

The Regional Municipality of York

Committee of the Whole
Finance and Administration
October 8, 2020

Report of the Commissioner of Corporate Services

Abandonment of Expropriated Land Acquisition of Land 1588 St. John's Sideroad Town of Aurora

1. Recommendations

1. Subject to the former owner's consent and in accordance with Section 41 of the *Expropriations Act* (the "Act"), Council abandon the fee simple interest and acquire a smaller fee simple interest, and permanent and temporary easements in the lands set out in Attachment 1.
2. The Commissioner of Corporate Services be authorized to execute all documents necessary to facilitate the abandonment and acquisition of interests.
3. Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

2. Summary

This report seeks Council approval to abandon the fee simple interest in land expropriated by the Region.

This report also seeks Council approval to amicably acquire a smaller fee simple interest, permanent and temporary easements on the lands to be abandoned in fee simple.

The map in Attachment 2 shows the location of the subject land and identifies the interests to be acquired.

Private Attachment 1 to this report will be considered in private session pursuant to section 239(2)(c) of the Municipal Act, 2001, as it relates to the abandonment and acquisition of land by the Region.

Key Points:

- The Region expropriated a fee simple interest for the St. John's Sideroad project

- Transportation Services has determined that permanent and temporary easements will suffice for portions of the lands previously expropriated in fee simple
- The Region is proposing to abandon the previously expropriated fee simple interest, and acquire fee simple, permanent and temporary easement interests in the same land
- The easements to be acquired have a lesser value than the fee simple interest that the Region will transfer back to the owner, therefore, the owner will refund a portion of the 2014 expropriation compensation paid by the Region

3. Background

Council approved expropriation of properties for the St. John's Sideroad project in September 2014

On [September 11, 2014](#), Council authorized the expropriation of 10 properties, including the subject lands, for the purpose of widening and reconstructing St. John's Sideroad from Bayview Avenue to Highway 404, in the Town of Aurora. Environmental due diligence was performed on all the 10 properties and no contamination was found.

Transportation Services has confirmed lesser property interests are adequate for the project

When this project was completed, Transportation Services determined that only a portion of the fee simple interest obtained is required to be incorporated into the St. John's Sideroad right of way. A small portion of the land not required in fee simple is required as a permanent easement for a drainage ditch, and the remainder of the land originally obtained in fee simple will be reduced to a temporary easement interest.

4. Analysis

The owner from which the lands were expropriated has requested that the portion of the lands not required in fee simple be returned

Section 41 of the *Act* requires an expropriating authority to notify the owner of expropriated land if the expropriating authority determines that it does not require the land or requires a lesser interest in the land. Upon receipt of the notification, the owner can either agree to take the land back or require the expropriating authority to retain the land and compensate the owner accordingly.

The owner has advised the Region that it wants to obtain any portion of the expropriated fee simple interest not required by the Region. The owner has agreed to take back the lands, refund a portion of the compensation and provide a smaller fee simple interest and permanent and temporary easements on the land.

The transactions will be facilitated by minutes of settlement and an agreement of purchase and sale

The abandonment of the fee simple interest will be facilitated through a minutes of settlement agreement, which will resolve all outstanding matters associated with the expropriation, including the partial return of compensation from the owner to the Region. The acquisition of the smaller fee simple interest and the permanent and temporary easements will be completed via an agreement of purchase and sale.

5. Financial

After this abandonment and acquisition, there will be a net gain to the Region. These funds will go back to the project's budget.

6. Local Impact

The widening and reconstruction of St. John's Sideroad provides upgraded capacity to improve traffic operations for the travelling public and support growth within this area, as reflected in the York Region Official Plan.

7. Conclusion

The full extent of the expropriated fee simple interest from this property owner is not required. The majority of the land acquired from this owner was only needed for the duration of construction. Only a portion of the original land expropriated is required in fee simple. A temporary easement adequately facilitated construction and a permanent easement is adequate for the drainage ditch.

The owner of the lands expropriated by the Region has expressed an interest in obtaining any portion of the expropriated fee simple interest not required for the project. The parties have agreed to facilitate this transaction that will return the expropriated fee simple lands back to the owner of 1588 St. John's Sideroad. The owner will sign a Minutes of Settlement Agreement which will finalize the expropriation process. This abandonment will relinquish the lands back to the owner. The owner will refund to the Region the monies paid for the lands. An Agreement of Purchase and Sale will then facilitate the Region's new acquisition of the lands required. Within the new purchase, the Region will be acquiring a temporary, permanent easements and a smaller fee simple interest in the lands. This will protect the Region's interest going forward.

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

September 25, 2020
Attachments (2)
Private Attachments (1)
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