

# The Regional Municipality of York

Committee of the Whole  
Finance and Administration  
June 11, 2020

Report of the Commissioner of Corporate Services

## **Expropriation Settlement Viva Bus Rapid Transit Corridor 16-18 Main Street Town of Newmarket**

### **1. Recommendations**

1. Council authorize the settlement of all claims pursuant to the *Expropriations Act* related to the property known as 16-18 Main Street as described in Attachment 1, for the construction of the bus rapid transit corridor on Davis Drive in the Town of Newmarket.
2. The Commissioner of Corporate Services be authorized to execute the Minutes of Settlement and all necessary documentation to complete the transaction in accordance with the Minutes of Settlement.

### **2. Summary**

This report seeks Council approval of an expropriation settlement with the owner of the property located at 16-18 Main Street in the Town Newmarket for the vivaNext project.

Private Attachment 1 to this report will be considered in private session pursuant to section 239(2) (c) of the *Municipal Act, 2001*, because it relates to the settlement of a claim for compensation.

The property location is shown on the map in Attachment 2.

Key Points:

- Fee simple, permanent easement, and temporary easement interests were expropriated from the property from 2009 to 2014
- The 2009 fee simple interest permanently reduced parking and impacted the site's vehicular circulation
- The Region and the owner have reached a full and final settlement for all expropriations

### **3. Background**

#### **The Region constructed dedicated bus rapid transit lanes for the vivaNext project along Davis Drive in Newmarket**

To facilitate public transit along Davis Drive, York Region Rapid Transit Corporation (YRRTC) on behalf of the Region, constructed dedicated centre bus lanes for Viva buses, with enhanced streetscape from Yonge Street to Alexander Road in Newmarket. Following approval from the Ministry of the Environment, construction of the new rapid way began with utility relocations in May 2009. Road construction commenced in May 2011 and was completed in December 2015.

#### **Land requirements were identified to complete the project and steps were taken to obtain the lands**

The Region identified land requirements from 138 property owners on Davis Drive. All lands required to facilitate the project were obtained through negotiated agreements and expropriation, with the majority of lands acquired via expropriation.

#### **The subject lands were obtained by expropriation**

The property is a single story retail building located on the southwest corner of Davis Drive and Main Street. In [October 2009](#), Council approved the expropriation of a fee simple, a permanent easement interest, and a temporary easement interest from the property. In [October 2012 and May 2014](#), Council approved expropriations to extend the temporary easement first expropriated in 2009. Appraisals were prepared and used to make offers of compensation under section 25 of the *Expropriations Act* (the “Act”) for all requirements.

#### **The Region has negotiated full and final settlements with two tenants**

The property has multiple tenants, two of which have negotiated separate settlements for damages attributed to the project. Other tenancies past and present have not produced claims against the Region for damages. Currently two units at the property remain vacant, and have been vacant for most of the construction period.

#### **The owner and the Region negotiated an expropriation settlement for the expropriations**

The owner is entitled to make a claim for compensation pursuant to the *Act*. The owner made claims for additional compensation.

The owner made a claim for a compensation amount greater than the amount served in the 2009 section 25 offers. These claims arose from damages which resulted from: permanent parking loss, constrained vehicular site circulation, lost rents due to vacancies and lost signage. Appraisal and disturbance damage reports related to the expropriations formed the basis of the Region’s position during negotiations.

The owner did not make any additional claims for compensation with regard to the compensation amounts served through the section 25 offers for the 2012 and 2014 expropriations.

## **4. Analysis**

### **A settlement has been negotiated**

The Region and the owner agreed to a settlement of all expropriations, which includes market value, disturbance damages, interest and other costs that are to be reimbursed in accordance with the *Act*.

The negotiated full and final settlement is considered to be in the best interest of the Region, and will avoid continued interest accrual in accordance with the *Act*. Upon completion of this agreement, the Region will not incur any further legal and litigation expenses with respect to this settlement.

### **Environmental due diligence has been completed**

Environmental due diligence was completed for the Region's interests in the fee simple, permanent easement and temporary easement lands. The results were reviewed by staff in consultation with Legal Services. A deduction has been made to the final settlement to account for a portion of the remediation costs. No further environmental investigation or related work was required.

## **5. Financial**

The funding to complete this property settlement is included in the 2020 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement between the Region, YRRTC and Metrolinx. This settlement is subject to Metrolinx approval under the terms of the Master Agreement.

## **6. Local Impact**

This project has improved public transit and the streetscape along Davis Drive for residents of Newmarket and the Region.

## **7. Conclusion**

The Region expropriated lands from 16-18 Main Street in the Town of Newmarket, for the vivaNext project. A final settlement for all expropriation claims has been negotiated with the owner and eliminates any further financial exposure from the owner for impacts caused during construction.

It is recommended that Council authorize the expropriation settlement described in this report to settle all claims with the owner of 16-18 Main Street, subject to Metrolinx approval.

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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

June 2, 2020  
Attachments (2)  
Private Attachments (1)  
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