

The Regional Municipality of York

Committee of the Whole
Finance and Administration
November 14, 2019

Report of the Commissioner of Corporate Services

Acquisition of Land 10021 Highway 50 City of Vaughan

1. Recommendations

It is recommended that:

1. Council authorize the acquisition of the lands pursuant to section 30 of the *Expropriations Act* (the “*Act*”) required for the widening and reconstruction of Major Mackenzie Drive in the City of Vaughan, as set out in Attachment 1.
2. The Commissioner of Corporate Services be authorized to execute all necessary documents to complete the transaction.

2. Summary

This report seeks Council approval to acquire land for the widening and reconstruction of Major Mackenzie Drive from Highway 50 to the Highway 427 Interchange, in the City of Vaughan, as 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

- The Region is widening Major Mackenzie Drive from Highway 50 to Highway 427
- A partial taking was originally expropriated from the subject
- The widening of the road requires demolition of the commercial building on the property and will restrict access/egress from Major Mackenzie Drive due to proximity of the property to the intersection
- It was determined as necessary to acquire the entire property to mitigate the owner’s claims for damages under the *Act*

3. Background

Major Mackenzie Drive is being widened between Highway 50 and the Highway 427 interchange in Vaughan

The Ministry of Transportation of Ontario (MTO) is extending Highway 427 from Highway 7 to Major Mackenzie Drive, including an interchange at Major Mackenzie Drive. At the same time, the Region is widening Major Mackenzie Drive to six lanes from Highway 50 to the Highway 427 interchange, in the City of Vaughan. The improved roadway will tie into the Highway 427 interchange and include Transit-HOV lanes and off-street cycling facilities.

The property that is the subject of this report is privately owned land located at the northeast of Highway 50 and Major Mackenzie Drive, west of the Canadian Pacific Railway crossing. The location of the property is shown in Attachment 2.

Council previously approved expropriation of land for this project that included land from the subject property owner

In [June 2016](#), and [January 2018](#), Council authorized expropriation of partial takings from six privately owned properties along Major Mackenzie Drive east of Highway 50 and west of the Highway 427 interchange, in the City of Vaughan. Expropriation plans were registered on title August 3, 2017, and the Region took possession of all of the properties except for the subject property on February 15, 2018.

Subsequent to the registration of the expropriation plans, it was determined that the partial taking from the subject property necessitated demolition of the owner's service garage because it was partially within the taking. The owner and Region agreed to delay possession of the expropriated land until November 30, 2019, to allow the owner more time to relocate due to the impending demolition.

An easement was required to accommodate demolition of a garage on the property

To facilitate demolition of the garage, it was determined that access to an additional portion of the owner's land would be required as a temporary easement. In [January 2019](#), Council authorized the expropriation of a temporary easement encompassing the garage for the demolition.

4. Analysis

Potential future claims for business loss and injurious affection to the remaining property warrant a full buyout

The project necessitated demolition of an existing building and closure of property access on Major Mackenzie Drive. Access/egress to the property will be maintained on Highway 50.

The Region is anticipating costs associated with injurious affection and business loss claims that could potentially be greater than the market value of the remaining lands. To mitigate the costs of these claims, a full buyout of the property is warranted.

The Owner has agreed in principle to transfer land for an advanced payment while negotiations for final settlement are ongoing

The Region and owner of the subject property negotiated an agreement in principle pursuant to section 30 of the *Act*. Section 30 of the *Act* provides for the owner to transfer the land requirements based on compensation determined by the Region, while protecting the owner's rights to seek additional compensation in the future.

The advanced compensation provided with the section 30 agreement is based on an independent appraisal report. Negotiations to settle final compensation will continue and will be subject to a future settlement agreement.

Environmental due diligence testing is currently underway

As part of the process for the previous expropriation, the Region commissioned a Phase One and a Phase Two Environmental Site Assessment. The results of the soil and groundwater testing confirmed that environmental impacts are present at this site. The Region obtained a remediation plan and the estimated remediation costs were deducted from the owner's offer of compensation for the land previously expropriated.

Staff continues to work with the property owner to access the subject land to complete the required environmental work. Prior to the delivery of an offer, Property Services and Legal Services staff will review the findings of the environmental work program. Staff will take necessary steps to minimize the Region's potential 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 Major Mackenzie Drive will provide upgraded capacity to improve traffic operations for the travelling public and will support forecasted growth in the York Region Official Plan.

7. Conclusion

In August 2017, an expropriation plan for a partial acquisition was registered on the subject property. The partial acquisition will require the demolition of the owner's service garage leaving the Region open to significant claims associated with business relocation, storage, and business loss claims that could potentially amount to compensation equal to or greater than the market value of the remaining lands.

To mitigate the costs of these claims, external counsel has negotiated an agreement pursuant to section 30 of the *Act*, whereby the owners have agreed to transfer the land requirements, while protecting their rights to determine final compensation at a later date.

Negotiations will continue to achieve a final settlement with the property owner.

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

November 1, 2019
Attachments (2)
Private Attachments (1)
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