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*Municipalities as  
Landlords  
and  
Land Development  
Partners*

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We are in the midst of a long-term general increase in urban realty values and property taxes. It is not sufficiently appreciated that public services and facilities are among the principal factors causing this increase in land values. The tremendous increase along the subway routes is a case in point.

- (5) THE TRADITIONAL 21- AND 33-YEAR LEASE REVIEW PERIODS, APPROPRIATE IN FORMER YEARS OF RELATIVELY STABLE VALUES, ARE TOO LONG TO FULLY PROTECT THE PUBLIC INTEREST AND INVESTMENT IN PUBLIC FACILITIES. THIS PROBLEM CAN BE ALLEVIATED BY AUTOMATIC ESCALATION CLAUSES TO REFLECT INCREASES IN THE RENTAL MARKET.

When engaged in commercial leasing activities, municipalities should make certain that their conduct with respect to zoning and air pollution by-laws is above reproach.

- (6) MORE EFFECTIVE INTERGOVERNMENTAL COOPERATION IS NEEDED TO ENSURE THAT MUNICIPALITIES THEMSELVES ACT AS RESPONSIBLE USERS OF LAND IN SUCH MATTERS AS ZONING AND AIR POLLUTION CONTROL.

Metro and City policies differ in one important aspect regarding leased vacant land in non-development areas. On termination of the lease, any building erected by the tenant reverts to Metro ownership, while the City must purchase the tenant's structure. Each practice creates problems. Metro tenants might be tempted to erect inferior buildings. The City's policy can become expensive, especially if demolition is required or advisable, or the City may find itself the unwilling owner of a building that does not suit its needs or those of another tenant. On balance, the Metro policy appears preferable.

- (7) CONSIDERATION SHOULD BE GIVEN TO PREVENTING, OR AT LEAST DISCOURAGING, TENANTS FROM ERECTING INFERIOR STRUCTURES ON RENTED LAND WHERE OWNERSHIP REVERTS TO METRO.
- (8) IF THE CITY CONTINUES ITS POLICY OF PURCHASING A TENANT'S BUILDING UPON LEASE EXPIRATION, THE CITY SHOULD DIRECT THE TYPE OF STRUCTURE IT WANTS ON ITS LAND WITH DUE REGARD FOR THE NEEDS OF THE TENANT. WE RECOMMEND, HOWEVER, THAT THE CITY ADOPT THE METRO PRACTICE UNDER WHICH BUILDING OWNERSHIP REVERTS TO THE LESSOR.

The commercial leasing of temporarily surplus property results in modest supplementary revenues. In 1966, Metro realized \$2,747 from billboards, \$155,280 from land with buildings, and \$78,309 from vacant land, for a total of \$236,336; the City figures were, respectively, \$2,098, \$202,425, and \$164,233, for a total of \$368,756.

Of much greater importance is the principle of joint public-private development of high-value locations. The two discussed in this bulletin are Toronto Transit Commission air rights and the Queen Street South development. Basic economic and aesthetic issues are involved, as well as considerations of the proper role of government. Lacking the experience of the United States and certain Western European countries in public-private redevelopment ventures, our record to date shows that we have much to learn in this complex but potentially rewarding field.

- (9) METRO AND CITY POLICIES AND ADMINISTRATIVE PROCEDURES REGARDING JOINT PUBLIC-PRIVATE DEVELOPMENT SCHEMES SHOULD BE RATIONALIZED. AMONG THE ASPECTS REQUIRING IMPROVEMENT IN THIS INCREASINGLY IMPORTANT FIELD ARE:

- (a) PUBLIC SUPPORT BASED UPON PUBLIC UNDERSTANDING OF THE ISSUES INVOLVED;
- (b) FORTHRIGHT PRESENTATIONS TO COUNCIL MEMBERS BY ALL DEPARTMENTS AND AGENCIES;
- (c) CLOSER INTRAGOVERNMENTAL COOPERATION AMONG MUNICIPAL DEPARTMENTS IN SCHEME PREPARATION;
- (d) CLOSER INTERGOVERNMENTAL COOPERATION BETWEEN METRO AND THE CITY AND AMONG ALL LEVELS OF GOVERNMENT (THREE IN SOME PROJECTS AND FOUR IN OTHERS) LIKELY TO BE INVOLVED IN THE LARGER AND MORE COMPLEX SCHEMES; AND
- (e) A BETTER UNDERSTANDING, GIVEN EXPRESSION IN MORE REALISTIC SCHEME PLANNING AND TENDERING DETAILS, THAT SUCH JOINT PUBLIC-PRIVATE PROJECTS ARE LIKELY TO INVOLVE AREAS WHICH PRIVATE DEVELOPERS WOULD NOT OTHERWISE SELECT.



## Municipalities as Landlords and Land Development Partners

Although not normally thought of as such, municipalities are massive real estate operators. As of 1966, the municipalities of Metropolitan Toronto held title to real estate assessed at \$241,826,000, indicating an actual or market value of over half a billion dollars (exclusive of the roads system).

The great majority of land and buildings owned by municipalities is, of course, held on a permanent basis for public purposes and services. In this Bulletin the Bureau of Municipal Research probes one particular aspect — the lease or rental of (in effect) surplus municipally-owned property to private parties for commercial use. It also discusses joint public-private development schemes and the special problems presented by these complex undertakings.

Only Metropolitan Toronto and the City of Toronto (hereinafter referred to as Metro and the City) are involved in commercial renting to any substantial extent. Current practice in the five boroughs is generally to dispose of commercial land not immediately required for civic purposes. What small holdings exist are rented on short-term leases. The picture, as measured by 1966 commercial rental income, is: City—\$368,756; Metro — \$236,336; York — \$11,400; Scarborough — \$1,971; Etobicoke — \$610; East York — \$500; and North York — none.

Metro and the City have found it necessary or advisable to acquire and retain land in public ownership in cases where no immediate public use is in mind. Metro has jurisdiction over a number of services requiring massive land acquisition — expressways, arterial roads, public transit, regional parks, etc. In preparation for service expansion, Metro may acquire properties in advance

of its needs and rent them on a short-term basis. Similarly, upon completion of a project, surplus land may be leased for short periods pending additional future civic requirements. The Toronto Transit Commission's land and air rights are being retained in public ownership to protect the investment and transit users. These are to be leased on a long-term basis. It may be predicted, in view of projected subway and other service expansions, that Metro will have an increasing number of properties available for long- and short-term lease.

The City, with a concentration of old structures and worn-out public facilities, faces particular problems whose solution necessitates broad land acquisition. As the core of the Metropolitan area, the City must provide access to work and to recreation from the more dormitory suburbs. Moreover, the City faces public housing needs created by the inward migration of the less affluent. Added to this are huge commercial redevelopment needs.

Because land in a metropolitan area is a scarce commodity, neither Metro nor the City is likely to sell its holdings before carefully assessing present and future requirements. The land they hold will be leased commercially only if it is not immediately required for public purposes.

Due to the difficulties experienced in expropriation<sup>1</sup> the City follows the practice of purchasing land as it comes onto the open market when such land is located in areas scheduled for future development or service expansion. These lands are leased until needed. A somewhat different (and very prudent) utiliza-

<sup>1</sup>See "Expropriation: Public Purpose vs. Private Property", *Civic Affairs* (Bureau of Municipal Research, November 1966).

tion of land, of which more will be said later, involves Metro and the City using their land holdings to encourage and promote commercial redevelopment. TTC lands and Queen Street South are examples of this.

### ADMINISTRATION

The Property Departments of Metro and the City are responsible for renting their respective properties, but differ in their administrative procedures. Unlike the City, the Metro Property Department includes a Real Estate Division. This means that virtually all land transactions are handled by the Metro Property Department. The City, on the other hand, has two departments involved in real estate transactions. The buying and selling of land is negotiated by the Real Estate Department, while rentals are handled by the Property Department. In setting the rental rate, the City Property Department is required to consult with the Real Estate Department.

That there is a need for separate departments might well be questioned. In 1958, a management consultant firm engaged by the City recommended consolidation of the Parks and Property Departments. Real estate was to be a division of the Finance Department. Neither recommendation was followed. Another possible improvement would involve amalgamation of the Real Estate Department and the Property Department.

Because Metro and the City have extensive commercial (as well as other) rentals, it is appropriate to assure not only that a fair rental is obtained, but in the administration of these rentals that the public investment is protected with regard to zoning and air pollution by-laws. Moreover, the terms of leases and method of leasing must be examined to guarantee that the public interest is properly served.

Both Metro and the City in general respond favorably to a commercial rental scrutiny. There are, however, inconsistencies in some of the present leases. In

the case of pursuing commercial redevelopment through public-private ventures, the Bureau believes there is a need for a careful assessment of why such a policy is necessary, the criteria that should measure such schemes, and the type of lease best suited to serve the needs of the developer and the public. These aspects will be considered later.

### Rental Procedures

The councils of Metro and the City have outlined different procedures to be followed by the property departments in reporting on rental matters. Metro Council is more inclined to give blanket authority to its property commissioner, especially in short-term rentals, while the City requires its property commissioner to report all intended rentals prior to finalization of any rental agreement.

The procedure for reporting to Metro Council on rentals was approved by Council on December 17, 1957:

- (a) authority given to the Metro property commissioner to generally manage and set rentals for Metro-owned properties;
- (b) authority to allow possessions on a month-to-month basis and later report to Executive Committee and Council.

Following this policy directive, the Metro Property Department has both set and adjusted rental rates on month-to-month rentals. While these rentals are subject to cancellation on short notice, they may go on for several years.

The City differs in both reporting and setting of commercial rates. All rentals are reported to City Council prior to the conclusion of leasing arrangements. In setting rentals, the Property Department is obliged to consult with the Real Estate Department.

While all rentals are at one time or another reported to the respective Councils, the Metro approach has the virtue of administrative efficiency. The City's procedure has the advantage of offering greater opportunity for vigilance over property rentals by the elected repre-



representatives. In the case of Metro, unless there is careful attention and study beforehand, the blanket approval approach may not cover all contingencies and may foster the exercise of arbitrary powers without providing for adequate recourse by the public directly or through its representatives.

In long-term leases, civic officials of Metro and the City submit leasing arrangements to their Councils in advance. In all but the newer types of development, where other public objectives are operative to help determine the "best" proposal, the Councils will accept the highest bidder.

#### Zoning

Under the Planning Act (Section 30), area municipalities have the responsibility for establishing zoning policy within their boundary. If, however, zoning regulations are to be amended, the area municipalities must ensure that Metro is providing the services which will be required for a re-zoned area. The new zoning by-law must then be forwarded to the Ontario Municipal Board for approval, along with endorsement by the Metro Planning Board that the services requested for the new zoning are sufficient.

With three governments involved in zoning, maximum co-operation is essential. For instance, in leasing its TTC lands, Metro must make sure that the type of proposal submitted by the developer is in accordance with the existing zoning. If it is not, Metro should work closely with the planning boards of the area municipalities to work out a mutually satisfactory arrangement.

#### Air Pollution

Under by-law number 601 (May 7, 1957), Metro has jurisdiction to "regulate the emission of smoke and other atmospheric pollutants within the Municipality of Metropolitan Toronto". The Metro Works Department has demonstrated a willingness to call attention to offenders, even when the offender is a public body<sup>2</sup>. Since pollution does not respect political boundaries, the problem has intergovernmental ramifications. The

Ontario Government is taking steps to move more forcefully into this problem area.

#### SETTING THE RENTAL RATE

With the possible exception of development lands, commercial rental of public properties should be scaled so as to realize a net gain above owner costs comparable to that received by private landlords under appropriate market conditions. The ownership of real estate is, of course, a form of investment. The rate of return on this investment depends upon many factors, including the time and terms of the original acquisition. This can mean that after allowing for inflation the return may be very profitable, especially when, as in the case of many long-term leases of the City, the land was purchased in periods of much lower real estate values.

Metro has not been as fortunate as the City in owning property purchased when values were much lower than today. Also, Metro has had to float debentures for purchase funds during 14 years of relatively high interest rates.

In establishing a rental rate, public officials must calculate all of the costs they incur as owners, including the cost of the money used in purchasing the property (the interest rate), maintenance and insurance costs and real estate taxation. This latter cost element may be covered either by having the lessee pay the taxes or by adding taxes to the rental rate.

In assessing the rentals charged by Metro and the City, the public can be assured that if a present market value return is being realized, the public is at least getting some profit from its invest-

<sup>2</sup>This is a pertinent point because municipalities and some public agencies are frequently among the more flagrant violators in this regard. Unfortunately, as of this writing, we witness an instance in which a municipality and one of its utility agents are hiding behind a legalistic smoke screen to avoid responsibility for a major air pollution problem.

ment because current market value reflects the increased land value. Within this general framework, however, the public interest requires that taxes are an additional charge. If they are not, a continued tax rise could erode the investment return.

Because land values have increased spectacularly in Metro, so too have rental rates. In the case of long-term leases, however, the rental rate is often fixed and if the owner is responsible for the realty tax the rental income goes largely to pay taxes. Similarly, even if the lessee or tenant paid the taxes, the landowner in setting a rental rate must consider the replacement value of his property. For these reasons, long-term lease agreements concluded recently are likely to contain a rent escalation clause if the taxes are included in the rent.

Additionally, they might have a profit percentage clause, and a periodic review clause. The traditional review period is 21 or 33 years. In view of the long-term trend toward rising taxes and land values, reviews should be considerably more frequent. In fact, City officials attempted to write in an 11-year review clause when drawing up the lease proposal for the Queen Street South development. When the lending institutions which would finance private development indicated they would object to an 11-year review, the more traditional 33-year clause was inserted instead<sup>3</sup>.

Because rental reviews on long-term leases are infrequent, spectacular rent increases may occur when leases are renegotiated. This has occurred with a number of the City's 21-year leases as they have come up for renewal. Such large rental increases do not necessarily indicate that the City failed to get a proper return under the old terms, since most long-term leases are on vacant land with the lessee paying taxes.

<sup>3</sup>See City of Toronto Council Minutes, Board of Control Report No. 57, November 25, 1966, pp. 3930-3931.

#### TYPES OF RENTAL

While this Bulletin is concerned only with publicly-owned commercial rentals, it is well to point out that both Metro and the City have other types. These include rentals to governments and governmental agencies, to residential users, and to charitable institutions. Within the commercial sector, there are three rental categories—billboards, land which includes a civic-owned building, and ground leases of land only. On the land-only leases, the lessee may have erected a building but it is not owned by the public. This important ground lease category includes the redevelopment areas such as Queen Street South and TTC lands.

#### Billboards

Income in 1966 derived from rental of billboard space was:

Metro .....	\$2,747
City .....	\$2,098

This is a minor category in dollar terms, although aesthetic considerations (not discussed in this Bulletin) are involved. Procedure for renting signboard space is the same in both Metro and the City. The sign companies offer standard rates which vary according to size, type, and location. Because rates are standardized the sites are leased on a first-come basis. Billboard space is leased on a continuing basis, but is subject to cancellation on very short notice, usually 10 days. There is no realty tax paid on the signboard space, but the sign company does pay a business tax.

#### Commercial Land with Buildings

Rental income recorded in 1966 was:

Metro .....	\$155,280
City .....	\$202,425

As a general rule, leases in this category are for shorter duration than ground leases. Often the rentals are in an area scheduled for redevelopment or municipal servicing of one type or another. They are usually on a month-to-month basis



and rarely extend more than five years. The decision to lease civic-owned buildings is made only after a canvass of municipal requirements along with those of other governmental units and agencies. They will be rented if they are surplus.

Once the decision to lease land and buildings is made, the available lease sites are advertised and tenders are received. In all cases, the highest bid is accepted. Unlike the residential market, where civic rentals may be geared to income, the policy in commercial rentals is to charge whatever the market will bear. At the very least, civic officials attempt to recoup their equity from all commercial rentals.

Realty tax on improved land is usually the responsibility of the lessor. Since the owner, in this case the civic authority, must pay the realty tax, the amount is usually added to the rent. But since rental rates are fixed at the time the lease is signed, a long-term lease might prove very uneconomical if the tax rate should increase rapidly. This has occurred with the one City lease of over five years. The building was appraised by a real estate firm and valued in today's market at \$75,000. Based on this value, an 11% net annual rental return would amount to \$8,250 plus taxes. The City charged an annual rental of \$9,300, but from this it must pay \$5,800 in taxes, leaving a net of \$3,500. This is only 4.7% rental return. (See Appendix.)

Although the City has only one rental of this type, the Bureau suggests the City would be well advised to review all short-term land with building leases, using a yardstick of at least 11% of present market value as the net annual return.

The fact that the City did not pay nearly as much as \$75,000 for the building in question should not be offered as a mitigating factor. The public is just as entitled as a private landlord to realize a profit from general real estate inflation. It should be kept in mind that costly governmental investments in a wide range of public facilities are a primary

factor in the creation of increased real estate values. The skyrocketing values precipitated by subway construction is a case in point.

#### Vacant Land

Rental income received from ground leases in 1966 was:

Metro .....	\$ 78,309
City .....	\$164,233

Vacant City and Metro land is available for long-term rental. The lessee may or may not choose to erect a building on these lands. In either case, he is usually responsible for the realty tax.

In one respect Metro's policy differs from that of the City in non-development vacant land rentals. Any building erected by the tenant on Metro land will revert to Metro ownership upon expiry of the lease, whereas the City must purchase the tenant's building upon expiration of a lease. If there is disagreement over the price to be paid for the building, the matter is submitted to compulsory arbitration.

Problems are created under either arrangement, although on balance the Metro policy is to be preferred. When ownership reverts to the public, as in the Metro leases, there is the danger that substandard or inferior temporary buildings will be erected by the lessee. Metro tenants should be prohibited or at least discouraged from erecting such structures since both aesthetic and economic problems can arise.

The City, on the other hand, may find that its policy of re-purchasing buildings erected on its property will become expensive, especially where demolition is required or advisable. If the City continues this policy, the Bureau recommends that it detail the type of structure it wants on its land, subject to the needs of the tenant.

Except as leases come up for renewal, rarely is there provision for rent escalation in vacant land leases. This means that while the value of the land may

increase, this increase is not reflected in the lease terms. This is not as serious as might first appear, since the lessee usually pays the realty tax. Even so, officials are beginning to write in escalation clauses to reflect land value increases.

The City has a number of vacant land leases of 21-year duration. It is in these that spectacular rental increases occur. As they come up for renewal, the City will set a new rent based on the current market rate. If there is a dispute between the City and the tenant, the case goes to arbitration and recommendations are binding. The same procedure is followed if the City does not renew a lease and must purchase the building.

The extent to which rental rates have increased may be judged by the following example. In 1945, the City rented 2,470 sq. ft. of vacant land on King Street. On renewal of the lease, the rent was raised from \$312 to \$2,260 per year.

Unfortunately, the City and Metro pay taxes on some of their properties. While these leases are for short periods, they do represent a loss. For example, Metro has entered a 5-year lease agreement with a private parking lot operator on Bloor Street. This land, originally expropriated for subway development, is being leased pending a policy decision on its final disposition. The estimated present value of the site is \$120,000, which at an expected return of 6½% should yield \$7,800 annually. The present rent being charged by Metro is \$6,000, of which \$4,265 goes to pay realty tax. This means that the net return is only \$1,735 or 1.4% instead of 6½%. (See Appendix.) While it could be argued that its present use as a parking lot could not support a higher rental, and that this use was considered in establishing the rent, Metro would do well to dispose of this property as soon as possible or lease it for a purpose which would support a higher rent.

Certainly, on all long-term vacant land leases the lessee should pay the realty tax. In view of the large and continual

rise in land values, the City and Metro should carefully re-evaluate their vacant land holdings as they come up for renewal.

#### JOINT PUBLIC-PRIVATE DEVELOPMENT

More recently, publicly-owned lands have been utilized to encourage commercial redevelopment. Examples are Metro's leasing of TTC air rights and the City's Queen Street South project. This type of development is likely to increase, since both the federal and provincial governments have amended their legislation to provide funds for commercial as well as residential redevelopment. Additionally, the OMB positively encouraged a combined public-private redevelopment scheme for Queen Street South. In fact, its ruling on Queen Street South had the effect of dictating to the City that it retain ownership of the redevelopment area.

Experience in the metropolitan area, along with that in other municipalities, suggests that these joint public-private commercial redevelopment schemes pose a number of difficulties. This might be expected, since there may be three (or, in the case of Metro, four) levels of government involved in a scheme along with the private developers. Moreover, additional difficulties arise because municipal officials are feeling their way in a new field. Fundamentally, civic governments have entered into partnership with private enterprise in renewal schemes to ensure that the desired development takes place, and/or to encourage commercial relocation in areas which under normal conditions a developer might not enter because the profit expectation is too small or too risky. By having development land retained in public ownership, the developer does not face a huge capital outlay for land. In addition, inducements such as land assembly and preparation and servicing can be offered by the public.

Joint public-private redevelopment schemes cannot be measured solely in economic terms. As mentioned above,



often the reason for public involvement is that private firms would not invest in them unless special inducements were offered. A recent study conducted by Murray V. Jones<sup>4</sup> suggested the following criteria:

*How should non-economic values be balanced against their economic costs? The general view we have endeavoured to take can be stated as follows: the values which can be measured in terms of money are by no means the only ones which ought to count and in particular they ought not be allowed unchecked to dictate the physical forms and arrangements of our cities. At the same time, when non-economic values are given precedence over economic ones, they should be clearly stated and likely to receive wide-spread consent.*

In other words, the Bureau believes that the primary purpose of a renewal scheme is to provide a climate and opportunity for redevelopment with the proper balance between economic and aesthetic considerations. Because the area in which the scheme is located is not always one that commercial firms are likely to select, too stringent or unrealistic terms may discourage private bidding. For example, the new City Hall did not in itself stimulate redevelopment on the south side of Queen Street, although its expectation raised land values. The City waited almost ten years for private initiative and then took over. In the competition which was held, only two bids were received despite the fact that a large-scale and very costly world-wide competition was conducted. Among other things, this indicated that the terms were too stringent.

#### TTC Holdings

The initiative for joint public-private commercial redevelopment stemmed from a recommendation of the Metro Planning Board which was concurred in and further encouraged by the OMB. Following Metro's takeover of the TTC properties acquired for the University

<sup>4</sup>The Role of Private Enterprise in Urban Renewal (Metropolitan Toronto Planning Board, March 1966) p. 13.

and East-West subways, the problem arose as to how best to dispose of these holdings. In November of 1964, the Metro Planning Board recommended that the air rights over the subway and other surplus land be leased rather than sold to ensure protection of users of the TTC and to encourage redevelopment along the subway route. In part the recommendation stated:

*Although the subway lands at any given location may not be sufficient in themselves to generate a reasonable re-development, their location immediately north of a major east-west route, i.e. Bloor Street-Danforth Avenue, will influence the re-development of the area surroundings such lands<sup>5</sup>.*

The recommendation was accepted by Metro Council. The priorities in deciding how the land should be utilized were determined as follows: land needed for the operation of the subway; land needed for related subway uses such as parking; land needed by Metro or area municipalities; and private redevelopment.

Scheduled for private redevelopment along the present East-West subway are 87 blocks in the 8½ mile section with just under two million sq. ft. of land in air rights available for long-term lease. While none of these lands has yet been leased, preparations are underway and lease terms have been approved. They will run for 99 years, with a rental review every 33 years. The tenant will be responsible for realty taxes and maintenance costs including disaster insurance carried by Metro.

Unlike the Queen Street South development, the proposed lease is silent on the subject of an automatic rent escalation clause. Upon expiration of the lease, the building reverts to public ownership. The procedure for leasing involves advertisements describing development sites to be placed in newspapers, with tenders to be called for specific lease blocks. A brochure, now in preparation, will de-

<sup>5</sup>Report No. 56, Metropolitan Toronto Executive Committee, Item 11, November 10, 1964, p. 2388.

scribe the sites available and development details. At the expiration of the lease, or in case of default, land and buildings will revert to Metro ownership.

#### Queen Street South

Queen Street South originally scheduled for individual private development will now proceed as a public-private project under a single leasehold arrangement. On November 10, 1958, this area was designated a redevelopment area and from that date building permits were restricted. It was hoped at that time that private developers would come forward. When this did not occur, the City decided to acquire the land itself. Since the issuance of debentures must be approved by the OMB, their ruling had a definite if not definitive effect on the way in which this property would be developed. In 1965, the OMB ruled that ownership of the lands on Queen Street South must be under single ownership and that such must be accomplished within three months. In reporting this decision to the Board of Control, the City Property Commissioner stated:

*It should be noted, however, that the Municipal Board does not specifically recommend public acquisition of land, although this is to all intents and purposes the only way in which single ownership can be achieved within a reasonable space of time<sup>6</sup>.*

<sup>6</sup>City of Toronto Council Minutes, Board of Control Report No. 24, Clause 1, 1964, p. 1488.

It is interesting to speculate as to whether City Council would have undertaken to retain ownership on its own volition and enter into long-term leases had not the OMB made single ownership a condition of approval. Undoubtedly, the belief that the province wanted this type of development is strengthened by the fact that provincial legislation regarding redevelopment has been amended in such a way as to provide financial assistance for commercial public-private redevelopment.

We might ask what right an appointed board (the OMB) had to direct a major

policy decision of the City. Moreover, by arriving at this policy rather reluctantly and without clear-cut objectives, the City failed to educate the public and all of its own officials as to the intent and objectives of the scheme.

Notwithstanding this, a good case can be made for joint public-private development of Queen Street South. While real estate values increased on this site, following its designation as a development area, private developers did not seem inclined to step in. Nor, had they done so, would the City have been able to exert the building controls or other conditions it now can under joint development. In future, however, it is to be hoped that the experiences of the Queen Street South development will induce City planners and Council to be more realistic in setting the terms in joint schemes and in keeping the public informed as to the objectives. Lastly, the City should make sure that its development schemes are large enough to qualify for provincial and federal aid.

#### Lease Terms of Queen Street South

Queen Street South land is to be leased to the developer for a period of 95 years. The rental review will occur at the 32nd, 53rd, and 74th years of the lease. In lieu of more frequent rental reviews, lease terms include an annual automatic escalation clause tied to the gross profit rent<sup>7</sup>. The basic rent will be 6½% of the stated value of the development. The basis for setting new rates at the review periods is the average of additional payments as calculated from the percentage of the gross profit rent. Additionally, the developer will pay realty taxes and maintenance costs. This means that the City will benefit from increases in land value. At the termination of the lease, the property will revert to City ownership.

<sup>7</sup>The gross profit rent is the gross rental income from the property less the amount of the basic rent. (City of Toronto Council Minutes, Board of Control Report No. 57, Clause 1, 1966, p. 3931.)



### PROBLEMS IN JOINT PRIVATE-PUBLIC DEVELOPMENT SCHEMES

Joint development experience in other cities, as well as in Toronto, suggests that difficulties can arise when more than one government is involved in redevelopment. The Windsor experience demonstrates that civic authorities must exercise great care in drawing up realistic building and lease terms if they want the participation of private developers. The need for public acceptance based on knowledge of objectives is also essential.

To qualify for federal and provincial financial aid for redevelopment, municipalities must meet certain demanding conditions. While the senior levels might favour large-scale development as a condition of financial assistance, the resources of a municipality may be such as to make this impossible. For instance, if the City wishes to qualify for financial aid to develop the area north of the City Hall, it must enlarge the development area.

The strict tendering regulations required by CMHC may hinder development, as happened in Midland. Both the federal and provincial governments have held up funds for site preparation because the Midland Council accepted a development bid without tendering. While Midland should not have bypassed the tendering procedure, senior governments could be more sympathetic with municipalities involved in complex rebuilding projects. As pointed out in the Jones study<sup>8</sup>, the reputation and ability of the tenderer are of extreme importance. While the principle of tendering should be maintained, the Bureau believes a common basis for judging tenders should be evolved by all governments along with agreement that additional factors be given weight.

<sup>8</sup>See footnote 4.

Windsor and Toronto experience indicates that as few specifications as possible should be included in the call for tenders. These specifications should not be subject to change. On the other hand, those factors subject to flexibility should be listed as desirable rather than formalized in strict tender terms. To illustrate, Windsor set stringent tender rules for one of its downtown schemes. Although none of the bids fulfilled the requirements, one of the bids was accepted. The question arises that had some of the so-called constants, which later became variables, been designated as variables, would additional or amended bids have been received? In the Windsor case, some constant terms should have been specified and then not varied. The bidding terms could have listed optimum desired conditions, and then judging could have proceeded on the basis of the all-round best bid.

Similarly, in its Queen Street South tendering, the City set perhaps unreasonably difficult terms in its tender proposal. Only two bids were received, while a third firm indicated that the terms were too rigid. Since the rules of the game should not be changed while a competition is in process, the broadest possible leeway should be allowed so as to encourage maximum participation by private enterprise.

Finally, since the purpose of redevelopment is to secure the desired optimum type of development for the public interest, it is essential that economic reasons alone not dictate the acceptance of a bid. Potential developers and the public should be assured that, while financial terms are important, bids will be judged on over-all design, ability to complete the job, protection of the public investment, and the human needs of citizens.

### APPENDIX: TERMS OF SELECTED CITY AND METRO LEASES

	Date Lease Signed or Renewed/ Term in Years	Sq. Ft. Area	Gross Annual Rental	Lessor Taxes	Values Indicated*		Estimates		% Rate of Return Indicated From Pres. Net Annual Rental	
					Total Present Rentals Sq. Ft. Rate	Rate per Sq. Ft.	Total Value	Net "Econo- micle" Rental (at 6.5%*)		
1. King St. East (near Jarvis)	1953/21	5,200	—	—	\$ 7,800	\$ 1.50	\$ 52,000	\$ 3,380	\$ 506	0.97%
2. Queen St. West (near Bathurst)	1949/21	1,650	—	—	2,000	1.21	12,000	780	130	1.0
3. Dufferin Street (near Queen)	1964/21	17,250	—	—	29,800	1.72	29,800	1,938	1,938	6.5
4. Eastern Avenue** (near Coxwell)	1964/10	184,476	—	—	148,500	0.80	276,700	17,985	9,655	3.5
5. King St. East (near Jarvis)	1945/21	2,470	—	—	4,800	1.94	37,000	2,400	312	0.84
6. King St. East (near Jarvis)	1966/5	2,470	—	—	34,780	14.08	37,000	2,400	2,260	6.1
7. Wellington St. W. (near Strachan)	1964/3	11,321	\$1,355	\$ 646	10,900	0.96	22,600	1,470	709	3.1
8. King St. W. (near Jameson)	1947/21	13,927	—	—	19,640	1.41	38,600	2,500	1,276	3.3
9. Bloor St. W. (near Avenue Rd.)	1964/5	5,752 less 1,906 subsoil	6,000	4,265	26,700	4.64+	120,000	7,800	1,735	1.4
10. Market St. (near Mark)	1963/mthly.	4,508	1,980	1,000	15,075	3.34	36,000	2,340	980	2.7
11. Dufferin St. (near King)	1965/21	17,700	—	—	49,170	2.77	49,170	3,196	3,196	6.5
12. Queen St. W. (near University)	1961/7½	5,463	9,300	5,800	31,800	5.82	75,000	8,250	3,500	4.7

\*Based on 6½% return on capital value, excepting 11% on item 12, which represents improved land rental.

\*\*Lessee performed additional tasks.





## BUREAU OF MUNICIPAL RESEARCH

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*your inquiries are invited:*

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