation and included:
- Whether the TTC consulted with the property owners affected by Public Option P3. The TTC advised that it had not.
  - Whether the TTC had consulted with the appropriate persons affected by turning Dewhurst into a one-way street, and whether a traffic assessment had been conducted. The TTC advised that it had not, but recognized this was something to be done.
173. After the TTC submitted its recommendations, approximately a dozen stakeholders and residents deputed. These included:
- Deputant I expressed concern that the process had not been consultative or collaborative. She felt the timeline was short, and that the Project required other professional people, including an urban

planner.

- Deputant II recommended that the Commission divide Donlands and Greenwood stations into separate items and defer its decision for Donlands station. Among other recommendations, she suggested that the TTC develop a consultation group and a policy that homes only be expropriated as a last resort. She then presented an alternate option for Donlands near Wilkinson Public School.
- Deputant III stated that the Project was not in compliance with the OBC and that the TTC's analysis was flawed.
- Deputant IV advised that although the TTC approved the Project in 2002 and both stations were discussed at the Commission meeting on December 16, 2009 and on June 2, 2010, no one in the community had any information about the Project until recently, which was both "unreasonable and unacceptable". She suggested that a protocol be developed for dealing with expropriations and greater transparency be created in the decision making process by establishing a Construction Liaison Committee.
- A number of residents expressed concern about the poor public consultation and the fast pace in which decisions were being made. One person mentioned that it had been only one day since the last public meeting, and inquired how, within that short period of time, the TTC fully considered all of the community's public options.

174. Then General Manager of the TTC advised the Commission that he opposed deferring the Project. He explained that, although it was clear the Project significantly affected the public and that the public's criticism of process and timing were valid, the TTC was making an effort to listen, understand, and consider the public's concerns and options. He stated that for safety reasons, the second exit was required to be a daily exit. In considering Donlands, he stated that the TTC had "meaningful consultation with the neighbourhood" and considered all options.

175. He stated that in moving forward with similar projects:

Any new second exit which is within a residential or established community, we intend to approach them with the alternatives that we are looking at, if we are able to, we will say this is our preferred concept to date, we'll solicit their input and rate their input against our criteria and then come back to the public and say we've got your comments and we've got our comments and this is what we think is appropriate

and then we would go to the Commission and say we've consulted, here is what we are planning to do. On these two particular stations, we did it backwards.

176. A TTC Commissioner said in response:

If we wanted to build trust with the community, would we not just defer this back, the other options are still on the table. If I were to sit on other side of the table there, it would seem like we made up our mind. As part of process, would it not be better to build trust with the community and say, look we've heard what you said, we'll take a fresh look at it; we won't be biased by our recommendation.

177. The motion to split Donlands and Greenwood stations was carried unanimously by the Commission. The motion to defer Donlands to the August meeting was defeated by a margin of six votes to three.

178. For Greenwood station, the recommendation was amended so that properties D, E and F were also included for consideration. Another amendment to the recommendation required the TTC to report back to the Commission should the TTC's Option 6 become the preferred choice.

179. For Donlands station, the amended recommendations required the TTC to also consider the "Wilkinson School" option<sup>20</sup> and develop a "standardized public communication process to ensure a consistent, open, and proactive engagement of the public at appropriate stages of project development."

180. A subsequent issue of contention for the Donlands Group was whether the TTC was obligated to return to the Commission with recommendations for approval, similar to Greenwood. It was Ms. T's understanding that it was.

181. TTC staff advised Ms. T that the Commission required the TTC to only return with recommendations for Greenwood station.

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<sup>20</sup> "Wilkinson School" was a public option that the TTC considered. It was located across from the Wilkinson Public School on the corner of Strathmore and Donlands Avenue.

182. When asked why the TTC refused to defer its decision for Donlands, the Senior Project Manager explained that the Commission made provisions for the TTC to review various options with the community. He told my investigator:

...they [Donlands Group] continued to have an opportunity and they did so by presenting options at a number of CLC meetings. ... We looked at many more options after the first few, so I think we met or satisfied the requirement to have that ongoing investigation of other options. I think we lived up to that commitment.

#### **4.7 Construction Liaison Committee Meetings**

183. At the Commission's request, made at the July 14 meeting, the TTC created a Construction Liaison Committee (CLC) to review second exit options with the public and engage in a public consultation process. The CLC is comprised of TTC Construction and Property staff, residents near Greenwood and Donlands stations and individuals running for Council election along with the incumbent ward Councillor or his representative.
184. Members of the CLC provided my investigator with the ensuing information.
185. CLC meetings were generally held bi-weekly at St. David's Church. They were scheduled via email, with the TTC confirming date, time and location. Agendas were not provided in advance nor were copies of the TTC's presentations.
186. Meetings often began with concept drawings and designs spread out on a table for everyone in attendance to review.
187. TTC staff took notes, which were not shared with anyone. The Senior Project Manager told my investigator that he did not know the notes were not shared and added that the meetings were "private" and the notes were not "official."
188. The first meeting was on August 5, 2010 and the last on January 20, 2011.
189. A number of CLC members told my investigator that they found the tone of the meetings, "disrespectful and patronizing," "acrimonious" and "confrontational."

190. The Senior Project Manager described the tone of the meetings as "candid", with staff trying to answer all questions to the best of their abilities. He did not agree that there was a negative tone or attitude at the meetings.

#### **4.8 Commission Meeting - August 23, 2010**

191. On August 23, 2010, the TTC provided the Commission with an update. The report included the following information:

- Transportation Services did not support Public Option P3 for the Donlands Project, because it would result in reducing the width of Dewhurst to one lane.
- After developing the Wilkinson option for Donlands station further, the TTC discovered that it did not meet its design principles and criteria.
- The owner of Greenwood property D was not prepared to sell his property. However, other nearby property owners contacted the TTC and advised that they were willing to sell their properties. The owners of property D had been contacted and a follow up meeting was arranged.
- Because of other available options with willing property sellers, the TTC's original preferred option of A and B would no longer be considered. The TTC notified the affected property owners that their properties were no longer required for the Greenwood Project.
- The TTC's next steps were to continue meeting with the CLC to review options, finalize locations, present the preferred options at a public meeting in early fall and report back to the Commission with recommendations.

#### **4.9 The Owners of Properties X and Y**

192. Just before the September 16, 2010 public meeting, the owners of properties X and Y sent an email to the Donlands Group advising them that they had met with the TTC the week before.
193. They noted that after reviewing the difficulty the TTC was having finding a viable public option, the Senior Project Manager told them that properties X and Y remained the TTC's preference and asked them whether they would be willing to negotiate the sale of their homes. As neither property owner felt that there was an alternative, they both agreed to begin the negotiation process.

194. The owner of property Y told my investigator that after they sent this email, their relationship with the Donlands Group changed as communication stopped and they were excluded from the Group's list serve. He described the community as "fractured" and stated that they were "ostracized". At first his relationship "was good", he recalled, but "when they decided that I no longer fit with their direction, they realigned their tactics." He stated that the whole process was a "source of major stress...the community is not necessarily a good place to be right now."
195. The representatives of the Donlands Group recognized the division between the residents who wished "to preserve the neighbourhood and the people who wanted to have their houses bought." They were not happy with the split, but felt it was caused by the TTC.
196. The Senior Project Manager stated that the TTC had not entered into negotiations to purchase X and Y. He explained that at this point, "it was a discussion, perhaps you can say, the start of a negotiation, going downward, for if they weren't going to be willing to sell, there would not have been a negotiation, there would be expropriation."

#### **4.10 Public Consultation Meeting - September 16, 2010**

197. On September 16, 2010, the TTC held its third and last public meeting. The purpose was to update the community on the progress made and receive "community feedback" on the TTC's proposed next steps.
198. The TTC retained the same external consulting firm to facilitate the meeting. Approximately 80 persons attended. The Facilitator's notes include the following:
  - The Senior Project Manager gave an update of the Greenwood Project by reviewing what took place at the July 14, 2010 Commission meeting and the proposed public options of properties D, E and F.
  - Property F scored 1 as the preferred option. The Senior Project Manager did not mention or explain to the community that by selecting this option, it did not comply with the "dead-end distance rule." See Appendix C to review the matrices presented at the September 16, 2010 public meeting.
  - After reviewing what took place at the August 23 Commission meeting for the Donlands Project, the Senior Project Manager reviewed all public options and advised that none of them were viable. A new location was proposed at 14 Dewhurst, the Westminster Church (Church Option). This option was contingent on developing a joint venture with the Toronto Parking Authority (TPA). The TTC concluded

that it would continue to investigate the viability of the Church option and work with the CLC.

- Near the end of the presentation, the TTC referred to a slide, "Ongoing Community Engagement" for both stations. It included receiving community feedback to "incorporate into the design of the second exit building." This "feedback" specifically referred to ensuring that the second exit building integrated well into the neighbourhood and that the architectural design and material blended with the neighbourhood. It did not indicate that community feedback would have an effect on the selection of the location of the second exit building.

199. Following the presentation, TTC staff asked for comments and questions. The Facilitator's report includes the following:

- One resident requested the TTC retain an urban planner to review and provide input on the TTC options and eventual design of the building.
- Another resident asked whether property F was the location for the Greenwood Project. The TTC confirmed this by stating: "It is a preferred option because the homeowner is willing to sell."
- When asked about the method used for determining neighbourhood impact and property requirements, TTC staff provided an example that having the location mid-block ranked worse than having the location on the corner.
- The community requested the TTC provide all criteria used to evaluate community impact, and requested that evidence-based criteria be used to assess and weigh neighbourhood impact as a result of expropriation, construction, and increased foot and automobile traffic.
- In assuring the community that the TTC would continue to engage in the public consultation process, staff stated, "[w]e will bring in people who will propose a number of options to you. You will then have plenty of time to provide us with your input. We will integrate your feedback and will continue to consult with you as the Project progresses. The TTC will not force something on the neighbourhood that you won't be satisfied with."

200. TTC staff did not include in its presentation, information relating to the importance of "evacuation time" or anything relating to the "2-minute rule."



#### 4.11 Safety Issues and Compromise of Rules

201. When the TTC presented its design criteria and principles at the first public meeting, staff explained the importance of the 25-metre rule, that is, the path of travel (the second-exit) from the end of the platform (dead end distance), should not exceed 25 metres.
202. The Senior Project Manager explained that they would have liked to comply with the 25-meter dead-end distance rule, but it was not possible in all cases. He added that the 2-minute rule was more important.
203. Some residents conveyed to my investigator that the TTC originally held out that the NFPA 130, "25-metre rule"/"dead-end distance rule" was an "absolute requirement." They noted that the TTC's language softened only after it accepted property F as the location for the Greenwood Project.
204. TTC documentation showed that when considering property F, staff appreciated that the location was less than ideal and noted that it left a "dead end that exceeds the maximum travel path recommended by the NFPA."
205. The Senior Project Manager told my investigator that passenger safety was not compromised by extending dead-end distance and explained that by adding a second exit, the TTC was "improving safety". He explained that dead-end distance was 100 metres before, so 70 metres was "an improvement."
206. The General Manager for Engineering and Construction (General Manager) stated that the ideal would have been to have an exit on both ends of the station. He explained that if a fire occurred at 100 metres and the exit was beyond, passengers riding in the last three trains would have no means of exit. He added, however, that a second exit mid-way was better than no second exit at all.
207. The Senior Project Manager explained that the reason for selecting a property that compromised "dead-end distance" was that the alternative required "displacing two property owners [properties A and B], who weren't properly advised of the process." He told my investigator that the TTC "did not want to expropriate those homes." Its preference was to make the decision with the community "as opposed to forcing our way in there."

#### **4.11.1 Consistent Rules and Information**

208. At the third public meeting, the TTC rejected almost all of the public options based on them not complying with the 2-minute rule.
209. Members of the Donlands Group told my investigator that although they initially understood the TTC design principles and criteria when they were first presented at the June 29, 2010 public meeting, they were now feeling "confused", as they believed that the design principles and criteria "kept changing."
210. Many residents told my investigator that it was difficult to keep track of the rules as they continued to change. For example, a senior executive advised in a news article that the 2-minute rule was "found in the Ontario Building Code", however, the TTC later admitted to the Donlands Group that this was a mistake and confirmed that the "2-minute rule" was not found in the NFPA 130 either.
211. Many members of the Donlands Group told my investigator that they struggled with understanding how the TTC design criteria were weighted. It was not clear to many residents whether the TTC had developed a structured approach for weighting the criteria.
212. The Project Manager of FVUP told my investigator that although the design principles and criteria did not change, his staff adjusted them in accordance with the purpose of each presentation, which created the perception that they changed. A comparison setting out the history of the TTC design principles and criteria is provided at Appendix D.
213. The General Manager told my investigator that he understood how the design principles could be perceived as inconsistent, as the TTC was trying to comply with the Code, even though compliance was not legally required. In circumstances where compliance was not possible, the TTC did the "the next best thing" and as a result, changed rules with which they were not legally bound.

#### **4.11.2 Exit Evacuation Time Rule - 2-Minute Rule**

214. The Senior Project Manager told my investigator that the OBC 3.12 requires compliance for new constructions only. As the Donlands and Greenwood Projects were at existing stations, compliance with the OBC 3.12 was not required and the rules only served as guidelines. This provided the TTC with some discretion in applying its design principles.
215. He stated that the OBC does not stipulate a maximum tunnel length, but noted that the length of a tunnel could affect safety.

216. He explained to my investigator that the term "protected route" pushes airflow in a pressurized way that directs smoke away from passengers. The second exit tunnels for Donlands and Greenwood stations are not "protected routes" as they will not be equipped with the proper ventilation. He added that the passageway would slow down the entry of smoke, but not prevent it from filling up the stairwell.
217. In order of hierarchy, the Senior Project Manager told my investigator that the OBC "supersedes" anything else. He added that since 1996, the OBC began referring to the NFPA130, as certain elements of it had become legislative requirement.
218. He told my investigator that the TTC did its best to comply with the OBC, but it was impossible to meet the 4-minute evacuation time requirement contained in the OBC. In order to do this, the TTC would need to construct at least three, if not four exits.
219. He explained how the TTC created the 2-minute rule.

So, we can't meet it [the 4-minute rule], what's the best option? When we looked at NFPA 130, which goes beyond OBC and also has another criteria or requirement to the point of safety in 6 minutes or less. When you look at those two requirements, clearing the platform in 4 minutes, taking the people to the point of safety in 6 minutes, the difference is 2 minutes. Which means from the point where we construct a new second exit to the point of safety is delta, the difference between the 6 and 4, is 2 minutes. And that's the requirement or that's the target we set for the new second exit.

220. The Senior Project Manager told my investigator that the 2-minute rule is an "inherent... industry standard" applied to every station successfully, which is why no reference to the 2-minute rule is found in any Commission reports. He advised that the 2-minute rule was consistently applied at all existing stations with second exits. He said that although the rule was applied before work began on the Greenwood and Donlands Projects, the rule was originally communicated to the public at the first public meeting.
221. Another senior project manager from Construction, on the other hand, told my investigator that the 2-minute rule originated from the Donlands Project. He explained that the rule was originally about getting people out of the station as "quickly as possible" and was not a documented requirement.

222. In discussing the 2-minute rule, the Project Manager of FVUP told my investigator that it was first articulated "around the time of the open house." He said that no design rule is more important than another and added that the rules are "subjective" and applied differently from station to station. He explained that as each station is different, there has to be discretion.
223. In another senior staff's opinion, the 2-minute rule was more important than most others because it provided a maximum period of time passengers could survive in the passageway. He told my investigator that other important rules included keeping the exits separate and maintaining a distance of 25 metres.
224. The Project Manager of FVUP told my investigator that he had advised the Donlands Group that the 2-minute rule was a guideline and that there was flexibility in applying it, as there was with the dead-end distance rule. This was not one resident's understanding, as he told my investigator that TTC staff advised him that there was no discretion when applying the 2-minute rule, not even by half a minute.
225. The Senior Project Manager explained to my investigator that it would not be feasible for passengers to have only one minute to get off the platform and 5 minutes in the tunnel. He advised that 2 minutes was the maximum amount of time that people could survive in the tunnel.<sup>21</sup>
226. Another senior project manager from Construction stated that the risk to passengers in the tunnel was not the fire, but the smoke and the greater the distance, the more unlikely passengers would survive. He advised that if the smoke were black, passengers would not be able to breath for more than a minute in the tunnel "so 2 minutes is crazy".
227. The General Manager of Engineering and Construction's analysis of the 2-minute rule was considerably different from that of the other senior project managers. He told my investigator that if passengers could clear the platform and get to a point of safety within 6 minutes, it did not matter how long passengers stayed in the tunnel. "If you can get people, let's think of something ridiculous and get them off the platform in 30 seconds, well, you've got 5 ½ minutes to get them to street level." He noted that without adequate ventilation, however, the smoke would follow the passengers; "that's the unfortunate part."

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<sup>21</sup> See Appendix E to view a chart comparing evacuation time of all options for Donlands.

#### **4.12 Letters to Residents**

228. My investigator reviewed a variety of documents disclosing the following information.
229. On August 6, 2010, the Project Manager of FVUP sent an email to staff advising them that the owners of properties A and B should not be notified as to whether the TTC needed to acquire their properties for the Greenwood Project until it confirmed and received certain information.
230. On November 23, the Project Manager of FVUP emailed the Project Manager and requested confirmation that the TTC had sent letters to the owners of properties A and B to advise them that the TTC was no longer pursuing the acquisition of their properties. If not, he advised, they needed to send them out.
231. On November 24, the Project Manager emailed the Property and Agreements Coordinator for Property and asked him to send a letter to the owners of properties A and B to advise them that the TTC was no longer pursuing the acquisition of their properties for the Greenwood Project.
232. On December 14, the Project Manager emailed the Property and Agreements Coordinator to confirm that he sent the "close-out" letters to the owners of properties A and B. The Project Manager did not receive a response.
233. The Project Manager told my investigator that she did not think letters were sent.

#### **4.13 Architecture and Urban Design Firm**

234. At the Donlands Group's request, the TTC retained an architecture and urban design firm (Firm). The Firm advised my investigator that it was retained to develop urban design guidelines with the participation of the community for the Donlands and Greenwood Projects. It would then use the guidelines to assess neighbourhood impact and review and provide an independent report of its analysis of the provided exit options.
235. The Firm's work with the Greenwood Group was restricted to developing design guidelines for considering the final architectural appearance of the second exit building.
236. The Firm's work with the Donlands Group was divided into two phases. The first involved evaluating proposed locations; and the second phase entailed integrating the second exit building into the neighbourhood, while considering "mitigation measures."

237. On November 18, the Firm presented its "Preliminary Inventory and Analysis" to the CLC. The Firm used the developed urban design factors to evaluate the Donlands options.
238. On December 1, a project manager of Construction sent the Firm an email about its "Preliminary Evaluation of Options" in which he requested that the Firm change the scoring of eight urban design factors in their matrix.
239. The project manager wrote that the analysis should be an evaluation, and that each of the options needed an ordinal ranking. He also requested that the Firm change the scoring of another urban design factor.
240. The project manager updated a senior project manager in Construction by email on December 2, 2010. He wrote that although the Firm did not agree with the request to change the rankings of the second exit options, it did so. He noted that the Firm's revised matrix changed the rankings "significantly, and complied with the TTC's previous analysis. He added that the "...revised ranking should be acceptable to present at the CLC meeting."
241. On December 2, the Firm presented its "Preliminary Evaluation of Options" to the CLC. In accordance with TTC staff's second email of that day, the Firm changed the scoring of seven of the eight evaluated factors.
242. During its presentation, the Firm explained how it evaluated the criteria and how each criterion was weighted. The criteria evaluated at 1, 2, or 3, with all factors considered equally.<sup>22</sup>
243. From the 11 options considered, the non-residential sites along Dewhurst were most preferred. From the residential sites, two properties on Dewhurst were preferred, while the mid-block sites, corner sites and Dewhurst right-of-way were the least preferred options. Out of the 11 options, properties X and Y rated 5.
244. Various members of the Donlands Group questioned the scoring of the matrix by email. The Firm responded by writing that it would review the scoring of the matrix and return the following week with a revised version.
245. On or about December 10, the Firm sent the TTC a copy of its revised "Urban Design Matrix" for review. A project manager emailed the Firm, stating that she did not agree with the evaluation of the Church option and asked it to consider re-evaluating the scoring, by including additional points, due to the proposed development.

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<sup>22</sup> See Appendix F to view the Firm's Matrix presented on December 2, 2010.

246. The Firm wrote back saying that the locations were evaluated without regard to development and "mitigation potentials." As this principle was applied to all the other options, it would not be consistent to only apply it to the Church option. The Firm also wrote that the change would be difficult to justify.
247. On December 15, in response to this email, a project manager wrote: "We disagree and are adamant that the church option much (sic) be assessed at what it is expected to be; a 2<sup>nd</sup> Exit, a TPA lot and townhouses."
248. On December 2010, the Firm presented its "Final Evaluation of Options" to the CLC.
249. The matrix in the final evaluation was revised and most of the factors the TTC had asked the Firm to adjust were reversed back to its original matrix. In the end, the scoring of the TTC options increased so that they had a lower ranking, while the scoring for most of the public options were more favourable.<sup>23</sup>
250. In reviewing its revised conclusions, the Firm advised that non-residential sites were most preferred, in particular vacant and underused sites, while residential sites were the least preferred. The sites were ranked and out of ten options, properties X and Y ranked ninth, while mid-block sites ranked the worst.
251. Sometime on or before January 12, 2011, the TTC expressed concern to the Firm that the Donlands CLC members may have improperly influenced the study. The TTC asked the Firm for a record of all its communications with the Donlands CLC members. In providing this information to the TTC, the Firm noted that the Donlands Group expressed similar concern that the TTC had improperly influenced its study.
252. On January 14, a TTC staff explained to the Senior Project Manager in an email that the properties X and Y were the least preferred option, if all the other options were not included in the evaluation. If all the options, however, were included, [including all mid-block options], [properties X and Y] would fall within the "middle of the pack."
253. On January 18, 2011, a project manager from Construction emailed the Firm and asked it to independently rank all the "mid-block" options from an "urban design perspective." He wrote that his request was for the "sake of completeness." In explaining the reasoning for his request in a later email that day, he stated that "presumably an option with two buildings would rank lower than a mid-block option with one building and both less

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<sup>23</sup> See Appendix G to view the Firm's Revised Matrix presented on December 16, 2010.

preferred to [properties X and Y] as you suggest. We just want it confirmed."

#### **4.14 Donlands Church Option**

254. Between August 19 to December 22, 2010, the TTC considered the Church option.
255. The TTC explained that the Church option was only feasible if the TPA partnered with the TTC to purchase the property, with a portion of the property being converted into a parking lot.
256. After involving not only the TPA, but also a third-party developer, the TTC realized that the Church option was not feasible. Even with an interested third-party developer, it was deemed too expensive and had construction issues relating to a sewer, that Toronto Water could not approve.
257. TTC staff advised my investigator that significant time and work was spent considering the Church option. The Donlands Group, however, told my investigator that very little information detailing what took place was shared with them.
258. Many members of the Donlands Group told my investigator that they were unsure whether the TTC had genuinely considered the Church option. Though the Donlands Group received evidence, through Freedom of Information (FOI) requests, initially showing City approval with respect to the relocation of the sewer, they did not know what took place afterwards.

#### **4.15 Request for Information**

259. On January 6, 2011, Ms. T emailed TTC staff a letter on behalf of the Donlands Group. The letter reviewed the Firm's conclusions and requested confirmation of specific information to ensure that the community and TTC were all on the same page for the next CLC meeting.
260. In this letter, she noted how the collaboration process with the Firm demonstrated the importance of weighting the factors set out in the criteria.
261. In moving forward with selecting the location of the second exit, she requested a fair system for evaluating the various factors. Her reason for this request was that a "system which ascribes an inordinate amount of weight to TTC factors has the ability to make community impact negligible and does a disservice to the entire consultation process."
262. The TTC did not respond.



263. On January 15, Ms. T emailed a second letter and asked for a response before the next CLC meeting. In addition to the questions she raised in her January 6 correspondence, she asked for information relating to the TTC's criteria and factors presented in its matrices.
264. The TTC did not respond. The Senior Project Manager told my investigator that the TTC felt that it had already answered the questions on more than one occasion.

#### **4.16 Construction Liaison Committee Meeting - January 20, 2011**

265. On January 20, 2011, the TTC held its last CLC meeting with the Donlands Group. The TTC's notes of the meeting included the following.
- After reviewing the Project's Objectives and Design Principles, the TTC presented its method for evaluating options. Options that did not satisfy the factors laid out in the first screening slide, would not move forward for consideration in the second screening slide, and would not be deemed viable. The scoring was either "yes" or "no".
  - A list of all 21 options considered, was then presented in a matrix.<sup>24</sup>
  - All six TTC options received a "yes" for all criteria.
  - Out of the 15 public options, two options received a "yes" for all criteria, the Church option and the Dewhurst East Curb-lane option.
  - 11 of the 14 public options were rejected on the basis that they did not "Evacuate Occupant Load to a Safe Environment as Quickly as Possible, also referred to as the "2-minute rule".
  - The second matrix assessed the "Feasibility and City Support" of the remaining options. The TTC options all passed with a "yes", while the two remaining public options failed with a "no" as the City could not support either option.
  - The last matrix reviewed the "2nd Screening Criteria" for the remaining options (all TTC). Although, a mid-block option ranked number 1, the TTC concluded that Option 3, (properties X and Y), was the preferred one.
266. In reviewing the TTC's notes of the January 20 CLC meeting, my investigator noted that after the presentation, more than one member

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<sup>24</sup> See Appendix H for a copy of the TTC's January 20, 2011 matrices.

expressed concern about fairness and that the TTC was pushing to meet the "2-minute rule" at Donlands station, while it did not apply the "dead-end distance rule" at Greenwood station. They also requested the TTC provide the exit time calculations for all options.

267. More than one CLC member told my investigator that they requested a copy of the January 20 TTC presentation. Despite the request, no CLC or community member received a copy, nor was it posted on the TTC website.
268. A resident told my investigator that the CLC members had not expected such a meeting and knew that they were "up against something different" as soon as they entered the room. She noted that the TTC presented the options differently than in earlier matrices and added that her questions about the weighting of the criteria were never answered.
269. The Senior Project Manager explained to my investigator that the TTC went with the lowest rated option, as "feasibility, safety and "cost" were more important than "community impact". Although the TTC would have liked to construct the second exit building somewhere else, he advised, putting it on the corner lot was better than mid-block.
270. The Project Manager of FVUP told my investigator that properties X and Y had always been the TTC's preferred option for the Donlands Project, even while exploring other options.

#### **4.17 The Firm's Report Revisited**

271. Members of the Donlands Group told my investigator it was their understanding that the results of the Firm's report would influence the location of the Donlands second exit.
272. The Senior Project Manager told my investigator that it was "unfortunate" that the Donlands Group had this understanding as he had told them "many times" that the study would have no impact on 8 of the 9 public options. He said they hired the Firm because the Donlands Group asked them to and "we were just complying with their request."
273. He told my investigator that the Firm's report would have "very little" impact on the options. Another project manager from Construction agreed and told my investigator that the urban design evaluation of an option had no impact on constructability or exit evacuation time. Even if the ranking of the option changed, the TTC would not be able to use any of the public exits.

274. An affected property owner told my investigator that the TTC did not tell him the Firm's report would have no impact. If he had known, he and the Donlands Group would not have "bothered participating."
275. Another property owner told my investigator that by taking the Firm's criteria and rejecting the options, it "basically neutered" the Firm's process. He stated that it would be "totally illogical" to conduct a study on options that had already been rejected. It was his understanding that there was "room to move on this so-called 2-minute rule" and it did not make sense to him why TTC would go through the expense of having the Firm conduct a study on rejected options. It was his impression that the TTC included the options in the study, hoping that it would rank the public's options at the bottom of the list. From reading some of the emails obtained through FOI, he stated that "the TTC was really trying to influence" the Firm's outcome. When the revised report was released, and the results did not support the TTC's preferred option, he stated, the TTC "had to invoke feasibility issues in order to get the study off the table. Again, this speaks to process."
276. Members of the Firm told my investigator that two project managers of Construction were not happy with its final report, particularly because it did not support the TTC's preferred option.
277. Members of the Firm told my investigator that, in the end, they did not think their report was helpful, as their conclusions were "diametrically opposed" to those of the TTC.
278. Firm members told my investigator they had participated in a genuine consultation process, but one person stated that the TTC was somewhat "naïve" in thinking that its report would support the TTC's preferred option and that from the beginning, the TTC knew what it wanted and had already decided its preferred location.
279. A property owner told my investigator that he did not think the Firm's report was very helpful.

What became very clear in the latter of those meetings was that the 2-minute rule was going to trump absolutely everything and that anything that was longer than that was going to be flat out disregarded; which certainly seemed like something of a betrayal of the whole process...It seemed we went through a very good and rich process, with great reasoning, and in the end we were told, but we are still doing exactly what we want...I was extremely frustrated by it. It [the report] basically exposed the

sham of the whole process throughout the engagement...it became obvious that the TTC had already made the decision at the very beginning.

320. Members of the Firm told my investigator that based on the January 20, 2011 TTC presentation, they also would have questioned the purpose of their work.

#### **4.18 Requested Clarification of Criteria**

280. On January 26, 2011, the Donlands Group sent the TTC a letter expressing its concern that the TTC was not applying its design principles and criteria in an impartial manner. They asked the TTC to provide written confirmation of a number of TTC statements. The contents of the letter were similar to Ms. T's correspondence earlier that month.
281. On February 24, 2011, the TTC responded to the Donlands Group. In the letter, the TTC clarified the OBC's application to construction projects, in that the OBC "distinguishes between the construction of a renovation of an existing station." Although new stations must fully comply with the OBC, existing stations under renovation are only obliged to meet or improve upon the pre-renovation condition. In circumstances where the TTC cannot apply specific standards set out by law, it develops requirements based on codified and industry standards, namely the OBC 3.12 and NFPA 130.
282. The construction of a second exit must fully comply with the OBC, as well as the platform clearance times. As a result, the TTC established an evacuation time requirement based on the NFPA 130 evacuation times - the 2-minute rule.
283. In response, an affected property owner suggested to TTC staff that similar compromises made at Greenwood could also be made at Donlands. He told my investigator that the TTC could use its discretion by selecting an option satisfactory to the community while still increasing rider safety. He told my investigator that TTC staff advised him it was not possible.
284. By email, dated March 1, 2011, he requested further clarification, as not all of their concerns had been addressed in the TTC's February 24 correspondence.
285. Although several more emails were exchanged between the TTC and the Donlands Group, a representative for the Donlands Group advised my investigator that they remained frustrated with the "constant changing of

standards" and their continued request for information that the TTC never provided. She stated:

It's so bizarre to me that this "2-minute rule" is what they're hanging their hats on, what they live and die by, and they cannot provide one TTC document that has it written, that refers to it...It doesn't exist, it makes no sense. It is unfathomable that people who have a professional designation, who are technical by nature, who operate by laws and regulation, are referring to something that they cannot show us what there is...And so, it was fairly mind boggling to us that they couldn't provide it to us, but they would talk about it as if it existed somewhere. So, we were on this wild goose chase...emailing engineering professors at the universities, we were talking to and emailing the NFPA themselves. We were going to every length possible to try and figure it out. If we could get that information from the TTC, we would have just asked them and we were asking them, but we weren't getting straight answers, which is why we were having to go so far afield to get answers on these things.

286. The Senior Project Manager told my investigator that the TTC explained everything to the Donlands Group and did not think the information needed to be in writing. He added that the Group was never satisfied and always wanted more information. The Project Manager of FVUP advised my investigator that his staff tried to answer the Group's questions as "best we could".
287. The Project Manager of FVUP confirmed that the TTC never provided any weighting analysis for the TTC design criteria and later said that weighting of the criteria had only been developed when the TTC prepared the January 20, 2011 presentation for the CLC meeting.

#### **4.19 City Council Budget Meeting & Cancelled Public Meeting**

288. On February 23, 2011, Council deferred the Wellesley, Woodbine, Greenwood and Donlands Second Exit Projects.
289. The ward 29 Councillor then asked the TTC to cancel the public meeting scheduled for March 3, 2011. Its purpose was to update both community groups about the projects.
290. The Councillor told my investigator that she was not concerned that the cancelled meeting would impede the TTC from continuing a public

consultation process. She explained that the residents near Greenwood station already knew that property F was the location, and the TTC had been consistent since the beginning that properties X and Y was the location for the Donlands Project.

291. While TTC staff informed my investigator that it did not agree with this decision, they abided by it and cancelled the meeting.
292. The Senior Project Manager told my investigator that he was not sure whether the decision was made in the best interest of the public and had no comment on whether cancelling the meeting harmed the TTC's image of transparency. A senior executive, however, also disagreed with the decision to cancel the meeting, and told my investigator that the decision compromised transparency.
293. On February 25, 2011, the TTC notified area residents of Donlands and Greenwood that the March 3 public meeting was cancelled.
294. Although Council deferred construction for the Donlands Project, the design portion of the Project was not deferred, and unbeknownst to Donlands residents, the TTC continued to plan and work on the design.

#### **4.20 Public Consultation**

295. Many Donlands and Greenwood residents told my investigator that they understood some of them would lose their front yards for a period of time due to construction. They said they wanted to participate in a consultative process to decide together the best location for the second exit.
296. Ms. T told my investigator that a public meeting does not necessarily mean that a public consultation process took place. She stated that there was a difference between having a meeting and engaging in a "genuine" consultation.
297. Ms. T stated that the TTC's intent was to notify, not to consult. She said that although the Donlands Group entered into the process in good faith, it soon became clear that the TTC had already made its decision. The TTC gave the Group as little information as it could and made it difficult to engage in a consultative process. Many other residents my investigator interviewed shared the same view.
298. TTC staff generally felt that the TTC had participated in a genuine consultation process. Some staff noted that although initially the TTC did not adequately communicate information, it did so eventually.

299. A senior project manager from Construction stated that after speaking to residents of the communities, he understood why they might have felt the process was more about notification than consultation. He told my investigator that from the beginning, the TTC:
- ...came very strongly with preferred options. We looked at all the options and it sounded like our minds were made up. But at the same time, we felt we had investigated options that would meet our criteria and we thought we did a good analysis and in that for both cases, these were options that would [both] suit our needs and have the least impact on the community.
300. He said it could have been done differently, however, he added "that doesn't mean the outcome would have been different, it just means the process would have been different."
301. Although the City of Toronto has an in-house Public Consultation Unit that supports five City divisions,<sup>25</sup> the Senior Project Manager told my investigator that the TTC is not one of them. He explained that the TTC's public consultation process is an "invented process." He stated that although no written formal policy existed, there was a consistent practice that involved notifying Councillors and holding public open houses. He stated that from the Donlands and Greenwood experience, a new public consultation unit is "in the works."
302. A TTC director told my investigator that although the TTC does not have a public consultation process or policy, it is in the process of establishing a permanent strategic communications unit. One of its first goals is to draft a public consultation and a notification policy about construction projects for Councillors and the community.

## **5.0 Engineer's Expert Report**

303. My office retained an engineering firm with expertise in fire and life safety (Consultant) to clarify the applicable and relevant fire and life safety legislation for rapid transit stations and how it applies to existing stations.
304. The Consultant provided the following information:
- The Consultant's application of the OBC to rapid transit stations was consistent with the TTC's application, with the exception that the OBC is the applicable regulation in Ontario, while the NFPA is referenced

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<sup>25</sup> Technical Services, Toronto Water, Transportation Services, Solid Waste Management and Toronto Environment Office.

under one portion of the OBC, and is only applicable under that specific reference.

- One rule is not more important than another. The "Code is developed with the requirements being complimentary [sic] and additive. It is developed on the basis of all applicable aspects of the Code requirements being achieved. The Code is not intended to be 'cherry picked', with selective application of the requirements."
- In addition to the OBC requirement that the travel time from the most remote point to the protected route does not exceed 4 minutes, the NFPA 130 quantifies exit time requiring sufficient capacity to evacuate the platform in 4 minutes or less.
- There is no limit on the time required to travel within a "protected route." For existing stations, no time limit applies within "unprotected routes", other than not making the evacuation time worse than the existing evacuation time.
- The TTC, at the January 20 CLC meeting, "oversimplified" the NFPA criteria, which are not regulatory requirements.
- There is no provision in the OBC limiting length of dead-end distance; "it is not a legislated requirement to Ontario transit facilities" and there is no compromise to safety if it is not applied.
- The selected location for the Greenwood Project, property F, is acceptable provided that the TTC complies with the OBC criteria.
- The TTC's "2-minute rule" was not interpreted correctly and the NFPA rules are "not being applied as intended."
- As the 6-minute rule of the NFPA 130 applies to the most remote point on the platform, the 4-minute rule of the NFPA 130 relates to establishing the egress capacity; the "6-4=2" derivation from the NFPA ("2-minute rule") does not make sense. Further, mixing two rules from two different codes (the NFPA 6-minute rule and the OBC 4-minute rule) for safety standards is improper.
- The option is acceptable, as long as the travel time to evacuate from the most remote point is not worse than existing travel time conditions, meets the 25-metre rule and there is some improvement in evacuation time.



- The "2-minute rule" does not exist and is not an "industry standard." There is no such thing as a 2-minute rule to survive in an unprotected route. There are too many variables to make such a broad statement.
- All the TTC and public options presented at the January 20, 2011 CLC meeting are acceptable as long as the location of the second exits do not "negatively impact the existing evacuation and warning systems" and satisfies OBC criteria.
- In principle, any new exit will be an improvement to the evacuation time.

## **6.0 Status of Donlands Station**

305. The Senior Project Manager advised that before the construction budget for the Donlands Project was deferred, construction was expected to begin in 2012. The location for the Donlands station second exit has been decided. He stated that the TTC's only plans for further compromise is to use a consultant to design the second exit building.
306. The Development Coordinator informed my investigator that in the interim, Property has conducted "background preparation" for the Project.
307. As of January 2012, the construction budget for Donlands station was approved and construction is scheduled to begin in 2014.
308. The Senior Project Manager informed my investigator in April that the TTC's only reason for not communicating this information with the public is my outstanding investigation on this matter.
309. On April 17, a property owner near Donlands station noticed a woman on her street taking pictures of her home as well as surrounding houses. When she inquired, the woman introduced herself as an engineer with the TTC and explained that she was taking pictures to plan for ramps/walkways needed to access the properties during construction of the second exit.
310. As of May 2012, the TTC continues to engage in dialogue with the owners of properties X and Y. The TTC has not yet purchased the properties.

## **7.0 Status of Greenwood Station**

311. On January 28, 2011, City Real Estate sent a letter to the owner of property F. The letter advised the owner of the City's appraisal of the property and offered the property owner an opportunity to meet to "discuss the appraisal and the City's interest in acquiring your property for use by

the TTC to construct the 2<sup>nd</sup> exit building at Greenwood station." A senior project manager from Construction told my investigator that the offer was not accepted, as the property owner had changed her mind.

312. The Greenwood Project was placed on hold and remains so at the time of completing this investigation.

## **8.0 Woodbine and Coxwell Station – A Comparison**

313. My investigator reviewed two other construction projects of similar type and scope.
314. Ward 31 Councillor told my investigator that she found out about the Woodbine Station Second Exit Project (Woodbine Project) from a constituent who reported that TTC staff were surveying and conducting tests next to her property. The TTC did not alert the Councillor and apologized to her, providing the Councillor with the background of the Woodbine Project and promising to keep her updated.
315. Just before the June 2, 2010 Commission meeting, the TTC advised the Councillor that the Woodbine Project was on the agenda for the next Commission meeting on that date.
316. The Councillor's attempt to have the matter removed from the agenda failed, as she was "too late".
317. At the June 2, 2010 Commission meeting, the Councillor asked that the Woodbine Project be deferred pending community consultation, because she believed that the TTC "had no intention to consult with the community."
318. The Commission refused and approved the conceptual design for the Woodbine Project. The Commission also approved a public meeting scheduled for June 29, 2010.
319. The Councillor explained that by the time she became aware of the Project, there was no room to consider any major changes to the TTC's plan.
320. She stated that "the TTC had already made up their minds about where they were going to put it."
321. The Senior Project Manager went to the June 29, 2010 Woodbine public meeting before attending the Donlands and Greenwood public meeting. He told my investigator that there were no surprises. Residents walked around, asked questions and left.

322. On August 25, 2010, Council voted to acquire 996 and 998 Woodbine Avenue to construct the second exit.
323. After the Woodbine Project was deferred, the ward Councillor told my investigator that she discovered Coxwell station was also slated for construction. The TTC did not advise the Councillor about Coxwell station until after it had already been approved.
324. The Councillor only discovered in 2012 that in the fall of 2010, the TTC had begun discussions with area residents near Coxwell station about property acquisition and encroachment for the Project being contemplated for that station.
325. The Councillor told my investigator that it was at a second meeting relating to Coxwell that the TTC advised her they were going ahead with the Woodbine Project. The Councillor insisted that the TTC prepare a second notice to the community about the Woodbine Project proceeding.
326. The Councillor said she was shocked when she learned that the Woodbine Project was going ahead. She found out in March 2011 that the TTC had retained money in the budget for all preliminary work. The Councillor felt that the TTC should have shared this information with her much earlier.
327. She told my investigator that she had been "lucky" the Woodbine and Coxwell Projects did not turn into a "complete public relations nightmare." Had she not intervened in Woodbine station, she stated there would have been no consultation process. The Councillor stated that it was the TTC's intention to finalize the Project and then inform the residents.
328. The Councillor suggested that the TTC would not provide any additional information, unless it was requested. She maintains that:

The TTC won't go out of their way to inform you. Only if you ask, will you get information from the TTC. Council and the public are seen as impediments to an efficient construction project.

## **9.0 Ombudsman Findings**

329. This investigation revealed a total failure on the part of the TTC to engage in any meaningful public consultation. In December 2009, the TTC had its preferred options selected for the Greenwood and Donlands Projects, however by June 2010, it had made very little effort to communicate the Project with area residents, far less engage in efforts to consult. In fact, there was no recognizable process in place.

330. The TTC's initial plan was to hold a public information meeting after Council approved the Project. Similar to the process it followed for the Woodbine Project, the TTC did not intend to hold more than one public information meeting.
331. A deferral following the July 14, 2010 Commission meeting would have demonstrated good will and the TTC's intent to genuinely consider the communities' concerns and ideas.
332. That did not happen.
333. Only when the Commission directed the TTC to do so, did it engage in a public consultation process.
334. The meeting with the owners of properties X and Y in early September 2010 contributed to the perception that the TTC had already made up its mind. Although a negotiation, in the technical sense, did not take place, it appeared an agreement existed, in principle, to acquire the property.
335. The TTC should have recognized that such a meeting so early in the consultation process would convey to the public that it had already selected the option. This again caused the Donlands Group to mistrust the TTC and question the sincerity of the public consultation process.
336. Public consultation does not merely involve informing stakeholders about a project. To be effective, it must be based on "openness, trust, integrity, mutual respect, transparency, inclusiveness and co-operation."<sup>26</sup>
337. Public consultation enables citizens and residents to participate in a decision making process – to contribute information, ideas and views, which can then be integrated into a decision. For an adequate public consultation process, access to relevant documents/information and opportunities to ask questions are essential. A good public consultation process must include a variety of methodologies depending on the circumstance.
338. Residents of Toronto are diverse, knowledgeable and involved. Public participation in City decisions not only helps ensure that residents support the City's decisions but it also creates a strong city backed by the voice of the people. Public input is quite simply fundamental to good governance and a progressive democracy.
339. The TTC failed to meet its obligation of engaging in a transparent, genuine and fair public consultation process.

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<sup>26</sup> Policy Statement and Guidelines for Public Participation, Department of Justice, Canada.

340. In considering alternative options, the TTC continued to make the same mistakes it had made from the outset. After failing to communicate with the owners of Greenwood properties A and B, the TTC did not learn its lesson and subsequently made the same mistake by not communicating with the owner of property D.
341. When City Council deferred the budget on construction, the TTC continued to work on the design aspects without notifying the public. Public consultation stopped, yet planning continued.
342. The public, as a result, were misled because they believed that the entire Project had been put on hold.
343. The TTC continues to keep information from the public, as many residents affected by the Donlands Project remain unaware that the construction budget was approved in January 2012.
344. Full and fair disclosure of information is an essential prerequisite to a genuine public consultation process. It is also a basic tenet of good governance. The paucity of reliable information and lack of full disclosure were problems from the outset.
345. Although the TTC initially shared some reports and information with the Donlands and Greenwood communities, it failed in its continuing obligation to do so consistently. The Donlands Group continues to wait, for example, to receive a written response detailing both the weighting of the criteria and the history and analysis of the 2-minute rule. Understandably, this failure exacerbated the community's frustration, creating a lack of trust and raising questions of the TTC's motives.
346. To suggest the complexity of the data may be overly onerous for the public to comprehend is both arrogant and patronizing.
347. The TTC failed in its continuing obligation to provide adequate notice of development and status updates. Notes and presentations from public meetings should have been posted on the website as part of a transparent process.
348. Communication to the public and the selected community representatives was poor and the information was inconsistent and changed over time.
349. Albeit unintentional, on more than one occasion, the TTC provided incorrect information to the media.

350. There was disagreement as to whether the TTC or the City was responsible for communicating with property owners, which added to confusion and public frustration.
351. While the TTC advised my investigator that it uses its own internal practice to notify Councillors, it is clear that whatever practice purportedly exists, it was not followed.
352. The owners of properties A, B and D remain in a state of uncertainty. The TTC have not provided them with confirmation that it no longer requires their properties.
353. While ward 29 Councillor's direction to cancel the meeting may have posed a challenge to the TTC, it ought to have considered other ways to communicate the information to the public, such as posting a notice on the website and speaking with the lead representatives.
354. The TTC provided information to Greenwood and not to Donlands. As a result, the Donlands Group had to acquire its own package. This is unacceptable and contributed to the perception that there was differential treatment between the two groups.
355. At the July 14, 2010 Commission meeting, the TTC stated that it would further consider the viability of public options and return to the Commission with recommendations for the Greenwood station. By contrast, with Donlands, the TTC stated that it would not return to the Commission and would resort back to its initial preferred option. Again, this contributed to the perception of differential treatment between the communities.
356. The fact that the TTC was able to select another option with less negative neighbourhood impact for Greenwood, but was not able to do the same for Donlands, left the Donlands Group with the perception that there was unequal treatment.
357. The treatment of property owners whose homes were being considered for acquisition was inexcusable. Receiving an unaddressed general mailing was distressing to the owners of properties A, B, X and Y.
358. It was unacceptable that the TTC did not provide notice to the owner of property D and it was appalling that he discovered that his home was being slated for expropriation through the media.
359. Furthermore, the TTC only notified the owner of property D about the Commission meeting at which the fate of his home would be decided on

the morning of, with only one hour to prepare his deputation. Twenty-one months later, he remains in limbo, not knowing the status of the Project.

360. The TTC demonstrated a callous disregard of the residents it is charged with serving.
361. The TTC notice was woefully insufficient. Property owners directly affected should have had the opportunity to meet with TTC staff well before the general notice was provided. The TTC admits that face-to-face communication is part of its general procedure, and its failure to do so is inexcusable. The absence of policy setting out appropriate procedures for public notification directly contributed to the problem.
362. Even if the notice letter from the TTC had extended an invitation to meet with the affected owners, notice would have been inadequate because there was no direct communication confirming receipt or that owners understood the letter. The TTC must ensure that all property owners affected by a construction project are properly informed.
363. The general notice was totally inadequate. Dropping off unaddressed envelopes notifying residents of a pending construction project is improper and wrong.
364. The late notice provided to the Councillor and by extension to the public begs the question whether the TTC had any interest whatsoever in consulting with the public.
365. That the public meeting was scheduled two days before a statutory summer holiday and 11 days before the Commission meeting to recommend approval of the Project, supported the perception that the TTC had no interest in participating in a public consultation.
366. There is more than one way to adequately provide notification about a project. Selecting the manner in which to provide notice should be made on a case-by-case basis and tailored appropriately to the needs of the project and community.
367. Stakeholders must be identified and included in any notice. At a minimum, information set out in the notice, should clearly describe the nature of the project, its objectives and potential impact. Notice should be provided well in advance to afford recipients an adequate opportunity to respond. None of these basic components happened on these Projects.
368. In establishing the Project, the TTC created criteria and developed design principles. Since the Project's inception in 2002, these principles changed

only slightly, remaining consistent until the TTC began engaging with the public in 2010.

369. The TTC created a matrix employing the criteria and design principles it had developed. The relative weight assigned to each criterion was not established at the outset, however.
370. Such an impoverished matrix permits the decision maker to arrive at a conclusion that cannot be measured against an objective set of criteria with quantifiable weightings. This created public perception that there were no pre-established criteria against which decisions were being made.
371. The Donlands Group was receptive to the Firm's process. The Firm informed the group not only of the factors to be employed in evaluating the second exit options but the relative weight assigned to each. This created both certainty and transparency in the decision making process.
372. The TTC retained the Firm to provide an analysis on options that had already been rejected, choosing the path of least resistance. Given the overall position of the TTC, this was at best, misguided.
373. The TTC interfered with the Firm's process by requesting that the Firm adjust its evaluation of options to support its own conclusions. The Firm initially modified results so that properties X and Y were not at the bottom of the list, however, it thereafter readjusted this so that the final report represented the Firm's true opinion.
374. The TTC's attempt to exert influence over the Firm contributed to the perception that the TTC had already made its decision and the process was not genuine.
375. It is troubling that the TTC would insert itself into the Firm's evaluation process by insisting on recalibrating the way options should be assessed.
376. While I acknowledge the TTC retained the Firm at the Donlands Group's request, it was less than candid in communicating to the Group the marginal impact it would have on the public options. Indeed, when the Firm selected eight other options with less negative neighbourhood impact than the TTC's preferred option and the latter proceeded in any event, the Donlands Group understandably questioned the integrity and purpose of the study.
377. I acknowledge that neighbourhood impact was only one of the five or six factors that the TTC was required to consider in selecting a second exit location and I appreciate that the other factors, such as cost, were of at least equal importance.



378. Notwithstanding, the TTC's decision to retain the Firm was a futile public relations exercise and thus a waste of resources.
379. The TTC created and introduced the 2-minute rule by taking sections from the NFPA 130 and the OBC.
380. The NFPA does not contain a 2-minute rule. No written documentation setting out the 2-minute rule was provided by the TTC. My office found no evidence that a 2-minute rule existed prior to the Donlands Project.
381. Although I do not question that all the completed second exit projects comply with the 2-minute rule and I fully endorse public safety imperative, my concern relates to the rejection of almost all of the public options based on a rule that does not exist.
382. In retrofit cases where the TTC can apply the OBC rules, they do and when they cannot, they do not have to. While the criteria and principles were applied to Donlands and Greenwood to the best of the TTC's ability, the reasons for its decisions were not adequately explained or understood by the very public most affected. This left the Donlands Group with the impression that the TTC was inconsistent in the application of its internal rules.
383. In the Wilkinson option for Donlands, dead-end distance was applied as an "absolute" criterion, however, this principle was not applied to Greenwood at all.
384. Although the preferred option for Greenwood did not comply with all the TTC's design principles, it was noted in the TTC's matrix as "neutral". Most of the Donlands public options, however, were rated "worse" for not meeting the 2-minute rule, despite these options not violating any written TTC design principles or criteria.
385. If the TTC had followed the same methodology it applied to Donlands, property F would not have made it past the first screen for the Greenwood Project as it did not comply with all of the TTC's criteria (dead-end distance).
386. In selecting property F, the TTC did not comply with all of its criteria.
387. If the TTC had followed the same approach that it did for Greenwood, the ten alternative options proposed by the public for the Donlands Project would have been acceptable, as the TTC numbers indicate that any second exit - regardless of whether it meets the 2-minute rule - would improve evacuation time, and thus, passenger safety.

388. The changing criteria and the way the TTC weighted them were unclear, inconsistent and appeared to be arbitrary. This suggests that their purpose was to provide support for the TTC options and minimize the public options.
389. Despite numerous requests the Donlands Group made for written information detailing the TTC's design principles and criteria, none was offered. The absence of written information made it difficult for the Donlands Group to discern the importance of the criteria and its consistent application.

## 10.0 Ombudsman Conclusions

390. The Toronto Municipal Code Chapter 3, 3-36 provides that the Ombudsman, in undertaking an investigation, shall have regard to whether the decision, recommendation, act or omission in question may have been:
- A. Contrary to law;
  - B. Unreasonable, unjust, oppressive or improperly discriminatory;
  - C. Based wholly or partly on a mistake of law or fact;
  - D. Based on the improper exercise of a discretionary power; or
  - E. Wrong.
391. I have considered those definitions in reaching my conclusions.
392. The TTC's notification process was unreasonable. There was a lack of common courtesy, its method of communication was inappropriate and departed from existing practice.
393. The TTC's public consultation process was neither transparent nor forthright. The TTC continuously failed to communicate and share information with the public.
394. While the TTC's differential treatment of the Donlands and Greenwood communities may have been unintentional, it left the Donlands Group with a distinct sense of arbitrariness and unfairness.
395. The TTC's refusal to provide written documentation explaining its application and interpretation of the NFPA 130 and OBC was unreasonable.
396. The TTC formulated a rule "derived" from two different codes that resulted in the rejection of almost all of the public options put forward. Although this rule was noted as imperative for constructing a safe exit, the history

and background of the rule was not shared with residents as requested. This was unfair and prevented residents from evaluating it.

## 11.0 Ombudsman Recommendations

397. Taking into account all the evidence gathered in this investigation, I recommend the following:
1. That the TTC develop a process/procedure by December 31, 2012, for notifying Councillors of new construction projects that are scheduled to take place in their wards.
  2. That a communication policy and process be created by February 1, 2013, for notifying property owners of construction projects, and include but not be limited to the following:
    - i. Residents should be informed as early as possible about construction projects.
    - ii. Flyers should be distributed in appropriately marked envelopes.
    - iii. Information in the notice should clearly describe the nature of the project, its objectives and potential impact.
    - iv. A link to the TTC's website for additional information should be included and kept up to date.
    - v. Public consultation information, including a copy of or access to TTC's relevant policies and procedures.
  3. That a documented process be developed by February 1, 2013, specifically for property owners facing potential acquisition. Such a process must include, but not be limited to:
    - i. Letters by registered mail to property owners directly affected by construction projects as early as possible.
    - ii. Those letters should be sent before general public notification about the project.
    - iii. The TTC should follow-up with each property owner within one week, to ensure that letters were received and understood.
    - iv. The TTC should inform property owners as early as possible about the procedures and expectations for using temporary easements on selected properties during the construction phase.
    - v. The opportunity to meet face-to-face with TTC staff before general public notification about the project.
    - vi. Access to relevant TTC's policies and procedures (eg. property acquisition and public consultation.)

4. That a public consultation policy and process be developed by December 31, 2012, to include, but not be limited to:
  - i. Ongoing information posts on the TTC website.
  - ii. Accessible information and regularly posted and updated on the website including: presentations, meetings notes, related reports or studies, status updates and any other information that may be relevant.
  - iii. If there is a lead representative for the community, it is the TTC's onus to communicate information to this representative.
  - iv. Opportunities for the public to provide feedback and participate in the decision making process.
5. That training be conducted by December 31, 2012, with relevant TTC staff to ensure they have the appropriate consultation and communication skills.
6. That communication/notice be sent from the CEO or a senior executive by November 30, 2013, regarding the current status of the Donlands and Greenwood Projects and next steps to be implemented along with timelines.
7. That directives be established by February 1, 2013, documenting the responsibilities of the TTC and the City's Real Estate Division to minimize role confusion and improve communication to the public.

## **12.0 City and TTC Responses**

398. Before issuing my final report, I notified the TTC and the City Manager of my tentative findings and recommendations and provided them with an opportunity to make representations, pursuant to section 172(2) of the *City of Toronto Act, 2006*.
399. The City and the TTC provided points of clarification, which I considered and are reflected in my final report.
400. The TTC and City are in agreement with my seven recommendations and their associated timelines.
401. In its response, the City Manager outlined Real Estate's role in capital projects that require the acquisition of properties and explained that its involvement begins only after 30% of the design work has been completed and the final option has been selected. The City Manager outlined Real Estate's expropriation process in the event that acquisition is not successful. He clarified that while it is Real Estate's role to communicate details about construction projects to directly affected property owners in

relation to real estate matters, it is not Real Estate's role to communicate projects as a whole.

402. The City Manager articulated two factors that impeded efficient communication with the residents of Greenwood and Donlands. The first related to inadequate staffing due to a hiring freeze at the City, and the second was that the TTC contacted property owners before Council had fully approved the Project. In ensuring that this does not happen again, City Real Estate will work with the TTC to "establish roles and responsibilities to minimize role confusion and miscommunication."
403. The TTC's response acknowledged that in relation to the Greenwood and Donlands Projects, it did not adequately communicate or consult with the public.
404. On behalf of the TTC, the Chief Executive Officer (CEO) explained that TTC staff failed to properly communicate to the public technical information and engineering principles on which the Project was premised.
405. The CEO advised that prior to the release of my report, "the TTC recognized the need for significant changes in how we communicate with the public and their local councillors on construction projects and how we coordinate with City Real Estate and Legal Divisions regarding property acquisition."
406. The TTC has established an internal communications unit, "Strategic Partnerships" which "will be responsible for managing external interactions with the TTC including communications, community relations and property acquisition." This function, headed by a director, has already begun implementing my recommendations and is in the midst of developing a consultation program and protocol for communicating with Councillors on construction projects.
407. Strategic Partnerships will also liaise with City Real Estate and is "developing protocols and processes to ensure that affected property owners are well informed and that there is a clear delineation of roles and responsibilities and effective coordination between the TTC and the City of Toronto." The TTC will provide additional training in communications to "ensure staff increase and enhance their expertise and stay abreast of new innovations and best practices."
408. The TTC is revising public consultation practices to provide the public with an earlier opportunity to meaningfully participate with the TTC when new construction projects are proposed.

409. "Communication tools and procedures" are being developed to ensure that the public is "well informed of TTC construction projects." The CEO advised that the TTC will be providing information in plain language and will provide more access to information through its revamped website.
410. The CEO advised that all my recommendations will be addressed through its plans, policies, procedures and protocols, including: *TTC Construction Projects Property Acquisition Management Plan, TTC Construction Projects Community Relations and Communications Management Plan, TTC Construction Projects Property Acquisition Management and TTC Protocol Regarding Communicating with Councillors on Construction Projects.*
411. In recognizing the work that lies ahead in developing a new approach to "communications and community relations", the TTC is committed to strengthening and developing "better relationships with communities" to address my recommendations and to "excel at community consultation and engagement."



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Fiona Crean  
Ombudsman  
October 23, 2012

## **APPENDIX A – History of the Second Exit Project**

### **Fire Ventilation Upgrade Project**

The purpose of the Fire Ventilation Upgrade Project is to improve the subway ventilation system for existing subways to reduce risk and improve safety in the event of a major fire. At the time the project was initiated, only 6.5% of below grade subway systems had an adequate ventilation system to deal with a major fire.

In 1998, the "Fire Ventilation Upgrade – Implementation Prioritization Study" was released. This study, along with others, indicated that the majority of existing TTC subway systems could not adequately ventilate smoke from small fires. At the time, TTC management held that "the deficiencies identified in the ventilation system capacity represent an unacceptable level of risk to the public safety in the event of a major fire."

### **Fire & Life Safety Report**

In 2002, the TTC initiated a study to: a) evaluate the requirement for a second exit at existing TTC subway stations, and b) to establish criteria for the prioritization of stations that require a second exit. According to the study, this requirement came from the Ontario Building Code 1997, Section 3.12 Rapid Transit Stations (OBC 3.12) and the National Fire Prevention Act Standard 130 (NFPA 130).

On May 22, 2002, Locke MacKinnon Domingo Gibson & Associates Ltd. published a summary of the TTC's study, "Fire & Life Safety Evacuation Assessment" (LMDG Study).

According to the LMDG Study, full compliance with the NFPA 130 and OBC 3.12 is required for new rapid transit stations.

The second exit criteria set out in the OBC 3.12 relate to providing more than one exit in the event of a fire, in case the other exit is blocked.

While pre-existing stations are not required by law to have second exits, the TTC decided to evaluate all existing subway stations to determine which stations did not have a second exit.

In considering fire and life safety issues, it was the TTC's view that "the primary goal of fire/life safety measures shall be the preservation of human life. The secondary goal shall be the minimization of property damage."

The LMDG Study evaluated 62 stations to determine which stations required second exits and their priority for updating stations. The evaluation involved both a qualitative.

In conducting this evaluation, the LMDG Study provided both primary and secondary criteria for reviewing second exit requirements in a rapid transit station:

## Primary Criteria

- Each platform shall have at least two exits, which are independent of and remote from each other.
- The distance separating the exits at the platform shall be greater than one car length or 25 metres (85ft).

## Secondary Criteria

- Travel time from the most remote point on the platform to a protected route<sup>27</sup> is not more than 4 minutes.
- Platform exit routes are required to provide sufficient capacity to achieve a calculated platform clearance time of 4 minutes, minus the time required to reach a protected route.
- Each exit is to maintain the "required capacity" at the platform for the length of the exit route.
- Exit routes from separate platforms are permitted to meet where cumulative capacity is provided beyond the point of convergence, except that cumulative capacity is not required if the platform clearance time is not compromised.

The criteria outlined in the LMDG Study were applicable to the design of new rapid transit stations. Existing stations constructed prior to the release of OBC 3.12 were not required to comply.

Out of the 62 stations assessed in the report, 14 stations were ranked "high priority" stations that required a second exit.<sup>28</sup> The TTC decided to design second exits for all of these 14 high priority stations.

It was noted in the LMDG Study that the goal for constructing second exits at existing subway stations "should be to improve the level of fire and life safety to the extent practicable."<sup>29</sup> A "performance based approach", was recommended for existing stations, which would involve developing engineering solutions that incorporated the protection rules set out by the OBC and NFPA.

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<sup>27</sup> A "protected route" is defined in OBC 1997 3.12 as the section of the exit which begins at the point where passengers would be protected from a train fire and which leads to the exterior of the station or through an exit to a side building.

<sup>28</sup> Broadview, Castle Frank, Chester, College, Donlands, Dufferin, Dundas, Dundas West, Greenwood, Museum, Pape, Summerhill, Wellesley, Woodbine. All 14 stations began running prior to the release of Section 3.12.

<sup>29</sup> Some recommendations made in the LMDG Study to improve the level of fire and life safety at existing TTC stations included upgrading communication systems and operational procedures and giving additional consideration to the Fire Ventilation Upgrade Implementation Program.



Other important information noted in the LMDG Study included: reasons for transit tunnels not being recognized as second exits from a station platform;<sup>30</sup> an explanation as to why emergency ventilation systems at these stations were limited in protecting passageways from the effects of a fire; and that there was more than one way to calculate evacuation time.<sup>31</sup>

### **Alternate Egress<sup>32</sup> Implementation Option Study**

In April 2004, Richard Stevens Architect Ltd released the report, "Alternate Egress Implementation Study" (RSA Study) which examined the cost and various ways to implement second exits at 11 of the 14 high priority stations.<sup>33</sup>

Because of the cost associated with providing a full entrance facility, the study considered emergency exits only. Minimizing cost was noted as a key factor in the RSA Study.

The RSA Study included the following objectives:

- Comply with OBC 3.12.4 by providing a second exit with a minimum width of 1.1m.
- Comply with OBC 3.12.4 by ensuring that exits are separated by at least 25 metres.
- "Reduce the existing dead end situations to the minimum on platforms wherever possible."

Several options were considered for each station, and the two most favourable stations were illustrated in the RSA Study.

Of the eleven stations examined, Donlands and Greenwood stations were the only ones where a second exit would result in "significant impact on residential streets".

For Donlands station, the two options considered were, 1) a mid-block option, located parallel to the sidewalk in front of existing residential houses on both sides of

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<sup>30</sup> "Potential exposure to operating trains and live power distribution equipment"; "pedestrian routes in tunnels are not required to be designed to the same standards as egress routes in stations or other buildings" and travel speeds along tunnel exits routes will be slower; pedestrians prefer normal entrance and exit routes; as a portion of the tunnel is used as a "plenum" for pushing the smoke from a train fire at a platform, that portion will not be accessible for use as a second exit route from the fire.

<sup>31</sup> In the Fire & Life Safety Report, the "platform clearance time" is calculated "based on a comparison of the anticipated occupant load to the available capacity of the platform egress routes." Another study completed on behalf of the TTC, however, calculated "evacuation time" based on distance, which involved assessing the length of the tunnel and exit facility.

<sup>32</sup> "Egress" is another word for "exit".

<sup>33</sup> Chester, College, Donlands, Dufferin, Dundas, Greenwood, Museum, Pape, Summerhill, Wellesley, and Woodbine.

Strathmore and 2) a corner block option, located at the corner of Strathmore and Dewhurst, parallel to the property at 1 Strathmore.

The recommended emergency<sup>34</sup> exit location for Donlands Station was the corner block. Although the mid-block option was less expensive and easier to construct, it had a more negative neighbourhood impact than the mid-block option.

For Greenwood station, the two options considered included, 1) two emergency exits located on Strathmore close to the corner of Linsmore Crescent (Linsmore) in the backyards of two private properties, and 2) two emergency exits located mid-block on Strathmore one on each side of the street.

Although the first option barely met the 25-metre minimum rule and had a long "dead-end distance" at the east end of the platform, it was selected because the second option would impact on the neighbourhood less.

In assessing another station (Dundas) that required the acquisition of private lands, the study concluded that until the TTC consulted with all affected property owners, along with other unrelated steps, it would not recommend a location.

In addition to rejecting some options due to issues of cost, property and neighbourhood impact, other options were not pursued due to a long dead end distance.<sup>35</sup>

### **Concept Review Report (10% Design) - Donlands Full Time Exit**

In August 2006, the TTC decided that Donlands station required a "Station Emergency Exit Building."

In January 2007, Hatch Mott MacDonald (HMM), a design team retained by TTC, submitted a Concept Review Report (10% Design) considering locations for a Station Emergency Exit Building for Donlands station.

Between July 2007 and August 2008, at the TTC's request, HMM revised and included four alternate proposals to the Donlands Concept Review Report.<sup>36</sup>

On January 19, 2009, HMM released the "The Second Exit Program Concept Review Report (10% Design) Donlands Full Time Exit" (HMM Report).

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<sup>34</sup> Emergency exit means that exit would only be used during emergencies, and not daily.

<sup>35</sup> College and Wellesley stations.

<sup>36</sup> In July 2007, the TTC requested that HMM revise Donlands exit type from an Emergency Exit to a Full Time Exit; in November 2007, the TTC requested that HMM consider including in the Donlands station design a single surface building option, and Janitor and Sump rooms; in February 2008, the TTC requested revisions regarding the location of the second exit; in August 2008, the TTC requested HMM consider the second exit be located on a single property.

The HMM Report considered six different options for the Donlands Project and evaluated both the advantages and disadvantages.

The preferred option selected (on a cost basis) was Option 2. This option required the acquisition of four residential properties located on Strathmore, two houses east of Dewhurst. As Option 2 would result in two separate exit structures in a residential neighbourhood, the HMM Report suggested that the TTC consider other factors in its evaluation including: cost, location, operation, property requirements, properties for sale, public inconvenience, and stakeholder input.

## APPENDIX B – TTC July 12, 2010 Matrices

### Greenwood – TTC Options

Criteria	Option 1 Two Daily Exits at 253, 255, 252, & 254 Strathmore	Option 2 One Daily Exit at 244 & 246 Strathmore	Option 3 One Daily Exit at 254 & 256 Strathmore	Option 4 One Daily Exit at 253 & 255 Strathmore	Option 5 One Daily Exit at 258 & 260 Strathmore	Option 6 One Daily Exit at 245 & 247 Strathmore
Neighbourhood Impact	Severe (2)	Severe (2)	Severe (2)	Severe (2)	Severe (2)	Severe (2)
Property Requirements	Severe (4)	Moderate (2)	Moderate (2)	Moderate (2)	Moderate (2)	Moderate (2)
Constructability	Better (0)	Worse (2)	Worse (2)	Neutral (1)	Worse (2)	Better (0)
Security	Better (0)	Worse (2)	Worse (2)	Neutral (1)	Neutral (1)	Better (0)
Total	6	8	8	6	7	4
OME Construction Estimate (Property excluded)	\$5.0 M	\$8.5 M	\$8.5 M	\$7.5 M	\$10.0 M	\$7.5 M
Ranking	2	5	6	3	4	1

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### Greenwood – Public Options

Criteria	Option P1 One Daily Exit at 9 Unnsmore	Option P2 One Daily Exit on Danforth	TTC Additional Option Daily Exit Stairs on Strathmore	TTC Option 6
Project Objective Design Principles	Neutral (1)	Worse (2)	Neutral (1)	Better (0)
Neighbourhood Impact	Moderate (1)	None (0)	Extreme (3)	Severe (2)
Property Requirements	Moderate (1)	Moderate (2)	None (0)	Moderate (2)
Constructability	Worse (2)	Extreme (3)	Neutral (1)	Better (0)
Security	Neutral (1)	Worse (2)	Worse (2)	Better (0)
Total	6	9	7	4
OME Construction Estimate (Property excluded)	\$10.0M	\$20.5M	\$8.9M	\$7.5 M
Ranking	2	4	3	1

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## Donlands – TTC Options

Criteria	Option 1 One Daily Exit at 1 & 3 Strathmore	Option 2 Two Daily Exits at 9, 10, 11, & 12 Strathmore	Option 3 One Daily Exit at 1 & 3 Strathmore	Option 4 One Daily Exit at 1 & 3 Strathmore	Option 5 One Daily Exit at 14 & 16 Strathmore	Option 6 One Daily Exit at 14 & 16 Strathmore
Neighbourhood Impact	Moderate (1)	Severe (2)	Moderate (1)	Moderate (1)	Severe (2)	Severe (2)
Property Requirements	Moderate (2)	Severe (4)	Moderate (2)	Moderate (2)	Moderate (2)	Moderate (2)
Constructability	Worse (2)	Better (0)	Neutral (1)	Worse (2)	Worse (2)	Worse (2)
Security	Neutral (1)	Better (0)	Neutral (1)	Neutral (1)	Worse (2)	Worse (2)
Total	6	6	5	6	8	8
O/M Construction Estimate (Property excluded)	\$9.0 M	\$5.5 M	\$7.6 M	\$8.0 M	\$7.0 M	\$8.5 M
Ranking	4	2	1	3	5	6

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## Donlands – Public Options

Criteria	Option P1 One Daily Exit at TPA Parking Lot	Option P2 One Daily Exit at 17 & 19 Dewhurst	Option P3 One Daily Exit on Dewhurst Carb Lane	Other Options One Daily Exit on East Side of Dewhurst	Other Options One Daily Exit on West Side of Dewhurst	TTC Option 3
Project Objective Design Principles	Worse (2)	Worse (2)	Neutral (1)	Worse (2)	Worse (2)	Better (0)
Neighbourhood Impact	Minor (0)	Minor (0)	Severe (2)	Minor (0)	Minor (0)	Moderate (1)
Property Requirements	Minor (0)	Moderate (2)	Minor (0)	Moderate (1)	Moderate (1)	Moderate (2)
Constructability	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Neutral (1)
Security	Worse (2)	Worse (2)	Neutral (1)	Worse (2)	Worse (2)	Neutral (1)
Total	6	8	6	7	7	5
O/M Construction Estimate (Property excluded)	\$13.1M	\$10.9M	\$8.5M	\$9.6M	\$11.1M	\$7.6 M
Ranking	4	6	2	3	5	1

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# APPENDIX C – TTC September 16, 2010 Matrices

## Donlands Public Options

Criteria	(1) Exit on west side of Dewhurst (Garage)	(2) Exit on west side of Dewhurst (Laneway south of Church)	(3) Exit on west side of Dewhurst (In front of Church)	(4) Exit on east side of Dewhurst (TD Bank Parking Lot)	(5a) Exit on east side of Dewhurst (On Danforth)	(5b) Exit on west side of Dewhurst (On Danforth)	(6) Exit on TTC Sunway Station Property	(7) Exit on west side of Dewhurst (Laneway North of Church)	(8) Exit on Dewhurst Blvd. in the ROW	(9) Exit on 11 <sup>th</sup> A Lot	2 <sup>nd</sup> Exit at Wilkinson Junior Public School
Project Objective Design Principles	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)
Neighbourhood Impact	Minor (0)	Moderate (1)	Moderate (1)	Minor (0)	Minor (0)	Minor (0)	Minor (0)	Moderate (1)	Severe (2)	Minor (0)	Moderate (1)
Property Requirements	Moderate (1)	Minor (0)	Moderate (1)	Moderate (1)	Moderate (1)	Moderate (2)	Minor (0)	Minor (1)	Minor (0)	Minor (0)	Moderate (1)
Constructability	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Extreme (3)	Extreme (3)	Worse (2)	Worse (2)	Extreme (3)
Security	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)	Worse (2)
Total	7	7	6	7	7	8	7	9	8	8	9
OME Construction Estimate (Property excluded)	\$11.5M	\$11.5M	\$10.5M	\$10.0M	\$12.0M	\$13.5M	\$14.0M	\$10.5M	\$11.5M	\$13.1M	\$19.0M
Ranking	3	3	6	2	4	8	5	9	2*	1	10

\* Option rejected by the City

Donlands and Greenwood Second Exit  
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## Greenwood Public Options

Criteria	Option P1 2 <sup>nd</sup> Exit at 9 Linnsmore	Option P3 2 <sup>nd</sup> Exit at 11 Linnsmore	Option P4 2 <sup>nd</sup> Exit at 15 Linnsmore
Project Objective Design Principles	Neutral (1)	Neutral (1)	Neutral (1)
Neighbourhood Impact	Moderate (1)	Moderate (1)	Moderate (1)
Property Requirements	Moderate (1)	Moderate (1)	Moderate (1)
Constructability	Worse (2)	Worse (2)	Neutral (1)
Security	Neutral (1)	Neutral (1)	Neutral (1)
Total	6	6	6
OME Construction Estimate (Property excluded)	\$10.0M	\$9.5M	\$9.0M
Ranking	3	2	1

Donlands and Greenwood Second Exit  
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## APPENDIX D – History of the TTC Design Principles and Criteria

Date & Station	Regulations	Design Criteria/Principles	Design Objectives
<b>August 31, 2005 – for College, Wellesley, Museum and Castle Frank Stations</b>	<b>Ontario Building Code</b> <ul style="list-style-type: none"> <li>- Each platform shall be served by 2 means of egresses</li> <li>- The distance separating the egresses shall be greater than 25 m</li> </ul> <b>NFPA 130</b> <ul style="list-style-type: none"> <li>- 4 min. platform evacuation time</li> <li>- Maximum travel distance on the platform to a point of egress is 91.4m</li> <li>- Minimum width for an egress is 1.12 m.</li> <li>- Maximum air velocity of 11.1ms</li> </ul>	<b>Design Principles</b> <ul style="list-style-type: none"> <li>- Second exits shall be remote and separate from existing egresses</li> <li>- Stairs shall be minimum of 2.4 m wide and shall be sized to ensure air velocity does not exceed 11.1m/s (2,200 feet/minute)</li> <li>- "Dead end" distance shall be a maximum of 23 metres</li> <li>- Design shall consider the proximity of the existing vent shafts and potential for contaminated air circulation</li> <li>- Exit shall be for "daily use", where not possible for "emergency only" exit only</li> </ul>	Not Provided
<b>September 20, 2006 - for Pape and Chester Stations</b>	Not Provided	<b>Design Principles</b> <ul style="list-style-type: none"> <li>- Locate second exits to provide a means of egress that is remote and separate from the existing egresses</li> <li>- Minimum width of stairwell to be 2.4 metres</li> <li>- When two, 2.4 metre stairs merge, the resulting exit stair width is to be cumulative where possible, but not less than 3.50 metres when absolutely restricted</li> <li>- The stairs shall be sized to ensure the maximum air velocity does not exceed 11.1m/s (2,200 feet/minute), when fire ventilation fans are activated</li> <li>- Locate second exit to provide a maximum "dead end" distance on platform level of 9 metres</li> <li>- The design will consider the proximity of the exit to the vent shafts and the possibility of recirculation of contaminated air back into the station</li> <li>- Where possible the exit shall be for "daily use" complete with exit turnstiles and emergency doors at street level</li> <li>- Where a "daily use" exit is not possible, the exit shall be an "emergency only" exit complete with secure exit doors with latches interlocked to open on alarm on the platform and at street level</li> </ul>	Not Provided
<b>June 2, 2010 – for Woodbine Station</b>	Not Provided	<b>Design Principles</b> <ul style="list-style-type: none"> <li>- Provide a separate means of egress that is remote from existing egresses</li> <li>- Maintain 25 m minimum distance to an existing exit</li> <li>- Provide minimum 2.4m wide egress from each platform or 3.5m when combined</li> <li>- Where possible, be for full-time daily use with exit turnstiles</li> </ul>	Not Provided

<p><b>June 29, 2010 – Greenwood/ Donlands Stations Public Information Meeting</b></p>	<p>Not Provided</p>	<p><b>Design Criteria/Principles</b></p> <ul style="list-style-type: none"> <li>- Provide a separate route for exiting the stations that that is remote from existing exits</li> <li>- Maintain 25 metres minimum distance from existing exits</li> <li>- Provide minimum 2.4 metres wide path from each platform to street level</li> </ul>	<p><b>Project Objectives</b></p> <ul style="list-style-type: none"> <li>- Enhance safety – driving factor</li> <li>- Increase evacuation capacity and reduce evacuation time</li> <li>- Provide a second exit from subway platforms to street at stations with only one means of egress</li> </ul>
<p><b>July 12 2010 – Greenwood/ Donlands Stations Public Information Meeting</b></p>	<p>Not Provided</p>	<p><b>Design Criteria/Principles</b></p> <ul style="list-style-type: none"> <li>- Second exits shall be remote and separate (minimum 25m) from existing egresses</li> <li>- Design shall consider proximity of existing vent shafts and potential for contaminate air recirculation</li> <li>- Exit shall be for daily use</li> <li>- "Dead end" distance should be a maximum of 25</li> </ul>	<p>Not Provided</p>
<p><b>July 14, 2010 – TTC Commission Meeting</b></p>	<p>Not Provided</p>	<p><b>Project Design Principles</b></p> <ul style="list-style-type: none"> <li>- Second exist shall be remote and separate (minimum 25 m) from existing egresses</li> <li>- Design shall consider the proximity of existing vent shafts and potential for contaminated air recirculation</li> <li>- Exit shall be for daily use</li> <li>- "Dead end" distance should be a maximum of 25 m</li> </ul>	<p><b>Project Design Objective</b></p> <ul style="list-style-type: none"> <li>- Provide alternate means of egress from platforms</li> <li>- Evacuate "occupant load" to safe environment as quickly as possible</li> </ul>
<p><b>September 16, 2010 Greenwood and Donlands Stations Public Information Meeting</b></p>	<p>Not Provided</p>	<p><b>Design Criteria/Principles</b></p> <ul style="list-style-type: none"> <li>- Second exits shall be remote and separate (minimum 25m) from existing egresses</li> <li>- Design shall consider proximity of existing vent shafts and potential for contaminate air recirculation</li> <li>- Exit shall be for daily use</li> <li>- "Dead end" distance should be a maximum of 25 m.</li> </ul>	<p><b>Project Objectives</b></p> <ul style="list-style-type: none"> <li>- Provide alternate means of egress from platforms</li> <li>- Evacuate "Occupant load" to safe environment <u>as quickly as possible.</u></li> </ul>
<p><b>January 20, 2011 Donlands</b></p>	<p>Not Provided</p>	<p><b>Design Criteria/Principles</b></p> <ul style="list-style-type: none"> <li>- Second exits shall be remote and separate (minimum 25m) from existing egresses</li> </ul>	<p><b>Project Objectives</b></p> <ul style="list-style-type: none"> <li>- Provide</li> </ul>






<b>Station CLC meeting</b>		<ul style="list-style-type: none"> <li>- Design shall consider proximity of existing vent shafts and potential for contaminate air recirculation</li> <li>- Exit shall be for daily use</li> <li>- "Dead end" distance should be a maximum of 25 m.</li> </ul>	alternate means of egress from platforms - Evacuate "Occupant load" to safe environment <u>as quickly as possible</u>
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## APPENDIX E – Comparison of Evacuation Times of TTC Options

Options	Exit (Daily or Emergency)	Evacuation time of "occupant load" to clear platform to reach protected route (4 min. rule)	Evacuation time to reach safe environment (6 min. rule)	Time with respect to 2 min rule	Tunnel Length of new exits	Dead End Distance of new exits	Total Evacuation Time	Costs of Second Exit
TTC - Option 1	Daily	12.55 min	n/a	1.73 min	58.3 m	0 m/0m	n/a	\$9.0 M
TTC - Option 2	Daily	12.55 min	n/a	1.28 min	41.1 m	0 m/0m	n/a	\$5.5 M
TTC - Option 3	Daily	12.55 min	n/a	1.73 min	58.3 m	0 m/0m	n/a	\$7.6 M
TTC - Option 4	Daily	12.55 min	n/a	1.81 min	61.3 m	0 m/0m	n/a	\$8.0 M
TTC - Option 5	Daily	12.55 min	n/a	1.90 min	64.8 m	0 m/0m	n/a	\$7.0 M
TTC - Option 6	Daily	12.55 min	n/a	1.68 min	56.2 m	0 m/10m	n/a	\$8.5 M
P-Option 1	Daily	12.55 min	n/a	2.69 min	94.8 m	0 m/0m	n/a	\$11.5 M
P-Option 2	Daily	12.55 min	n/a	2.67 min	93.7 m	0 m/0m	n/a	\$11.5 M
P-Option 3	Daily	12.55 min	n/a	2.55 min	89.2 m	0 m/0m	n/a	\$10.5 M
P-Option 4	Daily	12.55 min	n/a	2.87 min	101.7 m	0 m/0m	n/a	\$10.0 M
P-Option 5a	Daily	12.55 min	n/a	3.12 min	110.8 m	0 m/0m	n/a	\$12.0 M
P-Option 5b	Daily	12.55 min	n/1	3.55 min	127.7 m	0 m/0m	n/a	\$13.5 M
P-Option 6	Daily	12.55 min	n/a	3.68 min	132.2 m	25m/25m	n/a	\$14.0 M
P-Option 7	Daily	12.55 min	n/a	1.92 min	65.3 m	0 m/0m	n/a	\$10.5 M
P-Option 8	Daily	12.55 min	n/a	3.08 min	116 m	0 m/0m	n/a	\$11.5 M
P-Option 9	Daily	12.55 min	n/a	3.59 min	128.9 m	0 m/0m	n/a	\$13.1 M
School	Daily	12.55 min	n/a	1.62 min	54.3 m	0 m/0m	n/a	\$19.0 M
New - 17/19	Daily	12.55 min	n/a	2.05 min	70.3 m	0 m/0m	n/a	\$11.3 M
P2	Daily	12.55 min	n/a	3.55 min	127.7 m	0 m/0m	n/a	\$10.9 M
P3	Daily	12.55 min	n/a	1.60 min	53.1 m	0 m/0m	n/a	\$8.5 M
New - 26/28	Daily	12.55 min	n/a	2.44 min	86.8 m	0 m/0m	n/a	\$10.3 M

# APPENDIX F – Firm's Matrix, December 2, 2010




## Urban Design Evaluation Summary

 **Yes. Can meet objective.**  
 **Challenging. Partial meeting of objective.**  
 **No. Cannot fully meet objective.**

Urban Design Objectives	1/3 Strathmore	Mid-block Sites	Dewhurst Right-of-way	Danforth Sites	2/4 Strathmore	26/28 Dewhurst	Church Site	17/19 Dewhurst	TD Parking Lot	Dilapidated Garage	Wilkinson Site
Protect existing residential uses											
Preserve built form continuity											
Protect corner lots											
Maintain vehicular circulation											
Accommodate pick-up											
Protect existing parking											
Promote connections to Danforth											
Add value to the neighbourhood											
Safe and pleasant for TTC patrons											
Land-efficient											
	5	11	5	8	8	10	5	3	1	1	4

# APPENDIX G – Firm's Revised Matrix, December 16, 2010

## Urban Design Evaluation Summary - Revised

 **Yes. Can meet objective.**  
 **Challenging. Partial meeting of objective.**  
 **No. Cannot fully meet objective.**

Urban Design Objectives	1/3 Strathmore	Mid-block Sites	Dewhurst Right-of-way	Danforth Sites	2/4 Strathmore	26/28 Dewhurst	Church Site	17/19 Dewhurst	TD Parking Lot	Dilapidated Garage	Wilkinson Site
Protect existing residential uses											
Preserve built form continuity											
Protect corner lots											
Maintain vehicular circulation											
Accommodate pick-up	deleted from assessment										
Protect existing parking											
Promote connections to Danforth											
Add value to the neighbourhood											
Safe and pleasant for TTC patrons											
Land-efficient											
	8	11	8	6	10	6	3	5	2	1	3

## APPENDIX H – TTC Matrices, January 20, 2011

### Donlands Second Exit Feasibility & City Support Screening

Criteria		TTC Original Options						Public Options	
		Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	New	P3
<b>Construct-ability</b>	<b>Utility relocations feasible?</b>	One daily exit at 1 & 3 Strathmore	Two daily exits at 9, 10, 11 & 12 Strathmore	Exit on 1/3 Strathmore - Preferred Option	One daily exit at 1 & 3 Strathmore	One daily exit at 14 & 16 Strathmore	One daily exit at 14 & 16 Strathmore	Exit on 14 Dewhurst (Church property)	Exit on Dewhurst East Curb Lane
	<b>City can support the option?</b>	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
	<b>Is the option feasible; does the City support?</b>	Yes	Yes	Yes	Yes	Yes	Yes	No	No

# Donlands Second Exit Screening Matrix - Project Objectives - Design Principles

		TTC Original Options						Public Options														
		Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	(1)	(2)	(3)	(4)	(5a)	(5b)	(6)	(7)	(8)	(9) / P1	School	New	P2	P3	New
		One daily exit at 1 & 3 Streshmore	Two daily exits at 9, 10, 11 & 12 Streshmore	Exit on 1/3 Streshmore - Preferred Option	One daily exit at 1 & 3 Streshmore	One daily exit at 14 & 16 Streshmore	One daily exit at 14 & 16 Streshmore	Exit on west side of Dewhurst (Garage)	Exit on West side of Dewhurst (Lanesway south of Church)	Exit on West side of Dewhurst (in front of Church)	Exit on East side of Dewhurst (TD Bank Parking lot)	Exit on Danforth East of Dewhurst	Exit on Danforth West of Dewhurst	Exit on TTC Subway Station property	Exit on West side of Dewhurst (Lanesway north of Church)	Exit on Dewhurst ROW	Exit in TPA Lot	Exit at Wilkinson Junior public School	Exit on 14 Dewhurst (Church property)	Exit on 17/19 Dewhurst	Exit on Dewhurst East Curb Lane	Exit on 26/28 Dewhurst
Project Objective	Criteria																					
	Provide Alternate means of Egress	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Project Design Principles	Evacuate "Occupant" Load to safe environment as quickly as possible	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	Yes	No	No	Yes	Yes	No	Yes	No
	Second Exits shall be remote and separate from existing exits	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Design shall consider the proximity of existing vent shafts	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Exit shall be for daily use	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Stair width shall be 2.4m for single path and 3.5m for combined path	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	No	No	Yes	No	No	Yes	Yes	Yes	Yes
	"Dead end" distance should be a maximum of 25 m	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Does the Option meet the Project Objectives - Design Principles?		Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	No	No	No	No	Yes	No	Yes	No

## Donlands – Options

Criteria	Option 1 One Daily Exit at 1 & 3 Strathmore	Option 2 Two daily Exits at 9, 10, 11, & 12 Strathmore	Option 3 One Daily Exit at 1 & 3 Strathmore	Option 4 One Daily Exit at 1 & 3 Strathmore	Option 5 One Daily Exit at 14 & 16 Strathmore	Option 6 One Daily Exit at 14 & 16 Strathmore
Neighbourhood Impact	Moderate 1 (3)	Severe 2 (3)	Moderate 1 (3)	Moderate 1 (3)	Severe 2 (3)	Severe 2 (3)
Property Requirements	Moderate 2	Severe 4	Moderate 2	Moderate 2	Moderate 2	Moderate 2
Constructability	Worse 2	Better 0	Neutral 1	Worse 2	Worse 2	Worse 2
Security	Neutral 1	Better 0	Neutral 1	Neutral 1	Worse 2	Worse 2
Total	6 (8)	6 (7)	5 (7)	6 (8)	8 (9)	8 (9)
OME Construction Estimate (Property excluded)	\$9.0 M	\$5.5 M	\$7.6 M	\$8.0 M	\$7.0 M	\$8.5 M
Ranking	4	2 (1)	1 (2)	3	5	6

## APPENDIX I – City Response



Joseph P. Pennachetti  
City Manager

City Hall  
11<sup>th</sup> Floor, East  
100 Queen Street West  
Toronto, Ontario M5H 2N2

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October 17, 2012

Fiona Crean  
Office of the Ombudsman, City of Toronto  
#203 - 375 University Avenue  
Toronto, ON M5G 2J5

Dear Ms. Crean:

Further to your request, please find below the City's written response to your draft investigation report, dated September 28, 2012 titled An Investigation into the Toronto Transit Commission Second Exit Project at Donlands and Greenwood Stations. I appreciate the time extension which you provided for our review of the draft report and to prepare comments.

We are in agreement with your recommendations, which are addressed herein. We have consulted with TTC and they are in agreement with the City's position.

The City's role in capital projects that require the acquisition of property interests is quite clear. The City is responsible for acquiring all full or partial interests in land and title to all property. This includes, negotiating full and final settlements with owners and or tenants. In the event a negotiated settlement cannot be finalized, then Real Estate is responsible for initiating the expropriation process with Council approvals for "Notice of Intention to Expropriate" and finally to approve any expropriation required to allow the project to move to completion.

City's Real Estate staff was involved at a very early stage in the project and staff involvement would have been giving general information as to how the acquisition process works.

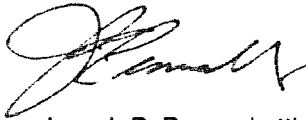
In this instance, once design had been completed and the final option had been established by the TTC, the TTC is required to submit a Property Acquisition Requisition Form to the Manager of Acquisitions and Expropriations. It is then that Real Estate staff lead to undertake title searches to determine contact information for property owners and tenants (if applicable). This is what would be considered the beginning of official negotiations and Expropriation Notices, may or may not be sent out depending on the circumstance. Staff would then undertake to contact the parties both via phone and mail to try to initiate the negotiation process to educate the property owners on the real estate acquisition process.



The Director, Real Estate Services very much appreciated the opportunity to discuss this response with your staff prior to the finalization of your report. Thank you for the opportunity to provide input into the draft report and I assume that the above supplementary information will be appropriately incorporated in the final report.

Should you wish to discuss this response prior to finalization of your report, please contact me or the Director of Real Estate Services.

Yours truly,

A handwritten signature in black ink, appearing to read 'J. Pennachetti', written in a cursive style.

Joseph P. Pennachetti  
City Manager

c.: Joe Casali

# APPENDIX J – TTC Response

## TORONTO TRANSIT COMMISSION



LAREN STINTZ  
CHAIR  
GLINN DE BAEREMAEKER  
VICE-CHAIR  
ANDY BYFORD  
CHIEF EXECUTIVE OFFICER



MARIA AUGIMERI  
RAYMOND CHO  
JOSE LUCILLE  
PETER MILCZYN  
JOHN PARKER



October 19, 2012

Ms. Fiona Crean  
Ombudsman  
City of Toronto  
375 University Avenue, Suite 203  
Toronto, Ontario  
M5G 2J5

Dear Ms. Crean:

**Re: Ombudsman Report**

Thank you for the opportunity to review your draft report on "The Investigation into the Toronto Transit Commission Second Exit Projects and Donlands and Greenwood Stations". My executive team and I appreciate the thorough investigation into both the technical and process issues of these projects.

As a general comment, we agree with, and support, the recommendations in your report. The TTC recognizes that the Donlands and Greenwood Stations Second Exit projects were not handled properly from the perspective of community relations, public consultation, communications with affected property owners and communication regarding the rationale and technical issues. Although this pre-dated my appointment, I take responsibility for this and I am committed to ensuring that this does not happen again.

The TTC has developed the Second Exit program premised on technical information and engineering principles. We maintain that our design criteria and principles are appropriate. However, we do recognize, as articulated in your report that the TTC failed to properly communicate with the public. The TTC's construction is governed by highly technical and detailed standards, criteria and processes. We must do a better job of explaining to the public, in an understandable form, how and why our projects are designed the way they are.

Even prior to your report, the TTC recognized the need for significant changes in how we communicate with the public and their local councillors on construction projects and how we coordinate with City Real Estate and Legal Divisions regarding property acquisition. Early in 2012, the reorganization of the Engineering, Construction and Expansion Group was initiated and included the establishment of a separate dedicated department, Strategic Partnerships. This new department will be responsible for managing external interactions with the TTC including communications, community relations, and property acquisition. This department started working on TTC construction projects in the spring of 2012 and in June was fully established with a staff of 11, expected to increase to 15 by early 2013. I

am pleased to report that all of your recommendations are already being addressed through the management plans, policies, procedures and protocols that are in development.

With reference to your specific recommendations, we have the following comments.

The TTC is initiating a program that involves, over the course of a year, an update to each councillor on TTC projects planned in his/her ward over the next five years. We have already started this program. The TTC is also currently developing a program of consultation and updates to councillors on active construction projects. The *TTC Protocol Regarding Communicating with Councillors on Construction Projects* will be completed by December 31, 2012.

The TTC is developing communications tools and procedures to ensure communities, residents, businesses and institutions are well informed of TTC construction projects. These communications tools and procedures include consultation in the early design phases, outreach to inform the public regarding the implications of construction in advance of the construction start, close contact with residents who will be directly affected by construction adjacent to their property, and deployment of construction liaison staff to work as the advocate for the community throughout the course of the project. For every TTC construction project that has implications for the community, a communications plan will be developed to guide the public consultation, community relations, communications and construction liaison through the phases of the project.

The TTC is also committed to providing information in clear language. Technical information will be conveyed in language and graphics to ensure that the relevant issues are understood by the public.

The TTC is currently conducting a review of its website to improve the information and usability regarding construction projects.

The TTC has researched best practices for community information and outreach, and is implementing new approaches to providing information about construction projects to the public based on current best practices.

The *TTC Construction Projects Community Relations and Communications Management Plan* will incorporate these initiatives and is expected to be completed by December 31, 2012.

The City of Toronto acquires the property required by the TTC for construction projects. The TTC has recently reassigned internal responsibility for coordination of property requirements for construction projects and liaison with the City of Toronto Real Estate Division to the Strategic Partnerships Department within Engineering, Construction and Expansion. The TTC is currently developing protocols and processes to ensure that affected property owners are well informed and that there is a clear delineation of roles and responsibilities and effective coordination between the TTC and the City of Toronto.



Your recommendations will be addressed in the *TTC Construction Projects Property Acquisition Management Plan* expected to be completed by the end of February 2013.

In order to provide the public with more opportunity for meaningful input into TTC projects, we are revising the practices for public consultation by engaging the public earlier in the development of a project's concept and design. The TTC is committed to providing full information about all construction projects on the TTC website and we are reviewing and revamping the website to make it easier for the public to find the relevant information, and to participate in the consultation process on-line or through other social media. The *TTC Construction Projects Community Relations and Communications Management Plan* will specifically address public consultation. The TTC is also preparing a plain language communication plan about the Second Exit and other similar programs such as the Easier Access Program.

The Strategic Partnerships staff responsible for communications and community relations are trained communications specialists with extensive experience. The TTC will provide additional training to ensure staff increase and enhance their expertise and stay abreast of new innovations and best practices.

The TTC is committed to providing communications to the communities in the vicinity of the Donlands and Greenwood Stations to provide them with a project status, including next steps. A communications plan will be developed for the projects through the design and construction phases.

As part of the *TTC Construction Projects Property Acquisition Management* the TTC will work with the City of Toronto Real Estate Division to clearly define roles and responsibilities.

We appreciate that we were able to meet with you and your team to discuss the report. The TTC recognizes that it has significant work ahead to document and fully implement its new approach to communications and community relations, and to develop better relationships with communities to address your recommendations. We assure you that we are fully committed to these changes as they are part of our vision of modernizing the TTC, and they are consistent with my determination that from now on, the TTC will excel at community consultation and engagement.

Sincerely,



Andy Byford  
Chief Executive Officer

55-04-03



