

The Regional Municipality of York

Committee of the Whole
Finance and Administration
September 19, 2019

Report of the Commissioner of Corporate Services

Compensation for Expropriation 12960 Yonge Street and 57 King Road City of Richmond Hill

1. Recommendation

Council authorize the Commissioner of Corporate Services to make offers of compensation to the owners of lands as set out in Attachment 1 that were acquired in accordance with the *Expropriations Act* (the “*Act*”).

2. Summary

This report seeks Council approval to serve offers of compensation under section 25 of the *Act* to the owners whose lands have been expropriated as part of the development of an Air Management Facility on Region-owned land known as 57 King Road in the southwest quadrant of Yonge Street and King Road in the City of Richmond Hill. The location of the lands is shown on the map in Attachment 2.

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

Key Points:

- In [January 2018](#), Council authorized the expropriation of the subject property
- Expropriation plans were registered on title on July 23, 2019, transferring title of the expropriated lands 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 lands
- The anticipated possession date of the expropriated lands is November 25, 2019

3. Background

An Air Management Facility is required in the Oak Ridges area

In 2015, the Region's Environmental Services Department completed a study to identify a permanent solution to address nuisance emissions occurring in the Oak Ridges area. Following the study, it was determined that the construction of an Air Management Facility is required to address the concerns.

The report also reviewed possible criteria for site selection and identified the lands owned by the Region at 57 King Road as a possible location.

A short list of potential properties to develop the Air Management Facility was prepared and 57 King Road was selected

Proximity to Yonge Street and the sanitary sewer is a key factor in the selection of a property for an Air Management Facility. Five potential sites were identified and assessed in a Municipal Class Environmental Assessment. Following a detailed analysis and scoring, the Region-owned property at 57 King Road was selected as the best location.

The Province of Ontario transferred the property to the Region in 2001

The King Road property was transferred from the Ontario Clean Water Agency to the Region on September 26, 2001. The site previously housed a municipal well. The well is now decommissioned and the property is vacant and has been fenced for security.

The Region's property is landlocked and can only be accessed from King Road by a right of way over an adjoining property (owned by Richmond Hill) to the north as shown in Attachment 2.

The Region requires an easement over 12960 Yonge Street to install and maintain infrastructure for the Air Management Facility

The adjacent owner's land at 12960 Yonge Street, borders the Region's property on the east and south sides, and has frontage on Yonge Street. To transfer air from the sewer in the Yonge Street right of way to the Air Management Facility, it is necessary to install and maintain a pipe through the adjacent owner's property. To construct and maintain the pipe, an easement is required along the north limit of the adjacent owner's property, as shown in Attachment 2.

The Region also requires the partial release of a right of way registered against the Region's land

The Region's property at 57 King Road is subject to a right of way along its westerly limit in favour of the adjoining property owners at 12960 Yonge Street. This right of way from King Road provides a secondary access to 12960 Yonge Street.

The right of way over the Region's property is not currently in use by the adjacent owner, but is a registered interest in favour of the owner and can only be used for access purposes.

The Region requires the partial release of this right of way to provide sufficient area to facilitate the construction of the Air Management Facility. This partial release of the right of way from the Region's land will also be acquired through expropriation. Compensation is required for this partial release. The remainder of the right of way will remain for continued access to the owner's land, and to avoid further damages.

4. Analysis

Council previously approved expropriations for the project

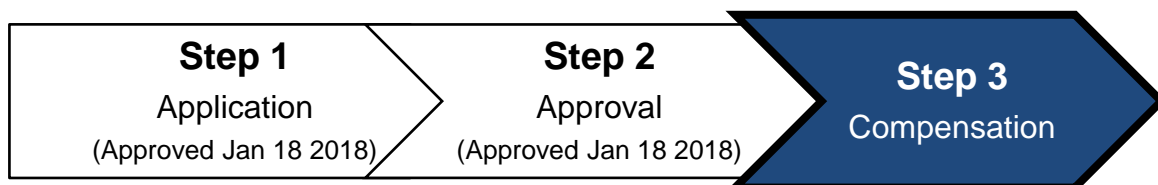
In [January 2018](#), Council authorized the expropriations subject to this report. The approval was for the interests required to support the new facility:

- The easement on 12960 Yonge Street
- The release of part of the right of way located on the Region's land at 57 King Road

This report seeks Council authorization to serve offers of compensation

This report requests Council authorization to issue offers of compensation to the owners of the affected lands. This is the third of three steps in the Council approval process for property expropriation, as indicated in Figure 1 below.

Figure 1
Council Approval Steps



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

The Region acquired title to the lands when the expropriation plan was registered on July 23, 2019 at the Land Registry Office. In accordance with the *Act*, the Region cannot obtain possession until a minimum of three months after notifying the owner that the expropriation plan has been registered. In addition, it is necessary to make offers of compensation to the owner as a prerequisite to obtaining possession of the expropriated lands. The offers of compensation are proposed to be delivered in anticipation of possession of the lands on November 25, 2019.

Independent reports have established the compensation which will form the basis of offers

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 lands expropriated and any damages for loss of improvements and injurious affection. If the owner accepts the offer, then the owner, with a few exceptions, accepts the offer in full satisfaction of any claims the owner may have with respect to the expropriation.

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

In the event an owner does 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) to assess the potential environmental condition of the lands is complete. The findings of the ESA were based on review of available site records and external visual inspection as access to the property was not permitted. Given the findings of the Phase One ESA, a Phase Two ESA is required to confirm the presence or absence of environmental impacts identified in the Phase One ESA.

The results of the environmental due diligence conducted for the lands will be reviewed by staff, including Legal Services. In the event environmental impacts are identified, staff will take the necessary steps to minimize the Region's exposure to environmental risk and liability and may report to Council with recommendations depending on the nature and extent of the impacts.

5. Financial

Funding required to complete the property acquisition that is the subject of this report is included in the 2019 Capital Budget for Environmental Services.

6. Local Impact

The Air Management Facility is important local infrastructure that will improve the air quality for local residents and businesses in the Oak Ridges neighbourhood. The acquisition of these property interests will enable the construction of a facility to treat sewer air.

7. Conclusion

The purpose of the Air Management Facility is to control air from the sanitary sewer operating on Yonge Street in the community of Oak Ridges. The Region owns a parcel of land that has been determined to be the most appropriate location for the development of a facility to treat air from the sewer.

Two property interests are required. The first requirement is a permanent easement over the adjacent property at 12960 Yonge Street to allow the installation of a pipe that will bring in air from the sewer to be treated.

The second requirement is the expropriation of the partial release of the right of way that encumbers the Region's land at 57 King Road, in favor of the owners at 12960 Yonge Street. The reduced area for the right of way will allow for construction of the building on the Region's land. The right of way is in favour of 12960 Yonge Street and provides a secondary access to that property.

The *Act* requires that offers of compensation for expropriated lands be served on the registered owner before taking possession. The proposed offers will be based on estimates provided by an independently commissioned appraiser. Staff will serve the section 25 offers and will report back to Council prior to obtaining possession of the subject lands.

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

August 12, 2019
Attachments (2)
Private Attachments (1)
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