

# **The Regional Municipality of York**

Committee of the Whole  
Finance and Administration  
November 5, 2020  
Report of the Commissioner of Corporate Services

## **Advance Payment for Relocation of Structures and Materials on Expropriated Lands**

### **1. Recommendations**

1. Council authorize agreements with owners or tenants of lands that are subject to expropriation, to provide for the relocation of structures and materials located on the lands and the payment of appropriate compensation prior to settlement of claims under the *Expropriations Act* (the “Act”).
2. The Commissioner of Corporate Services be authorized to negotiate the terms of such agreements, including payment to contractors, if required, and to execute the agreements on behalf of the Region.

### **2. Summary**

This report seeks Council approval to provide reimbursement to owners and tenants for the costs associated with the relocation of structures and materials on lands that are subject to expropriation, in advance of an expropriation settlement.

#### Key Points:

- Lands that the Region requires for projects frequently include improvements such as signage, fencing, hard landscaping, etc., that an owner may want to retain
- Removal or relocation of structures and materials from expropriated lands may be necessary after the Region has obtained ownership of required land, but before the Region and owner have negotiated a settlement of the expropriation
- The Region currently has a process that authorizes the Commissioner of Corporate Services to enter into agreements to relocate or remove items from expropriated lands
- However, the current process requires the owner to obtain a minimum of three quotes to move structures and materials, and does not address circumstances in which this process is not practical
- A more flexible approach for the relocations is required to address the changing needs of projects that are increasingly taking place in developed areas

### 3. Background

#### **Expropriations of partial takings may include improvements that an owner wishes to retain**

Expropriations often involve partial takings of land from owners to facilitate Regional projects, such as a road widenings or sewer installations. Partial takings commonly involve land improved with signage, hard landscaping, fencing or other items that an owner may wish to retain and relocate to the owner's remaining land. If the owner does not wish to retain the items, it may be necessary to have them removed from the land for disposal.

#### **Structures and materials may require removal or relocation prior to the Region having an agreement to settle an expropriation**

Where lands have been expropriated, the *Act* provides that the Region obtains ownership of a land requirement upon registration of an expropriation plan. Although the Region owns the land, there is no inherent right to enter on the land for a minimum of 90 days following registration of the expropriation plan. It may be necessary to have the land cleared of any structures and materials for construction to commence immediately upon the Region obtaining access to the land.

Removal or relocation of structures and materials on expropriated lands is usually a compensable form of damages under the *Act*. Project timing may require the removal of improvements upon possession of property, or prior to an owner having agreed to compensation for damages. In these circumstances, it is necessary to arrange with an owner to move or remove the improvements either:

- After the Region has taken ownership, but not possession of the land, but before the expropriation has been completed and an offer of compensation has been served, or
- After the Region has taken possession of the land and an offer of compensation has been served, but before the Region and owner have agreed to a settlement from the expropriation

#### **Staff have determined that a more flexible procedure is required for facilitating relocations and removals of improvements**

In [June 2010](#), Council authorized the Commissioner of Corporate Services to enter into agreements with property owners to relocate improvements on lands subject to expropriation. The process required property owners to obtain three quotes, with the Region reimbursing the owner based on the lowest quote received.

In some instances, owners have refused or been unable to obtain three quotes. In other instances, corporate owners have an existing contract with a vendor that prohibits the owner from engaging any party other than the vendor to complete the work. Staff has determined

through experience negotiating with property owners that alternatives could provide greater flexibility in resolving the need to relocate improvements.

The purpose of this report is to establish a procedure to replace the current procedure for moving or removing structures and materials from required lands prior to an expropriation settlement.

## 4. Analysis

### **The Region will negotiate the removal or relocation of improvements with the owner based on specific circumstances**

The new procedure will provide staff the flexibility required to negotiate the compensation associated with relocations in advance of negotiating an expropriation settlement. Options for negotiating a Relocation of Structures Agreement would include:

1. The Region and the owner agreeing to one or both parties obtaining at least three quotes from contractors, and the Region will negotiate the reimbursement based on the quotes received. The owner will be responsible to ensure the contract is performed to the owner's satisfaction and within the agreed timeframe.
2. In the event the owner has a pre-existing contract with its own vendor, the owner will obtain a quote. The Region will review the quote to verify that the quoted cost is reasonable for the work that is required. The owner will be responsible to ensure the contract is performed to the owner's satisfaction and within the agreed timeframe.

## 5. Financial

Market value, injurious affection and disturbance as well as structures and materials located on the lands are compensable under the *Act*. Negotiation with the owners for relocation of the improvement(s) in advance may be financially more prudent for the Region than entertaining a claim for the loss of the applicable improvement(s), or related or associated claims or losses.

## 6. Local Impact

The advance reimbursement of costs for relocating structures and materials will enable the Region's projects to move forward more efficiently to provide services to the community.

## 7. Conclusion

In [June 2010](#), Council authorized the Commissioner, Corporate Services to negotiate agreements with property owners who owned improvements on lands that are subject to expropriation, and wished these improvements to be relocated to their remaining land. Over the last 10 years, staff observed that the authorization provided in 2010 does not encompass

circumstances in which it is not practical for the property owner to obtain three quotes for such work.

Staff recommend amending the process to allow increased flexibility when negotiating such relocations on expropriated land, all in the interest of expediting Regional Capital Projects, and reducing costs.

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For more information on this report, please contact Michael Shatil, Director, Property Services Branch 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

October 23, 2020  
Attachments (0)  
Private Attachments (0)  
eDOCS # 10934656