

THE REGIONAL MUNICIPALITY OF YORK

REPORT NO 2 OF THE REGIONAL SOLICITOR

**For Consideration by
The Council of The Regional Municipality of York
on March 25, 2010**

**1
DECISION OF THE INQUIRY OFFICER
EXPROPRIATION OF LANDS
BLOOMINGTON ROAD (YR 40), TOWN OF AURORA**

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council consider the decision of the Inquiry Officer attached as Attachment 1.
2. Regional Council approve the expropriation of a fee simple interest in approximately 2425.9m² (0.599 acres) being Part 5 on Plan 65R-30903 and Parts 4 and 5 on Plan 65R-30904 as recommended in the decision of the Inquiry Officer.
3. Regional Council approve the payment of invoices and/or accounts as recommended in the decision of the Inquiry Officer.

2. PURPOSE

The purpose of this report is to present to Regional Council the decision of the Inquiry Officer with respect to a Hearing of Necessity requested by Mr. Vito DiBlasi regarding the expropriation of certain lands in the Town of Aurora. The lands are required for the widening and reconstruction of Bloomington Road (YR 40) from Bayview Avenue (YR 34) to Highway 404.

The report recommends that Regional Council approve the expropriation of the lands required for this project.

3. BACKGROUND

Regional staff and the owner have agreed to amendments to the land taking since Regional Council approved the application to expropriate

On September 18, 2008 Regional Council approved an application for approval to expropriate lands and interests in lands located in the Towns of Aurora and Richmond Hill. These lands included lands owned by Mr. DiBlasi, designated as follows:

- (a) a fee simple interest in Part 5 on Plan 65R-30903 and Part 4 on Plan 65R-30904; and
- (b) a permanent easement interest in Part 5 on Plan 65R-30904.

Pursuant to the above authority, the required Notice of Application for Approval to Expropriate Land was served on the owners and they were given 30 days within which to request a Hearing of Necessity.

A hearing was requested by Mr. DiBlasi and was scheduled for February 10, 2010. In the time leading up to the hearing date, ongoing discussions occurred between the Region and Mr. DiBlasi regarding the Regional land requirements for this project. As a result of these discussions, it was determined by staff in the Transportation Services Department that a fee simple interest, rather than a permanent easement interest, was required in Part 5 on Plan 65R-30904. This was to accommodate a drainage facility for stormwater retention. Agreement on this revised taking was reached with Mr. DiBlasi prior to the hearing. Accordingly, no formal hearing was held, however, the Inquiry Officer issued a decision endorsing the agreement reached between the Region and Mr. DiBlasi.

In addition, the Region and Mr. DiBlasi agreed that the Region would reimburse Mr. DiBlasi, upon receipt of invoices and/or accounts, for professional services paid by Mr. DiBlasi to investigate a trespass on his property by Enbridge Gas Distribution in connection with the relocation of utilities associated with the road widening. The Region will seek reimbursement for the amounts claimed from Enbridge Gas Distribution.

4. ANALYSIS AND OPTIONS

The decision of the Inquiry Officer endorses the agreement reached between the parties

Under the *Expropriations Act*, Regional Council is required to consider the decision of an Inquiry Officer appointed under the Act. In this case, the decision supports the agreement made between the Region and Mr. DiBlasi and it is therefore recommended

that Regional Council approve the expropriation of a fee simple interest in Part 5 on Plan 65R-30904.

This differs from the original authorization in that a fee simple interest rather than a permanent easement interest is to be expropriated.

5. FINANCIAL IMPLICATIONS

In accordance with the Inquiry Officer's decision, the Region will reimburse Mr. DiBlasi for costs incurred in investigating a trespass by Enbridge Gas Distribution and retaining counsel to represent him in the matter of the trespass. The Region in turn will seek reimbursement from Enbridge Gas Distribution. The total amount of reimbursement to Mr. DiBlasi is not expected to exceed \$5,000.00.

Following the registration of the expropriation plan, an appraisal will be prepared, on the basis of which an offer of compensation will be made under section 25 of the *Expropriations Act*. This offer will be the subject of a further report to Council.

6. LOCAL MUNICIPAL IMPACT

Bloomington Road is presently a two-lane paved road with gravel shoulders and roadside ditches and is expected to be beyond capacity for this type of road within the next ten years. The widening and reconstruction of Bloomington Road will provide additional east-west capacity to improve traffic operations for the travelling public and will meet the expected growth in this area.

7. CONCLUSION

A Hearing of Necessity was requested by the owner of lands required for the widening and reconstruction of Bloomington Road (YR 40). Prior to the hearing, the Region and the owner agreed to an amendment to the land taking. The Inquiry Officer endorsed this agreement and it is recommended that Regional Council approve the expropriation of the lands set out in this report.

For more information on this report, please contact Elizabeth Wilson, Senior Counsel at 905-830-4444 Ext. 1402.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)

Respectfully submitted,

**March 10, 2010
Newmarket, Ontario**

**J. Hulton
Regional Solicitor**

(Report No. 2 of the Regional Solicitor was adopted without amendment, by the Council of The Regional Municipality of York at its meeting on March 25, 2010.)

DECISION

Re: Hearing of Necessity requested by The Regional Municipality of York to expropriate lands in the Towns of Aurora and Richmond Hill in the Regional Municipality of York, in the Province of Ontario for the purpose of the widening and reconstruction of Bloomington Road (YR40) from Bayview Avenue (YR34) to Highway 404.

This matter scheduled for Wednesday ~~10th~~^{10th} February, 2010 at the hour of 9.30 o'clock in the forenoon and being advised that the matter has been settled pursuant to a Consent dated 4th February, 2010.

This matter is therefore settled on the basis on the Consent filed with no necessity for an Inquiry to be conducted.

Dated at Toronto this 5th day of February, 2010.



David R. Vine Q. C.
Inquiry Officer

Enclosure: Consent dated 4th February, 2010

THE REGIONAL MUNICIPALITY OF YORK

(the "Region")

- and -

VITO DiBLASI

(the "Property Owner")

IN THE MATTER OF the *Expropriations Act*, and

IN THE MATTER OF a Hearing of Necessity requested by The Regional Municipality of York to expropriate lands in the Towns of Aurora and Richmond Hill in the Regional Municipality of York, in the Province of Ontario for the purpose of the widening and reconstruction of Bloomington Road (YR40) from Bayview Avenue (YR34) to Highway 404.

CONSENT

WHEREAS a Hearing of Necessity was requested by the Property Owner for February 10, 2010;

AND WHEREAS the parties have agreed to resolve the issues arising from the expropriation of the Property Owner's lands by the Region in accordance with this Consent;

NOW THEREFORE the parties agree as follows and consent to a recommendation by the Inquiry Officer, David Vine Q.C., in accordance with the draft attached hereto:

1. The property described as Part of Lot 11, Concession 2, in the Town of Aurora in The Regional Municipality of York, designated as follows:

- Part 5 on Plan 65R-30903
- Part 4 on Plan 65R-30904
- Part 5 on Plan 65R-30904

shall be expropriated in fee simple by the Region in accordance with the provisions of the *Expropriations Act*, R.S.O. 1990, c. E.26.

2. The parties will proceed with the process of compensating the Property Owner for lands which have already been expropriated and for the lands as described herein forthwith in accordance with the provisions of the *Expropriations Act* and shall continue to participate in the compensation proceedings without undue delay.
3. Upon presentation of invoices and/or accounts for professional services paid by the Property Owner to investigate a trespass on his lands by Enbridge Gas Distribution Inc. in carrying out work associated with the widening and reconstruction of

Bloomington Road, and upon approval of the amounts claimed in those invoices, the Region will reimburse the Property Owner directly and will see any reimbursements from Enbridge Gas Distribution Inc.

DATED: February 4, 2010

THE REGIONAL MUNICIPALITY OF YORK

Per: 

~~Dan Kuzniak~~
Counsel for The Regional Municipality of York

DATED: February 4, 2010

VITO DI BLASI

Per: 

Maurice J. Neirinck
Counsel for Vito Di Blasi

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