

FOR WHOM DELL TOLLS

**A Review of the Factual & Appraisal Background
A Perspective on Future Valuation Impacts**

Dell Holdings Limited v. Toronto Area Transit Operating Authority

prepared by

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HISTORY OF SCHEME DESIGN

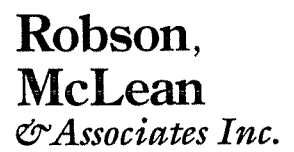
Dell Holdings Limited was an active local development company in the City of Mississauga, from about the late sixties. This developer's various companies had been comparatively successful in the development of a number of residential, commercial and industrial projects within the city and was well known in this community. The company had the "misfortune" of owning two separate parcels, one north (residential potential) and one to the south (industrial potential) of the east-west arterial Burnhamthorpe Road West, that abutted the Canadian Pacific Railway in the central portion of the Mississauga, during the late 1970's.

In March 1977, the Toronto Area Transit Operating Authority ("TOTOA"), which operates the Government of Ontario's GO Transit operations, released a report which recommended the construction of a new Mississauga GO station on one of the two holdings of Dell. TATO A continued the various studies required to determine the most appropriate site and finalized the actual boundaries of the land required from Dell by mid-February of 1980. Some of the options reviewed included strip requirements along the westerly boundaries of both parcels (next to CPR) to facilitate an additional siding. The following **TABLE NO. 1** illustrates the wide variations in the land area required from this owner. A more detailed chronology of the determination of the land requirements, as prepared by Weir & Foulds, for this GO station is attached to this paper, as **EXHIBIT "A"**.

MAP NO. 1 shows the overall configuration of the residential lands most impacted by TATO A requirements as well as the before and after site configurations. The residential component of the Dell holding located north of Burnhamthorpe Road West, before the taking, amounted to 33.152 acres which was reduced to 24.033 acres, after the taking.

**SUMMARY OF PROGRESSION OF TATOA'S
ACREAGE REQUIREMENTS**

March 1, 1977	5.5 acres
April 17, 1978	8.5 acres
May 29, 1978	7.9 acres
June 15, 1978	7 acres
January 24, 1979	4 to 5 acres
April 30, 1979	6 acres
May 25, 1979	6.5 acres
October 10, 1979	6.8 acres
October 31, 1979	9.4 acres
December 19, 1979	9.81 acres
Area actually acquired -	
February 15, 1980	9.119 acres



IMPACT OF THE TAKING - DEVELOPMENT FORMAT

During the period between the March 1977 scheme announcement and the February 1980 date when the precise public requirements were finalized, the City of Mississauga withheld planning approval for the development of Dell's lands. At the same time, neighbouring lands to the east of the subject parcel, within the remainder of the Creditview residential community, continued to develop within a comparatively strong local real estate market. The parties agreed that the time which TOTOA took to chose the site and determine the precise amount of land required for the GO station delayed the development of Dell's remaining lands. It was also admitted that Dell's business was developing land.

In addition, the parties agreed that the type of residential uses that were eventually permitted on the remaining Dell lands had been influenced by the GO station. The City of Mississauga's Creditview Secondary Plan noted that the proposed GO station had altered the land use designations on the subject parcel and stated - "*... to permit higher density residential development in proximity to the proposed commuter rail station.*" This "*higher density residential development*" took the form of apartment designation at 100 units per acre.

It follows that the "after the taking" development layout was generally established by the scheme influenced Creditview Secondary Plan and specifically by the actual subdivision plan that was eventually approved for the remnant parcel, as summarized on the following **TABLE NO. 2** (top) and illustrated by **MAP NO. 2**. The claimant, in order to illustrate the impact of the scheme, retained the planner that had processed the ultimate development layout to establish the likely development pattern, were it not for the GO station. This scenario, is summarized on the following **TABLE NO. 2** (bottom) and illustrated by **MAP NO. 3**.

PROBABLE DEVELOPMENT FORMAT BEFORE THE TAKING

Detached Units	41 units
(40.0 foot frontage lots)	
Semi-Detached Housing Units	114 units
(60.0 foot frontage lots)	
Row Dwellings	24 units
(28.5 foot frontage lots)	
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	179 units

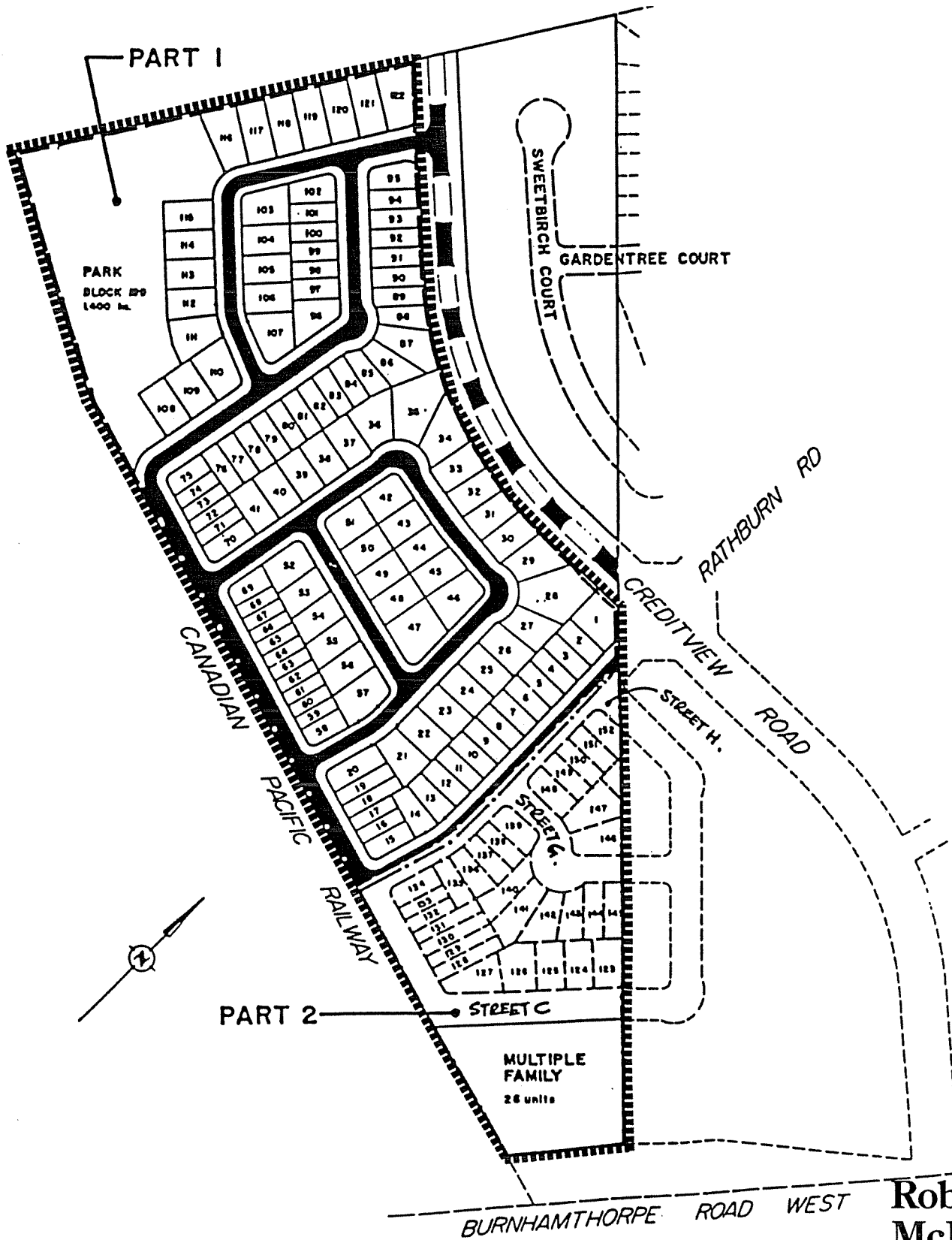
Parkland - 3.46 acres or 1.40 ha.

ACTUAL DEVELOPMENT FORMAT AFTER THE TAKING

Detached Units	84 units
(40.0 foot frontage lots)	
Row Dwellings	14 units
(28.5 foot frontage lots)	
Apartment Block	195 units
(5.56 acres or 2.25 ha.)	
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	293 units

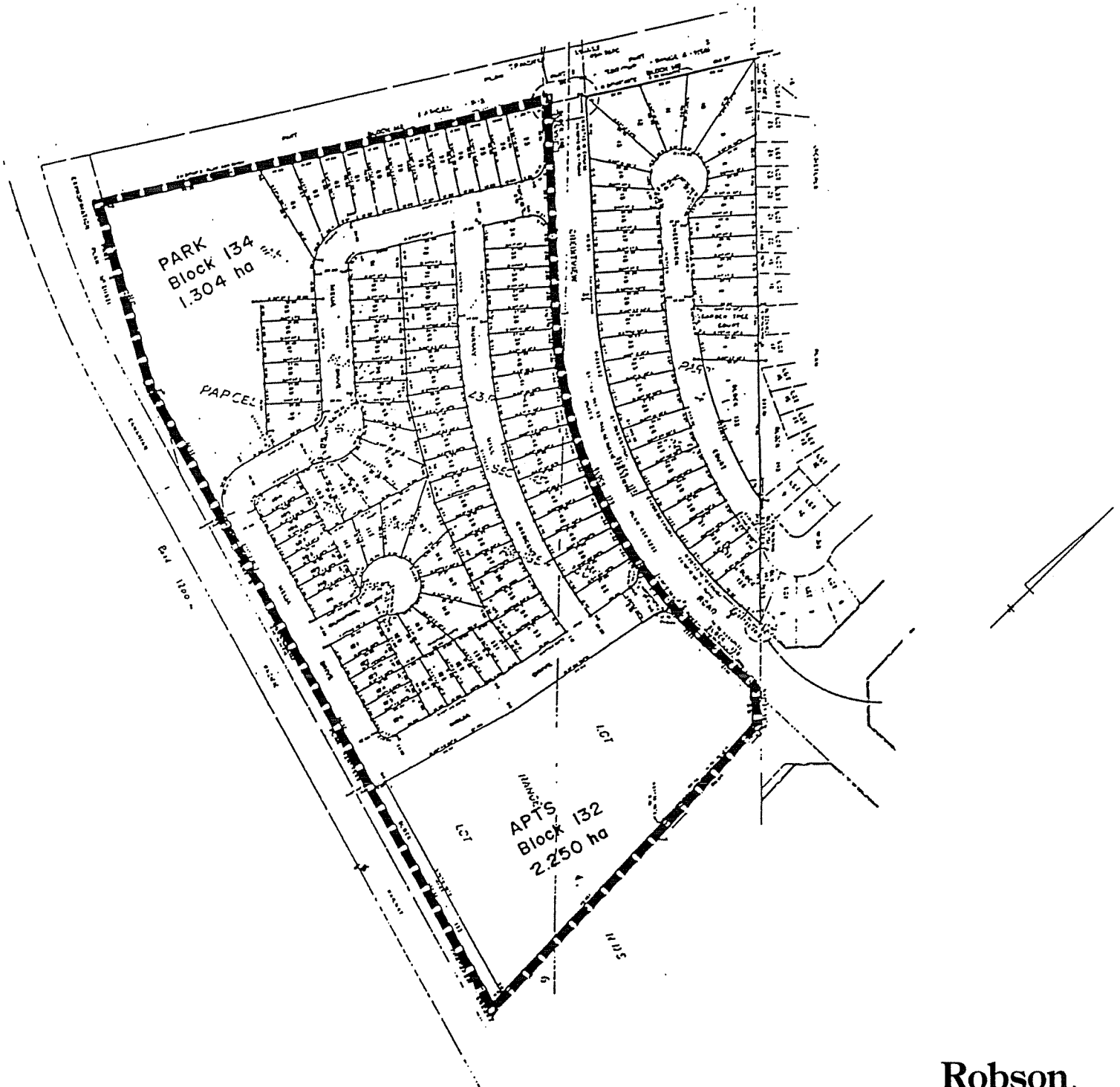
Parkland - 3.22 acres or 1.304 ha.

MAP NO. 2
PROBABLE DEVELOPMENT LAYOUT
"BEFORE THE TAKING"



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MAP NO. 3
ACTUAL DEVELOPMENT LAYOUT
"AFTER THE TAKING"



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IMPACT OF THE TAKING - DEVELOPMENT TIMING

Given that TATOA's probable land requirements varied significantly between the scheme announcement date (March 1977) and the eventual acquisition (March 1980) and the fact that the City of Mississauga refused to process the owner's subdivision plans, the development of the remnant parcel was delayed by several years. The Supreme Court decision noted: -

"When the Authority determined that some portion of Dell's 40 acres might be required for a GO station, that entire parcel was frozen. The municipality could not grant zoning approval for the development of any part of the property within the 40 acres. It was impossible for the municipality to consider a development whose borders were undefined and whose size was yet to be determined. The municipality had no alternative but to wait until the Authority decided how much and what portion of the land it required for the GO station. It follows that it was the expropriation which caused the delay. Damages resulting from the delay in the development are therefore the natural and reasonable consequence of the expropriation."

The probable development timing, before the taking, was established in consultation with the planner that processed the final subdivision plan and with reference to the relative planning process approval time lines achieved by neighbouring subdivision proposals for sites in the immediate vicinity of the subject parcel and elsewhere within the Creditview Secondary Plan. This probable development timing, before the taking, is summarized on the following **TABLE NO. 3** (top). The actual development timing, after the taking, is outlined also on **TABLE NO. 3** (bottom).

Effectively, the scheme resulted in a delay of about three years in the ultimate house construction on the subject parcel.

**PROBABLE DEVELOPMENT TIMING
BEFORE THE TAKING**

Draft Plan Approval by Region of Peel	September 1978
Rezoning & Agreements with City Completed	August 1980
Servicing Completed	December 1980
Registration of Subdivision Plan	January 1981
Closing of Lot Sale Transactions	May 1981
House Construction	Summer 1981

**ACTUAL DEVELOPMENT TIMING
AFTER THE TAKING**

Draft Plan Approval by Region of Peel	January 1982
Rezoning & Agreements with City Completed	February 1982
Servicing Completed	Winter 1983 / 1984
Registration of Subdivision Plan	October 1983
Closing of Lot Sale Transactions	November 1983
House Construction	Summer 1984

IMPACT OF THE TAKING - DEVELOPMENT ECONOMICS

It should be noted that the value of the lands for the actual partial takings (\$922,830), for the residential land north of Burnhamthorpe Road West as well as for the partial taking from Dell's industrial holdings to the south, was estimated by the traditional market comparison method utilizing sales of land with relatively similar development potential and timing from elsewhere within the Creditview Secondary Plan area and other similar districts within the City of Mississauga.

The more interesting aspect of this valuation exercise related to the analysis of the financial impact of the changes to the development format and timing. To that end, we conducted a detailed review of and documented the owner's actual development revenue and expenses for the remnant parcel. Summaries and copies of the development expense receipts were submitted to the respondent prior to the Ontario Municipal Board (OMB) hearing. As the high density residential component of the remnant parcel remained unsold, even at the time of the OMB hearing (January 1990), it was therefore necessary to review local apartment land sales in order to estimate the value of this revenue component. The probable development revenue, before the taking, was established by an analysis of local lot sales and the likely development expenses were estimated by the same local engineer that designed and processed the final subdivision plan.

The following **TABLE NO. 4** summarizes the estimated "before the taking" development economics in comparison to the actual "after the taking" circumstances. As illustrated in this table, there was a minor decline in the single family lot values, over the period in question. The demand for the apartment block remained relatively weak with a revenue of \$6,500 per suite anticipated.

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IMPACT OF THE TAKING - DEVELOPMENT ECONOMICS - CONTD.

The largest component (approximately 65%) of the change to the development economics of this parcel resulted from alterations to the local (City of Mississauga) and regional (Region of Peel) development levy structures, between the probable development processing and the actual processing dates. **TABLE NO. 5** summarizes a detailed breakdown of these specific components of the development expenses.

The Board noted two reservations with respect to this calculation of the change to the development economics, namely:

- a) the apartment block as proposed was not yet built and there was no guarantee that it would ever be built; and,
- b) the municipal levies for apartment units were disproportionately high compared to other residential forms.

The Board then proceeded to consider their own calculations, varying between \$226,000 and \$350,500, for items such as deferral of development profit, carrying costs as well as additional servicing costs, resulting from the scheme. The final award for disturbance damages (business loss) was set at \$500,000.

**SUMMARY OF DEVELOPMENT ECONOMICS
(Remnant Residential Parcel Only)**

	BEFORE THE TAKING (Estimate)	AFTER THE TAKING (Actual)
Revenue		
Detached Lots 41 lots @ \$43,000 per lot =	\$1,763,000	
Semi-detached lots 114 lots @ \$28,000 per lot =	\$3,192,000	
Row Dwelling Units 24 lots @ \$28,500 per lot =	\$684,000	
Detached Lots 84 lots @ \$42,000 per lot =		\$3,528,000
Semi-detached lots 14 lots @ \$31,500 per lot =		\$441,000
Apartment Block 195 units @ \$6,500 per unit =		\$1,267,500
Revenue Sub-total	\$5,639,000	\$5,236,500
Development Expenses		
Municipal Servicing Costs	\$1,177,000	\$999,200
External Servicing Costs	\$0	\$75,200
Electrical Servicing Costs	\$225,025	\$143,920
Municipal Levies & Fees	\$974,600	\$1,354,031
Consultant & Administrative Fees	\$282,000	\$253,750
Development Expense Sub-total	\$2,658,625	\$2,826,101
Balance Available for Holding Costs & Developer's Profit	\$2,980,375	\$2,410,399
<i>Difference</i>		<i>-\$569,976</i>

* NOTE - OMB decision (43LCR138) notes a calculated difference of \$596,976

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**SUMMARY OF MUNICIPAL LEVIES & FEES
(Remnant Parcel Only)**

	BEFORE THE TAKING (Estimate)	AFTER THE TAKING (Actual)
Regional Levies	\$387,777	\$615,903
City Levies	\$502,079	\$458,602
Major Road Levy - City	\$0	\$139,028
Major Watercourse Levy - City	\$0	\$57,808
Planning Fee	\$8,055	\$16,994
Engineering Processing Fee	\$42,145	\$34,911
Administrative Fee	\$200	\$350
Separate School Levy	\$27,100	\$22,500
Tree Planting Contribution	\$4,500	\$5,000
Parks Processing Fee	\$2,750	\$2,935
Sub-total	\$974,606	\$1,354,031
<i>Difference</i>		<i>\$379,425</i>

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A PERSPECTIVE ON FUTURE VALUATION IMPACTS

The practical and valuation lessons that I believe should be drawn from the Supreme Court's Dell decision are as follows:

1. All public agencies should make every effort to expedite the design and planning process for projects that may involve the acquisition of or have any other impact on private land holdings. The site selection process, by these agencies, should include an appropriate assessment of all types of special difficulties that the private land owner may ultimately encounter. It may be very useful for expropriating agencies to have an open and continuing dialogue with the impacted owners in order to refine the scheme design and minimize final compensation claims.
2. It is incumbent upon the appraisal profession to complete a more detailed analysis of the potential impacts of public acquisitions on the private land owner. The typical appraiser's analysis that "there is no injurious affection or damage to the remaining lands" is unlikely to carry weight with informed owners and their advisors. There remains no substitute for the detailed interview with an owner in order to properly assess the problems that are likely to be encountered.
3. Public agencies are likely to encounter more claims relating to disturbance damages (business losses) as part of the claims from private land owners, most particularly from the development industry. For example, the developer whose land is expropriated close to the completion of the subdivision approval process may now more reasonably consider an attempt to recover the typical "developer's profit" allowance, from the development residual approach to value, as part of a disturbance claim.

A PERSPECTIVE ON FUTURE VALUATION IMPACTS

4. There are several general comments from the Supreme Court decision that merit consideration particularly in the context of refinements to the prevailing attitude of many expropriating authorities and their agents when it comes to dealing with claimants and their individual problems:

"The expropriation of property is one of the ultimate exercises of government authority. To take all or part of a person's property constitutes a severe loss and a very significant interference with a citizen's private property rights. It follows that the power of an expropriating authority should be strictly construed in favour of those whose rights have been affected."

"[a] remedial statute should not be interpreted, in the event of an ambiguity, to deprive one of common law rights unless that is the plain provision of the statute".

"It follows that the Expropriations Act should be read in a broad and purposeful manner in order to comply with the aim of the Act to fully compensate a land owner whose property has been taken."

"...that on the one hand double recovery does not occur, and on the other hand that no legitimate item of claim is overlooked."

The expropriating authorities agents, the appraisers and their legal advisors have a responsibility to both the private land owner as well as their employers to assure that every claimant is paid fair compensation in an expropriation matter. This attitude would avoid the lengthy and expensive litigation process encountered in the Dell file.

LCVA82026

**ONTARIO MUNICIPAL BOARD
(LAND COMPENSATION SECTION)**

The Expropriations Act, R.S.O. 1980, c. 148.

**CLAIMANT: DELL HOLDINGS LIMITED
1135 Central Parkway West
Mississauga, Ontario
L5C 3J2**

**RESPONDENT: TORONTO AREA TRANSIT OPERATING AUTHORITY
555 Wilson Avenue
Downsview, Ontario
M3H 5Y6**

**CHRONOLOGY OF EVENTS
IN THE DETERMINATION OF THE SITE
AND LAND REQUIREMENTS FOR THE GO STATION**

- and -

**SUMMARY OF PROGRESSION OF TATO'S ACREAGE
REQUIREMENTS FOR ACQUISITION FROM DELL HOLDINGS
NORTH OF BURNHAMTHORPE ROAD**

**WEIR & FOULDS
P.O. Box 480
Suite 1600
2 First Canadian Place
Toronto, Ontario
M5X 1J5 (365-1110)**

(Lynda C.E. Tanaka)

Solicitors for the Claimant

**CHRONOLOGY OF EVENTS
IN THE DETERMINATION OF THE SITE
AND LAND REQUIREMENTS FOR THE GO STATION**

<u>Date</u>	<u>Event</u>
April 23, 1975	Memorandum describing meeting at the offices of the Ministry of Transportation and Communications on April 14, 1975. TATO A requested that the task force not make a firm recommendation on the final site at each station location to permit the flexibility to revise the site selection should circumstances change prior to implementation. It was also agreed that individual property owners would not be approached during the planning phase. With respect to the Burnhamthorpe Road station, it was noted that the platform could be located at either extremity of curve and the railroad track in this vicinity. Two sites were identified, a preference being given to site #2.
April 9, 1976	Memorandum regarding meeting held in the offices of Planning Department, the Region of Peel on April 8, 1976. A representative of TATO A (T. Swinton) and TATO A consultants (M.H. Kilpatrick Associates) were in attendance. The memo in part states: "The future grade separation, as well as the crossing of the Credit River has been designed and is available from the City of Mississauga".
May 19, 1976	Memorandum summarizing meeting held in the offices of the City Engineer, City of Mississauga on May 11, 1976. The City Engineer advised that the crossing of the Credit River by Burnhamthorpe Road would take place in the near future as it was very necessary. He authorized the TATO A consultants to obtain copies of any relevant drawings from the City's consultants on the grade separation and bridge crossing. The TATO A consultant discussed the possibility of locating a combined Burnhamthorpe/Streetsville station in the Parkway Belt.
June 2, 1976	Memorandum describing meeting held on May 31, 1976 at the offices of Mississauga Transit. It is reported that "the proposition of combining the Streetsville and Burnhamthorpe stations into one at the Parkway Belt crossing of C.P. Rail was discussed and felt to be a good solution to the problems". The TATO A consultant advised that the location of the station

between Eglinton and Burnhamthorpe would be subject to a great deal of further study.

August 10, 1976

Memorandum summarizing meeting of August 3, 1976 at the offices of C.P. Rail. The following is reported: "The Burnhamthorpe station location was discussed briefly, and, apart from the detour required for the proposed grade separation there appeared to be no problems".

September 24, 1976

Reporting letter from M.H. Kilpatrick Associates Limited to TATO A reporting on their work for TATO A. The location of the Burnhamthorpe and Streetsville stations and the decisions relevant to their location was described as "somewhat complex" and it was advised that a study of the relevant rail corridor would be undertaken in order to locate all possible sites in that corridor for stations. It was reported that the consultants had received copies of the summary of the draft Official Plan of the City of Mississauga. It was also advised that the initial recommended sites studies would be in TATO A's hands by the end of October, 1976.

October 15, 1986

Memorandum summarizing meeting at TATO A offices on October 14, 1976. It was decided that a report would be written for the recommended location of the station near Burnhamthorpe Road. It indicated that the station would probably be between Burnhamthorpe Road and Highway 403. The planning aspects of the Streetsville/Burnhamthorpe corridor were reviewed.

November 2, 1976

Memorandum summarizing meeting held at the offices of the Creditview Consortium with representatives of TATO A's consultants. Murray Elia, President of Dell Holdings Limited, was not a member of the Creditview Consortium and was not present at the meeting. It was reported that the meeting was being held to acquaint the Consortium with the possible locations for GO stations close to Burnhamthorpe Road and to ascertain how they might be fitted in with the planning of the area. The TATO A consultant is reported to have left two sketch plans with the Consortium showing possible station locations and possible road patterns. It is reported that it was agreed that the TATO A consultants would provide the Consortium with a drawing showing the envelope in which the station could be contained if located north of Burnhamthorpe Road and also

some idea of the minimum dimensions required for parking areas in order that the planning could be carried out in the area.

November 4, 1976

Memorandum summarizing meeting of November 3, 1976 at offices of C.P. Rail with TATO's consultants. Two sites were discussed, one north of and the other south of Burnhamthorpe Road. There is also discussion of the relevant detour for the proposed grade separation of C.P. Rail and Burnhamthorpe Road.

March, 1977

The Kilpatrick Report on station locations and sites for the GO West commuter rail service is published. Three sites for the Burnhamthorpe station are identified but Site C was discarded early on. Site A is located on lands north of Burnhamthorpe owned by Dell Construction Co. Ltd. (now Dell Holdings Limited). Site B was located south of Burnhamthorpe Road also on lands owned by Dell and by another owner. Figure 19 shows a station configuration quite different from that ultimately adopted. It also shows a property requirement north of Burnhamthorpe of 5.5 acres when 9.119 acres was ultimately taken.

May 16, 1977

Letter from TATO to the Regional Municipality of Peel requesting Regional Council's endorsement of the station site recommendations set out in the Kilpatrick Report. Figure 19 from Kilpatrick Report is attached with letter.

May 31, 1977

Minutes of the Planning Committee meeting of the Regional Municipality of Peel. Burnhamthorpe Road station shown on Figure 19 of Kilpatrick Report is endorsed.

June 27, 1977

Letter from the Regional Municipality of Peel to TATO setting out the Regional Council Resolution approved at the Council meeting of June 23, 1977. The Region of Peel endorsed the sites for the GO Transit stations set out in the Kilpatrick Report. For Burnhamthorpe station the site endorsed was the one shown 1,200 feet north of Burnhamthorpe Road.

December 14, 1977

Memorandum summarizing meeting held at the City of Mississauga with representatives of TATOA. Representatives of TATOA agreed that the Authority would investigate the possibility of locating the Burnhamthorpe station closer to Burnhamthorpe Road and continuing the platform across the structure of the grade separation.

January 30, 1978

Letter from the Region of Peel to the Creditview Consortium advising that TATOA and other authorities considered an access to the GO station and parking area directly from Burnhamthorpe Road to be desirable. It was also advised that the precise location of the access point had yet to be determined by TATOA's consultants.

March 9, 1978

Letter from TATOA to M.M. Dillon Consulting Engineers and Planners retaining M.M. Dillon for preliminary design, design and construction supervision services for Burnhamthorpe station. It was pointed out that several features with respect to the station had yet to be resolved.

March 22, 1978

Letter from Dell Holdings Limited to TATOA advising that Dell owned the subject property. Dell advises that if discussions with the owners immediately to the east of Dell's boundaries involve Dell's lands in any way, that Dell would like to know of what discussions have taken place as well as any future discussions contemplated.

April 17, 1978

Memorandum summarizing meeting of Murray Elia, President of Dell Holdings with representatives of TATOA. TATOA showed two small maps. One showed the required area for the station as being approximately 8.5 acres. TATOA also advised that it was looking into the possibility of putting the parking lot onto Mr. Chappell's property to the west of the Dell lands and on the other side of the C.P.R. tracks.

May 29, 1978

TATOA memorandum describing three possible sites for the Burnhamthorpe Road Go station composed of different combinations of four parcels of land A, B, C & D. Parcel C is south of Burnhamthorpe. Parcel D is on the west side of the C.P.R. tracks. Acreage requirements for the three sites shown

as 7.9 acres, 6.1 acres and 6.8 acres. Ultimately, TATO A took 9.119 acres north of Burnhamthorpe Road for the station.

June 2, 1978

Memorandum summarizing meeting held by representatives of TATO A, the City and the Region. Recorded that TATO A was to consider lands in the southwest quadrant for future station expansion requirements.

June 13, 1978

Memorandum describing meeting between representative of Dell (R. Davidson) and representative of TATO A (T. Swinton) on June 13, 1978. TATO A advised that they agreed to the location of the GO station on the east side of the C.P.R. tracks north of Burnhamthorpe Road to accommodate their needs for the next five years subject to and conditional upon TATO A obtaining approximately 3 to 4 acres of land on the west side of the tracks north of Burnhamthorpe (the Chappell lands).

June 15, 1978

Memorandum by TATO A of meeting held on June 13, 1978 between the representative of TATO A and the representative of Dell. The three sites composed of different combinations of Parcels A, B, C & D referred to above (see May 29, 1978) were discussed. Requirement of a parcel of 7± acres was discussed.

September 15, 1978

Memorandum regarding meeting of Parkway Belt Steering Committee. Representative of TATO A presented a plan for the GO station at Burnhamthorpe Road. He advised that it was preferred that part of the parking facilities be located west of the rail line.

November 24, 1978

Minutes of TATO A meeting. Reference to the property for the Burnhamthorpe site not having yet been acquired. Memorandum stating that TATO A is caught in a conflict between adjacent landowners and had not yet decided how to resolve the matter.

January 19, 1979

Letter from TATO A to the property office of the Ministry of Transportation and Communications. Letter advises that the Burnhamthorpe station was exempted from the Environmental

Assessment Act by exemption published in the Ontario Gazette on November 13, 1976. Letter ends with the following: "Would you please proceed with property acquisition".

January 24, 1979

Minutes of meeting held between representatives of TATO, C.P. Rail and the City's consultants. TATO advised that 4 to 5 acres of land would be required initially on the north side of Burnhamthorpe Road for the development and that such lands would be acquired in 1979. TATO also advised that consideration would be given to construct a tunnel for later use to connect the future parking lot on the west side of the tracks with the station.

April 4, 1979

Letter from Dell Holdings to TATO pointing out that Dell had not heard from TATO for almost a year and requesting that TATO identify their land requirements.

April 5, 1979

Letter from Dell Holdings Limited to Mississauga Planning. Letter encloses copy of Dell letter to TATO dated April 4, 1979. It points out that if no reply is received from TATO within a reasonable period Dell will consider that TATO has no intention of purchasing land from Dell and that Dell would then proceed with its plan of subdivision.

April 30, 1979

TATO memorandum with respect to meeting between TATO representatives and Murray Elia, President of Dell Holdings Limited. The memo states in part as follows: "An apology was made to Mr. Elia for the delay in advising him as to the lands required by the Authority for the proposed station site development". TATO advised that about 5 acres of Mr. Elia's lands would be required north of Burnhamthorpe plus an additional sliver of land of about 1 acre for future track requirements. The actual taking of Dell lands north of Burnhamthorpe was ultimately 9.119 acres. TATO also advised of its proposal to have parking on the opposite side of the C.P.R. tracks.

May 11, 1979

Letter from City of Mississauga, Planning Department to TATO. The letter advises in part as follows: "As you are probably aware, certain lands in the Creditview Community have been withheld from development proposals pending the

finalization of your land requirements for the proposed GO transit station in the vicinity of Burnhamthorpe Road and the C.P.R.".

May 16, 1979

Letter from Dell Holdings to City of Mississauga Planning Department summarizing meeting with TATOA representatives on April 30, 1979. The letter points out that TATOA "told me [Mr. Elia] that they now had decided on their requirements. He [Mr. Swinton] promised that an order would be placed with the Department of Government Services to have their requirements surveyed forthwith and that a survey plan would be provided to me within 3 weeks from April 30th in order to complete our proposed plan of subdivision".

May 25, 1979

Letter from TATOA to the City of Mississauga Planning Department. It advises that TATOA is currently negotiating with Dell Holdings for the acquisition of approximately 6.5 acres north of Burnhamthorpe Road. TATOA ultimately took 9.119 acres north of Burnhamthorpe.

July 12, 1979

Letter from TATOA to Dell Holdings attaching copies of two conceptual layout plans for the Burnhamthorpe Road station. The configuration on the plans is different from that which was built and the plans do not have scaled boundaries.

August 16, 1979

Memorandum of meeting held at TATOA. With respect to the Burnhamthorpe station, reference is made to a meeting scheduled for August 24, 1979 at the City of Mississauga to resolve the issues relating to establishing the property requirements. It stated that the acquisition request would be forwarded to M.T.C. shortly. Representatives of C.P.R. were also in attendance and it was agreed that the portion of additional property required by C.P.R. to accommodate the platform and third track would be deeded to C.P.R. only after the completion of the design in order to achieve maximum utilization of the available property.

August 24, 1979 Letter from C.P. Rail to TATO A enclosing plans indicating the additional property requirements east [south] of Burnhamthorpe Road.

September 7, 1979 Letter from TATO A to Property Section of M.T.C. attaching two prints showing the property requirements for the GO station. The letter requests that the M.T.C. proceed with the acquisition of the property.

September 17, 1979 Letter from Dell Holdings to TATO A pointing out that a special meeting was held on August 24, 1979 to arrive at a final decision and requirements for the GO station site. Mr. Elia advises that it was his understanding that TATO A would make arrangements to acquire Dell's lands from Burnhamthorpe Road to the north limits of Rathburn Road. He points out that he has not heard anything from TATO A since the meeting and requests information as to whether TATO A will in fact require Dell's lands and when.

September 20, 1979 Letter from TATO A to Dell Holdings advising that TATO A required the lands outlined to Mr. Elia at the August 24, 1979 meeting. The letter advises that since the meeting the exact requirements from Dell Holdings as well as others in the area have been finalized and that TATO A has issued plans to the property appraisers and land survey staff.

October 5, 1979 Letter from TATO A to Property Section of M.T.C. The letter attaches three copies of additional property requirements necessary for the GO station. The letter states as follows: "I have been assured that this will provide 100% of the property requirements (I mean it!)." The letter requests that a Property Request for the acquisition of the land be prepared and issued.

October 9, 1979 Letter from Dell Holdings to TATO A pointing out that since the meeting of August 24, 1979 Dell had received no legal confirmation of TATO A's and requirements.

October 10, 1979

Memorandum summarizing TATO's station site acquisitions. With respect to the Erindale (Burnhamthorpe) station, it is stated that Murray Elia (Dell Holdings) is a major owner and that 6.8 acres is required from him. TATO ultimately acquired 9.119 acres from Dell's lands north of Burnhamthorpe.

October 15, 1979

Letter from McCormick, Rankin and Associates Limited, consulting engineers to the City of Mississauga. Letter advises that Mr. Tom Swinton from TATO had provided a plan showing the property TATO will be acquiring for the GO station and for C.P. Rail and that acquisition of the property would proceed as soon as land plans are prepared.

October 31, 1979

Letter from TATO to David Williams, Planning Management Group, stating that copies of TATO's property requirements from lands owned by Murray Elia (Dell Holdings) were being enclosed as requested. The plans enclosed are Exhibit 15 to these proceedings. The configuration of the station indicated on the plans differs from that which was ultimately built. No metes and bounds description is provided on the plan. There is no indication as to whether Rathburn Road would be a public or private road. A total requirement of 9.4 acres is shown on Dell's lands north of Burnhamthorpe Road. TATO ultimately acquired 9.119 acres of Dell's lands north of Burnhamthorpe.

November 22, 1979

Memo of meeting between TATO and the Planning Management Group. TATO indicated that it planned to put a portion of the parking for the GO station on the Chappell property to the west of the C.P.R. tracks. TATO further indicated that it had not been determined whether Rathburn Road west of Creditview Road would be public or private. TATO also indicated that it expected reference plans to be completed for registration by the end of December, 1979.

December 19, 1979

TATO memorandum indicating the property requirements for various GO stations including the station at Burnhamthorpe Road and the C.P.R. tracks. The total area for the property requirements from Dell Holdings stated to be 9.81 acres north of Burnhamthorpe Road. This differs from the 9.119 acres of

land ultimately acquired by TATO A from Dell Holdings north of Burnhamthorpe.

December 27, 1979

Letter from Dell Holdings to the City of Mississauga noting that on August 24, 1979 TATO A gave Dell assurances that it would be acquiring lands from Dell for the GO station and that on September 20, 1979 Dell received a letter from TATO A confirming that it had finalized its requirements. The letter noted that to that date, Dell Holdings had not heard a further word from TATO A and that TATO A appeared to be stalling.

December 27, 1979

Letter from Dell Holdings to G.J. Smith, at Weir & Foulds, setting out the history of the matter and complaining that TATO A was delaying. Letter stated in part as follows: "I have heard nothing from them [TATO A] since [a letter of September 17, 1979]. It would appear to me that this is simply a stall on TATO A's part which is very costly to us. We cannot formulate our subdivision land use and draft plan. It is my gut feeling that unless we put pressure on TATO A this could go on for a long time".

February 4, 1980

Letter from G.J. Smith of Weir & Foulds to TATO A. Letter states in part: "Our client has been and is being delayed in the processing of its plans for the balance of its lands as you have not been able to confirm your exact requirements".

February 14, 1980

Letter from TATO A to G.J. Smith at Weir & Foulds. The letter states in part as follows: "The reference plan indicating TATO A's requirements from your client has been revised and was sent for registration on February 11, 1980. We will send you a copy as soon as it is registered".

February 15, 1980

Reference Plan 43R-7698 is deposited showing requirements for TATO A from Dell Holdings of 9.119 acres north of Burnhamthorpe Road.

March 19, 1980

TATOA and Dell Holdings enter into an agreement under
Section 31 of the Expropriations Act.

→ Exhibit 4, Tab 89

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**SUMMARY OF PROGRESSION OF TATOA'S ACREAGE REQUIREMENTS
FOR ACQUISITION FROM DELL HOLDINGS NORTH OF BURNHAMTHORPE ROAD**

March, 1977	5.5 acres
April 17, 1978	8.5 acres
May 29, 1978	7.9 acres
June 15, 1978	7± acres
January 24, 1979	4 to 5 acres
April 30, 1979	6 acres
May 25, 1979	6.5 acres
October 10, 1979	6.8 acres
October 31, 1979	9.4 acres
December 19, 1979	9.81 acres
February 15, 1980	<u>9.119 acres</u> ↔ actually acquired