

# **The Regional Municipality of York**

Committee of the Whole  
Finance and Administration  
May 9, 2019

Report of the Commissioner of Corporate Services

## **Approval to Expropriate Rutherford Road from Jane Street to Westburne Drive 2650 Rutherford Road City of Vaughan**

### **1. Recommendations**

1. Council receive and consider the Inquiry Officer's report from the Hearing of Necessity in relation to the lands set out in Attachment 1, which found the taking of the land to be fair, sound and reasonably necessary.
2. Council, as approving authority, approve the expropriation of the lands set out in Attachment 1 for the widening and reconstruction of Rutherford Road, in the City of Vaughan, and adopt the reasons for approval set out in Attachment 4.
3. The Commissioner of Corporate Services be authorized to execute and serve any notices required under the Expropriations Act (the "*Act*").
4. Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

### **2. Summary**

This report requests that Council, as required by the *Act*, consider the Inquiry Officer's report that concludes the proposed taking of the subject lands is fair, sound and reasonably necessary for the widening and reconstruction of Rutherford Road, from Jane Street to Westburne Drive, in the City of Vaughan. The location of the property is shown on the map in Attachment 2.

This report also seeks Council approval, in accordance with the *Act*, to expropriate portions of land from the subject property.

## Key Points:

- Council approved the commencement of the expropriation process for the first phase of the widening and reconstruction of Rutherford Road, from four to six lanes between Jane Street and Westburne Drive in June 2017
- 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
- In the opinion of the Inquiry Officer, the land requirement from the subject property was fair, sound and reasonably necessary for the widening and reconstruction of Rutherford Road
- In accordance with the *Act*, Council must consider the Inquiry Officer's report and serve written notice of its decision and written reasons on all parties to the Hearing of Necessity

## 3. Background

### **Rutherford Road is being widened from Jane Street to Bathurst Street**

The Region is undertaking improvements to Rutherford Road from Jane Street to Bathurst Street, in the City of Vaughan, to widen the road from four to six lanes. Rutherford Road will be improved to accommodate 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 will also include 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 between Jane Street and Westburne Drive is scheduled to commence in 2020. The lands that are the subject of this report are located in this initial phase of the project.

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

On [June 29, 2017](#), Council authorized an Application for Approval to Expropriate interests from 23 property owners. Following Council approval, the 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 an inquiry (Hearing of Necessity) as to whether the taking of the lands by the Region is fair, sound and reasonably necessary.

## **The owner of the subject property requested a Hearing of Necessity to determine if the taking of the land was fair, sound and reasonably necessary**

The Region received a request for a Hearing of Necessity from the owners of the property that is the subject of this report. The expropriation cannot proceed until the Hearing of Necessity has taken place and the Inquiry Officer has provided an opinion with respect to the proposed taking.

Expropriation plans have been registered for the remaining property requirements along this corridor.

## **The *Act* requires that Council consider the Inquiry Officer's report, decide how to proceed, and serve its decision within 90 days**

The Hearing of Necessity for the subject property was held on March 1, 2019.

The *Act* provides that Council, after considering the report, can decide to approve or not approve or approve with modifications the proposed expropriation. Council must serve written reasons for its decision on all parties to the Hearing of Necessity, including the Inquiry Officer, within 90 days of receipt of the Inquiry Officer's report.

## **4. Analysis**

### **Approval to expropriate is recommended based on the Inquiry Officer's Report**

The Inquiry Officer's report, provided in Attachment 3, was submitted on March 17, 2019. The Inquiry Officer's report set out an opinion based on the evidence and arguments of the parties as required by the *Act*.

Based on the evidence and arguments provided by both parties, the Inquiry Officer concluded the proposed taking of land from the subject property is fair, sound and reasonably necessary. The Inquiry Officer was satisfied that the Region considered alternatives during the environmental assessment and the selected plan to shift the centre line of the road to the north approximately four metres at this location. Property requirements and environmental impacts were kept to a minimum.

Upon review of the report by the Region, it is recommended that the expropriation of the subject land proceed in accordance with the original Application for Approval to Expropriate that was served on the property owners, for the reasons set out in Attachment 4.

### **Approval to expropriate will allow the Region to secure ownership of the lands**

The approval to serve the owners with a notice of application for approval to expropriate was the first of three steps involving authorization by Council in the expropriation process. The

second step in the process is the purpose of this report, which seeks the approval from Council to obtain ownership of the lands through the registration of an expropriation plan.

The approval to make an offer of compensation to the owner is the third step in the Council approval process, which will be the subject of a future report to Council. The three steps in the expropriation approval process are illustrated in Figure 1 below.

**Figure 1  
Council Approval Steps**



**Notice of the expropriation will be served upon the owner in accordance with the *Act***

Expropriation plans will be registered upon receiving Council approval of the recommendations of this report. The Region will acquire title to the land when the expropriation plan is registered at the Land Registry Office. The owners will then be served with notices of expropriation and possession of the lands. In accordance with the *Act*, it is necessary to make an offer of compensation prior to securing possession of the land. The offer of compensation will be the subject of a future report to Council.

**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 lands. The results identified the need to complete a Phase Two ESA at the site that is the subject of this report.

Staff continues to work with the property owner to access the lands 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 the 2019 Capital Budget for Transportation Services.

## 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

The Region commenced the expropriation process on June 29, 2017 for partial land takings from 23 property owners to facilitate the widening of a portion Rutherford Road from Jane Street to Westburne Drive. Upon receipt of the Notice of Application for Approval to Expropriate, the owners of the property that is the subject of this report requested a Hearing of Necessity to determine if the proposed taking was fair, sound and reasonably necessary. The Hearing of Necessity was held on March 1, 2019. On March 17, 2019 the Inquiry Officer concluded that the taking of land from the subject property is fair, sound and reasonably necessary.

The *Act* requires Council, as approving authority, to consider the Inquiry Officer's report and determine whether to proceed with the expropriation. Based on the findings stated in the Inquiry Officer's report, staff recommends that Council approve the expropriation of the lands.

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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

April 25, 2019  
Attachments (4)  
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