

The Regional Municipality of York

Committee of the Whole
Finance and Administration
October 10, 2019

Report of the Commissioner of Corporate Services

Expropriation of Land Mid-Block Crossing of Highway 404 North of 16th Avenue City of Richmond Hill and City of Markham

1. Recommendations

1. Council approve an application for approval to expropriate the lands set out in Attachment 1, required for the Highway 404 Mid-Block Crossing north of 16th Avenue in the City of Richmond Hill and the City of Markham.
2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the "Notice") and to serve and publish the Notice, as required under the *Expropriations Act* (the "Act").
3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, at an inquiry (Hearing of Necessity) held under the *Act*.
4. Council, as approving authority, approve the expropriation of the lands provided there is no Hearing of Necessity requested and not withdrawn in accordance with the *Act*. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the *Act*.
5. Where approval to expropriate the land is given, the Commissioner of Corporate Services is authorized to register a plan of expropriation and execute and serve any notices required under the *Act*.
6. Where approval to expropriate the land is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

2. Summary

This report seeks Council approval to expropriate land for the Highway 404 Mid-Block Crossing north of 16th Avenue, in the City of Richmond Hill and the City of Markham. The locations of the properties are shown on the maps in Attachment's 2 and 3.

Highway 404 forms the boundary between Richmond Hill and Markham. Lands are required from owners in both municipalities to facilitate the project. Permanent and fee simple interests are required for the construction of the Mid-block Crossing.

Key Points:

- Council previously approved the acquisition of two properties for the Mid-block Crossing in [May 2016](#) and [May 2018](#)
- Additional lands have been identified, through detailed design, to facilitate the construction. The subject of this report is the proposed expropriation of these lands
- Possession gives the Region the ability to commence construction as outlined in the 2019 10-Year Roads And Transit Capital Construction Program

3. Background

The Highway 404 Mid-block Crossings Study confirmed that mid-block crossings are integral to the area transportation network

In 2012, the Region completed the Highway 404 Mid-block Crossings Study, which concluded that implementing the road improvements to these areas will yield transportation benefits. The Mid-block Crossing north of 16th Avenue is required to manage traffic congestion and provide additional transportation capacity in the area.

The Municipal Class Environmental Assessment (EA) for the Highway 404 Mid-block Crossing north of 16th Avenue was completed in March 2015, and in 2016 the Region initiated the detailed design and property acquisition phase of the project.

Privately owned lands are required to accommodate the mid-block crossing

Acquisition of 14 properties is necessary to accommodate the mid-block crossing. The properties are located on the east and west side of Highway 404 midway between 16th Avenue and Major Mackenzie Drive.

Transportation Services has begun the process of seeking provincial permitting and approvals with design underway. Purchasing the property now gives the Region certainty on

price and flexibility of construction start time as property costs in the Region continue to increase.

4. Analysis

Staff continues to negotiate with property owners throughout the expropriation

The subject properties of this report are business park employment properties. Discussions with owners commenced in 2016 when the original requirements were identified. Negotiations to settle on the original requirements and obtain the additional requirements are ongoing, and will continue throughout the design and construction phases.

Initiating the expropriation process will allow access to the subject lands in a timely manner

The preferred approach to obtaining an interest in land is to negotiate an acquisition with the property owner. However, expropriation is deemed a necessary approach to ensure timely possession of property requirements for the needs of the project.

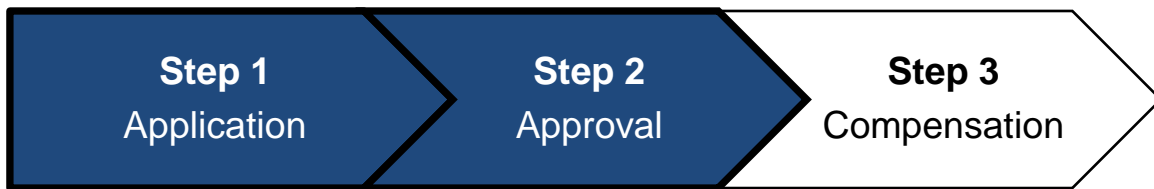
In an effort to secure possession and complete the property acquisition for this project, it is recommended that the expropriation process proceed concurrently with ongoing negotiations.

Council Approval is required at three stages of the expropriation process

Approval by Council is required at three stages in the expropriation process. These include the request to Council to authorize an application for approval to expropriate the land, the expropriation itself, and the offer of compensation made to the former owner of the land.

In an effort to ensure timely possession, the first and second steps in the Council approval process have been combined for this report, as indicated in Figure 1 below. The third step will be the subject of a future report to Council, in the event the expropriation proceeds. Possession of the land cannot be obtained until this third step has been completed and the owner is served an Offer of Compensation.

Figure 1
Council Approval Steps



Owners have the right to request a Hearing of Necessity upon receipt of a Notice of Application for Approval to Expropriate

The first step in the expropriation process is to serve the registered owner with a notice of intention to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate, the owner has the right within 30 days of receipt to request an inquiry (Hearing of Necessity) to determine whether the taking of the land by the Region is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

If an owner requests a Hearing of Necessity, then subsequent to the Hearing, an Inquiry Officer will provide a report providing an opinion as to whether the taking is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

Registration of an expropriation plan will secure title to the interest in the land by the Region

If no Hearing of Necessity is requested, an expropriation plan will be registered at the Land Registry Office within three months of Council granting approval of a by-law to proceed with the expropriation. This is the second step in the expropriation process, with registration of the plan anticipated to be in the fall of 2019.

Registration of the expropriation plan is a key step in the expropriation process. It is at this point that the Region acquires title to the interest in the land. However, further steps are required to obtain possession, or the right to access the land.

Following the registration of the expropriation plan, the notice of expropriation and possession will be served on the owner. Under the *Act*, possession of the interest in the land is to take place no sooner than three months after registration of the expropriation plan. In addition, offers of compensation must be served on the owner to obtain possession.

Environmental due diligence will be completed prior to the Region taking ownership of the Lands

Environmental due diligence is currently underway and remains to be completed. Prior to registration of the expropriation plans, the results of the environmental due diligence conducted for the lands will be reviewed by staff, including consultation with 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

The funds required to support offers of compensation for the property acquisitions for the mid-block crossing project have been included in the 2019 Capital Budget for Transportation Services, Capital Planning and Delivery Branch.

Pursuant to the Council approved Funding Collector Road Crossings of 400 Series Highways Policy of 2007, Transportation Services staff will work with the City of Richmond Hill and the City of Markham to allocate the costs of this project.

Under section 25 of the *Act*, the Region is obligated to serve offers of compensation on an owner within three months of the registration of the expropriation plan. The appraisals required to support these offers will be prepared and the proposed offers will be the subject of a further report to Council

6. Local Impact

The project provides improved access opportunities that will benefit road users, area residents and businesses, and potential future development areas along the Highway 404 corridor in both Richmond Hill and Markham. The project will further support the accommodation of the forecasted growth in the Region's Official Plan.

Staff has consulted with the City of Richmond Hill and the City of Markham regarding the delivery of this project. Both municipalities support the Region proceeding with the project. Staff is currently engaged in discussions to formalize cost sharing agreements with both municipalities, which are expected to be completed prior to construction.

7. Conclusion

This report seeks Council approval to expropriate property interests required for the Mid-block Crossing in the City of Richmond Hill and the City of Markham. To facilitate the project schedule, it is necessary to initiate the expropriation process. Staff continues to negotiate for

the acquisition of the required property and expropriation proceedings will be discontinued in the event that negotiations are successful

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 6, 2019
Attachments (3)
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