

The Regional Municipality of York

Committee of the Whole
Finance and Administration
January 16, 2020

Report of the Commissioner of Corporate Services

Compensation for Expropriation 2650 Rutherford Road City of Vaughan

1. Recommendation

Council approve the Commissioner of Corporate Services to make an offer of compensation to the owners of land in the City of Vaughan, as set out in Attachment 1, which were acquired in accordance with the Expropriations Act (the “Act”).

2. Summary

This report seeks Council approval to serve an offer of compensation under section 25 of the Act to the property owners whose land has been expropriated for the widening of Rutherford Road from Jane Street to Westburne Drive, in the City of Vaughan. The location of the subject property is shown on the map in Attachment 2.

Private Attachment 1 to this report will be considered in private session because it relates to acquisition of land by the Region.

Key Points:

- In [June 2017](#), Council approved the commencement of the expropriation process for this first phase of the widening and reconstruction of Rutherford Road, from four to six lanes between Jane Street and Westburne Drive
- The subject property owners exercised their right under the Act to request a Hearing of Necessity and the hearing took place on March 1, 2019
- The Inquiry Officer’s report concluded the Region’s land requirement was fair, sound and reasonably necessary
- Council agreed with the Inquiry Officer’s report and served written notice of its decision and reasons on all parties to the Hearing of Necessity, in accordance with the Act
- Expropriation plans were registered on title on August 20, 2019, transferring title of the expropriated land to the Region

- An owner must be served with an offer of compensation pursuant to section 25 of the Act prior to the Region taking possession of the expropriated land on January 15, 2020

3. Background

Rutherford Road is being widened from Jane Street to Bathurst Street

The Region is widening Rutherford Road from four to six lanes between Jane Street and Bathurst Street, in the City of Vaughan. The project includes HOV/transit priority lanes, sidewalks/cycle tracks on both sides, transit bus pads/shelters, and a landscaped median where sufficient space is available. The project also includes a grade separation at the Barrie GO Rail/Rutherford Road intersection, a widening of the bridge over the Canadian National Railway tracks at the MacMillan Yard, and intersection improvements at Keele Street.

The first phase of construction of Rutherford Road between Jane Street and Westburne Drive is scheduled to commence in 2020. The land that is the subject of this report is located in this initial phase of the project.

Council authorized the initiation of the expropriation process for the Rutherford Road project in June 2017

In [June 2017](#), Council authorized an Application for Approval to Expropriate and the Approval to Expropriate land provided there was no inquiry (Hearing of Necessity) requested from 23 property owners. Following Council approval, Notice of Application for Approval to Expropriate was served on the owners of the properties impacted by the project. Each owner had 30 days from the date the owner was served the Notice of Application for Approval to Expropriate Land to request a Hearing of Necessity as to whether the taking of the land by the Region is fair, sound and reasonably necessary.

The expropriation process continued for the remaining 22 property owners who did not request a Hearing of Necessity

The owners of the subject property exercised their right to a Hearing of Necessity. The Council report for this property is provided separately from the owners who did not request a Hearing of Necessity.

The expropriation process continued to secure access to the remaining 22 properties to accommodate utility relocations. In [April 2019](#), Council approved compensation offers for these property owners. In accordance with the Act, the Region served offers under section 25 of the Expropriations Act and took possession of the lands on May 3, 2019.

Utility relocation is currently underway and will proceed around the subject property until possession of the required land can be obtained.

Council considered the Hearing of Necessity report in May 2019 and authorized for the expropriation to proceed

A Hearing of Necessity was held on March 1, 2019. The Inquiry Officer concluded the taking of the land was fair, sound and reasonably necessary and the Inquiry Officer's report was submitted to Council for consideration in [May 2019](#). Council subsequently approved expropriation of the property.

This report is for the third of three steps in the Council approval process for expropriations

Figure 1 below summarizes the three steps in the process for obtaining approval by Council for expropriation. In [June 2017](#), Council authorized the first step of the process and in [May 2019](#) Council authorized the second step of the approval process.

This report is for the third and final step in the expropriation approval process. Upon approval of this step by Council, the Region will serve an offer of compensation to the owners.

Figure 1
Council Approval Steps



4. Analysis

Possession of expropriated land will be obtained after serving offer of compensation

The Region acquired title to the land when the expropriation plan was registered at the Land Registry Office on August 20, 2019. The notice of expropriation was sent to the owners on September 12, 2019. In accordance with the Act, the Region cannot obtain possession until a minimum of three months after notifying owners that the expropriation plan has been registered. In addition, it is necessary to make offers of compensation to owners to obtain possession of the expropriated land. The offers of compensation will be delivered in anticipation of possession of the land on February 12, 2020.

An independent report established the values to form the basis of the offer of compensation

An independent consultant was commissioned to provide an estimate report of compensation.

Section 25 of the Act requires the Region to make two offers of compensation to an owner. The first is an offer of full compensation for the market value of the land expropriated and any damages for loss of improvements and injurious affection. If the owners accept the offer, with a few exceptions, the offer is accepted in full satisfaction of any claims the owners may have with respect to the expropriation.

The second offer is to pay the owners market value of the land expropriated and does not include an offer to pay any other damages such as damages for loss of improvements or injurious affection. If the owners accept the second offer, the owners may make a future claim for additional compensation in accordance with the Act.

In the event the owners do not accept the first offer of compensation, staff will endeavour to negotiate a full and final settlement.

Environmental due diligence is underway

A Contamination Overview Study was completed as part of the Class Environmental Assessment Study and identified Areas of Potential Environmental Concern. A Phase One Environmental Site Assessment (ESA) was performed at the site to assess the potential environmental condition of the land. The results identified the need to complete a Phase Two ESA.

Staff continues to work with the property owners to access the land to complete the required environmental investigations. Prior to delivery of an offer, Legal Services will review the findings of the Phase Two ESA. In the event environmental impacts are identified, staff will take necessary steps to minimize the Region's exposure to environmental risk and liability and, if necessary, report to Council with recommendations.

5. Financial

The funding for this property acquisition is included in Transportation Services proposed 2020 Capital Budget.

6. Local Impact

Once construction is complete, the widening and reconstruction of Rutherford Road will provide capacity and improve traffic operations while supporting the forecasted growth within the area, as set out in the York Region Official Plan.

7. Conclusion

On August 20, 2019, expropriation plans were registered for the subject land required for reconstruction of Rutherford Road from Jane Street to Westburne Drive, in the City of Vaughan. The *Act* requires that an offer of compensation for expropriated land be served on the registered owners before taking possession. The proposed offer is based on values provided by an independently commissioned appraiser. It is recommended that the offer set out in this report be served in accordance with the *Act*.

For more information on this report, please contact Michael Shatil, Director, Property Services at 1-877-464-9675 ext. 71684. Accessible formats or communication supports are available upon request.

Recommended by: **Dino Basso**
Commissioner of Corporate Services

Approved for Submission: **Bruce Macgregor**
Chief Administrative Officer

January 10, 2020
Attachments (2)
Private Attachments (1)
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