

Clause 28 in Report No. 12 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on September 20, 2018.

28

Compensation for Expropriation
York Durham Sewage System Modifications
Town of Aurora and Town of Newmarket

Committee of the Whole recommends adoption of the following recommendation contained in the report dated August 16, 2018 from the Commissioner of Corporate Services:

1. Council authorize the Commissioner of Corporate Services to make offers of compensation to the owners of lands in the Towns of Aurora and Newmarket, as set out in Attachment 1, which were acquired in accordance with the Expropriations Act (the "Act").

(See Clause 41.)

Report dated August 16, 2018 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize the Commissioner of Corporate Services to make offers of compensation to the owners of lands in the Towns of Aurora and Newmarket, as set out in Attachment 1, which were acquired in accordance with the *Expropriations Act* (the "Act").

2. Purpose

This report seeks Council approval to serve offers of compensation under section 25 of the *Act* to the owners whose lands have been expropriated for the development of the York Durham Sewage Systems Modifications project in the Towns of Aurora and Newmarket, 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.

3. Background and Previous Council Direction

The Upper York Sewage Solutions project will provide servicing for planned growth

The purpose of the Upper York Sewage Solutions project is to develop a sustainable sewage servicing solution to accommodate planned growth for employment and communities in the Towns of Aurora, East Gwillimbury and Newmarket. The York Durham Sewage System Modifications is one of three major components of the Upper York Sewage Solutions project. The other two components are the proposed Water Reclamation Centre and the Total Phosphorous offsets initiative.

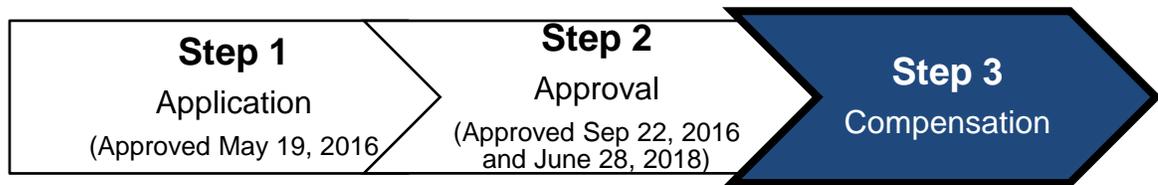
Council previously approved the expropriation of land for this project

On [May 19, 2016](#), Council authorized an application for approval to expropriate. On [September 22, 2016](#) and [June 28, 2018](#) Council authorized approvals to expropriate properties required for the York Durham Sewage System Modifications. Expropriation plans for properties 3 and 7 on the private attachment have not been registered. Staff expects the plans to be registered in October 2018.

This report seeks Council authorization to serve offers of compensation

The graphic below summarizes the three steps in the process for obtaining approval by Council for expropriation. This report is for the third and final step in the expropriation approval process. Upon approval by Council of this step, completion of the process will involve the Region serving offers of compensation to the owners and obtaining possession of the required lands.

Figure 1
Council Approval Steps



Approval for the Environmental Assessment for the Upper York Sewage Solutions project is pending

The Upper York Sewage Solutions project is following the planning process established under the *Environmental Assessment Act* for an individual Environmental Assessment (EA). The EA was conducted in two parts, a Terms of Reference, essentially a road map for how the EA would be undertaken, and the EA itself. Having received approval from the Ministry of the Environment and Climate Change (MOECC) on the Terms of Reference, the final EA report was submitted for approval on July 25, 2014.

Following the submission, MOECC staff began an internal review and public consultation process, in accordance with regulatory guidelines. The Notice of Completion of Ministry Review was published on January 22, 2016. The public comment period on the review ended February 26, 2016. All comments received were documented and the next step is for the Ministry of Environment, Conservation and Parklands (MOECP), formerly MOECC, to render a decision on approval of the EA.

An Order was made under the Environmental Assessment Act to exempt the York Durham Sewage System Modifications component

On March 7, 2018, the Minister of Natural Resources and Forestry issued a Declaration Order (the "*Declaration Order*") to exempt the York Durham Sewage System Modifications component from the requirements of the *Environmental Assessment Act*. As a result, the Region is able to proceed and implement the twinning of the forcemains and alterations to the Newmarket and Bogart Creek Sewage Pumping Stations that comprise the York Durham Sewage System Modifications. The York Durham Sewage System Modifications include:

- A new 5.2 kilometre forcemain from the existing Newmarket Sewage Pumping Station to the existing gravity sewer that discharges to the Aurora Sewage Pumping Station.
- A new 0.5 kilometre forcemain from the existing Bogart Creek Sewage Pumping Station to the new Newmarket forcemain.

Alterations to the Newmarket and Bogart Creek Sewage Pumping Stations will occur to facilitate connection of the new forcemains.

4. Analysis and Implications

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 at the Land Registry Office on June 21, 2018. 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 in October 2018.

Independent reports will establish the compensation which will form the basis of offers

An independent consultant will be commissioned to provide an estimate report of compensation. The report will include appraisals of market value for the lands expropriated and, if applicable, estimates of compensation for damages for loss of improvements (such as landscaping or parking) and injurious affection (the loss of value to the lands retained by the owner). Once the section 25 offers are served, staff will report back to Council to advise of the compensation amounts offered prior to obtaining possession of the lands.

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.

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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 that an owner does not accept the first offer of compensation, staff will endeavour to negotiate a full and final settlement.

Environmental due diligence has been completed

A Phase One Environmental Site Assessment (ESA) was performed route wide to assess the potential environmental conditions of the lands. Based on the results of the Phase One ESA, a Phase Two ESA and Soil Quality Investigation were required. The Phase Two ESA and Soil Quality Investigation were completed and reviewed by staff in consultation with Legal Services. No significant environmental issues were identified and no further action is warranted with regards to the environmental conditions of the lands.

5. Financial Considerations

The funding required to complete these property acquisitions is included in the approved 2018 Capital Budget for Environmental Services.

6. Local Municipal Impact

The Upper York Sewage Solutions project is a key piece of infrastructure required to accommodate forecasted growth in the Towns of Aurora, East Gwillimbury and Newmarket. With receipt of the Declaration Order, issued by the Minister of Natural Resources and Forestry, for the York Durham Sewage System Modifications, implementation of this project can proceed.

The York Durham Sewage System Modifications project will ensure reliable wastewater service for the local communities, and will enable the Region to address the risks of sewage overflow and surcharge during high-flow conditions in the Town of Newmarket.

The acquisition of the subject properties supports the construction of the York Durham Sewage System Modifications.

7. Conclusion

The purpose of the York Durham Sewage System Modifications project is to develop a sustainable sewage servicing solution to accommodate planned growth in the Towns of Aurora, Newmarket and East Gwillimbury.

The Declaration Order issued by the Minister of Natural Resources and Forestry exempted the York Durham Sewage System Modifications component from the requirements of the Environmental Assessment Act. This allows the Region to proceed and implement the twinning of the forcemains and alterations to the Newmarket and Bogart Creek Sewage Pumping Stations that comprise the York Durham Sewage System Modifications.

To ensure the project is not delayed, it is necessary to initiate the expropriation process to secure access to the lands in time for construction to commence. Staff will continue to negotiate for the acquisition of the required properties and expropriation proceedings will be abandoned in cases where negotiations are successful.

For more information on this report, please contact Michael Shatil, Director, Property Services at 1-877-464-9675 ext. 71684.

The Senior Management Group has reviewed this report.

Recommended by:

Approved for Submission:

Dino Basso
Commissioner of Corporate Services

Bruce Macgregor
Chief Administrative Officer

August 16, 2018

Attachments (2)

Private Attachments (1)

eDOCS #8801391

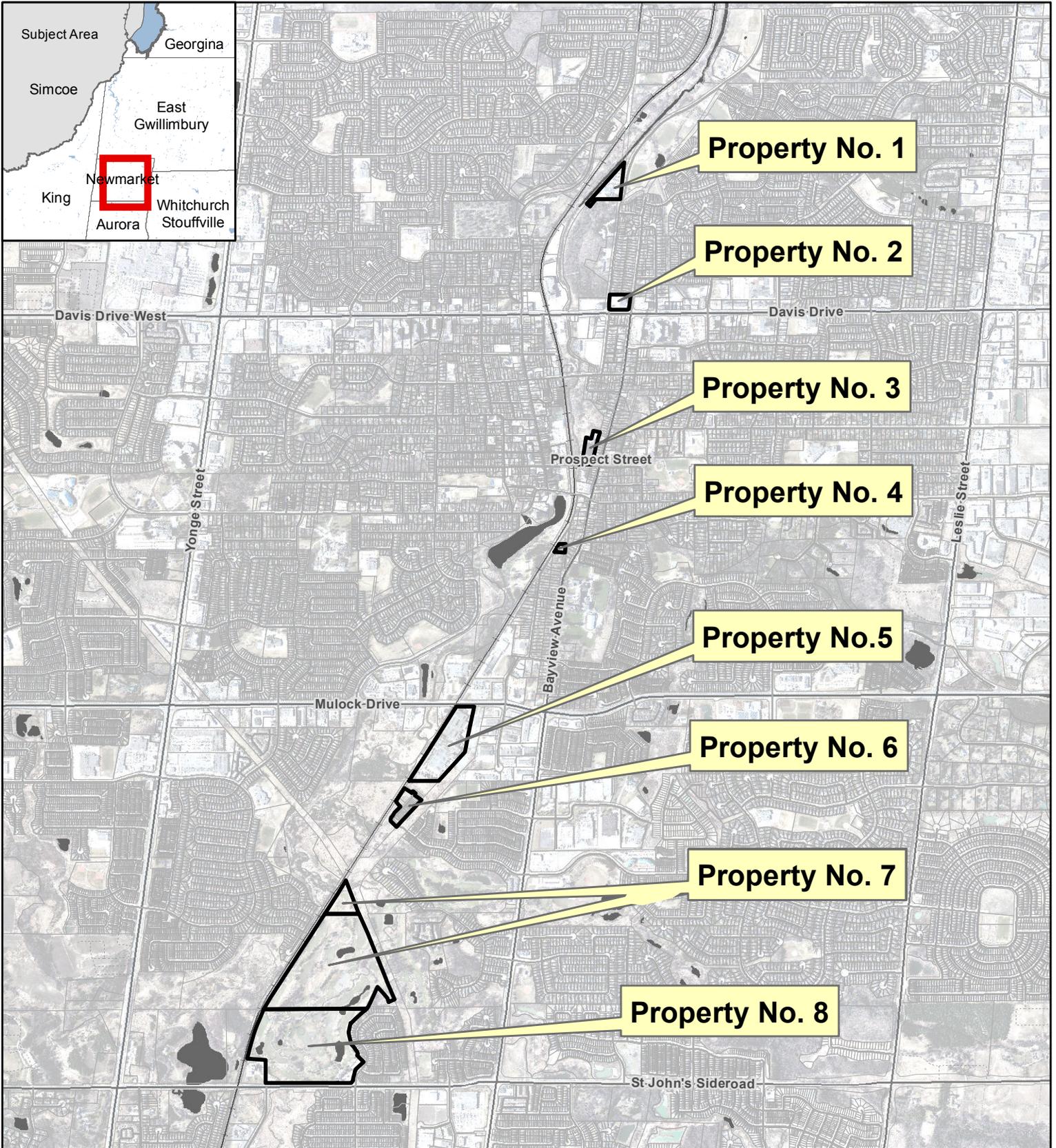
Accessible formats or communication supports are available upon request

**Property Schedule
Compensation for Expropriation
York Durham Sewage System Modifications
Town of Aurora and Town of Newmarket**

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Lisbeth Hagen Madsen	160 Bayview Parkway Newmarket	Part 1, Plan 65R36338	Temporary Easement
2.	Hongs International	567 Davis Drive Newmarket	Part 4, 5, 6, Plan 65R36340	Permanent Easement
			Part 1, 2, 3, Plan 65R36340	Temporary Easement
3.	York Region Standard Condominium Corporation No. 1047	543 Timothy Street Newmarket	Part 1, Plan 65R36342	Permanent Easement
			Part 1, Plan 65R37312	Permanent Easement
4.	Shawn Troyer	330 Second Street Newmarket	Part 1, Plan 65R36339	Temporary Easement
5.	402 Mulock Investments Inc.	402 Mulock Drive Newmarket	Part 6, 7, Plan 65R36343	Permanent Easement
			Part 8, Plan 65R36343	Temporary Easement
6.	J.F.C. Developments	w/s Silken Laumen Drive Newmarket	Part 1, Plan 65R36346	Permanent Easement
			Part 2, Plan 65R36346	Temporary Easement
7.	St. Andrews Valley Golf Club	N/A Newmarket	Part 4, 7, Plan 65R36344	Permanent Easement
			Part 2, 3, 5, Plan 65R37352	
			Part 5, 6, 8, Plan 65R36344	Temporary Easement
			Part 1, 4, 6, 18, Plan 65R37352	

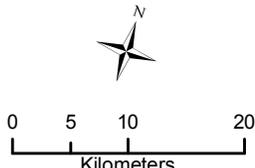
No.	Owner	Municipal Address	Legal Description	Interest Required
8.	St. Andrews Valley Golf Club	4 Pinnacle Trail Aurora	Part 1, Plan 65R36344	Permanent Easement
			Part 2, Plan 65R36344	Temporary Easement

The temporary easements required are described as a temporary limited interest commencing on registration of the plan of expropriation and expiring on December 31, 2021 in, under, over, along and upon the lands for municipal purposes including, but not limited to, entering on the lands with all vehicles, machinery, workmen and other material for construction purposes, which may include (1) relocation of existing services and utilities, (2) work that supports the construction of municipal infrastructure within the Region's permanent takings, (3) staging and storage of materials and equipment, (4) geotech testing, borehole testing, and other investigative works, (5) removal, relocation and/or installation of signage, (6) hard and soft landscaping, paving, grading and reshaping the lands to the limit of the reconstruction of the lands herein described, (7) the installation and removal of temporary (i) pedestrian access and walkways, (ii) parking measures including re-striping of aisles, lanes, and parking stalls, (iii) shoring and formwork, (iv) drainage and erosion/sediment control measures, (v) fencing, and (vi) handrails, and (8) works ancillary to any of the foregoing and necessary to the works to be performed in association with the York Durham Sewage System Improvements. The permanent easements required are described as a limited interest in perpetuity in, under, over, along and upon the land for municipal purposes including, but not limited to, entering on the lands with all vehicles, machinery, workmen and other material (i) to construct and maintain permanent municipal infrastructure which may include installation, maintenance, relocation and/or removal of retaining walls, shoring and formwork and/or drainage, erosion or sediment control measures such as watermains and storm sewers, and (ii) for construction purposes which include, but are not limited to, (1) relocation of existing services and utilities, (2) staging and storage of materials and equipment, (3) geotech testing, borehole testing, and other investigative works, (4) removal, relocation and/or installation of signage, (5) hard and soft landscaping, paving, grading and reshaping the lands to the limit of the reconstruction, (6) the installation and removal of temporary (i) pedestrian access and walkways, (ii) parking measures including re-striping of aisles, lanes, and parking stalls, (iii) shoring and formwork, (iv) drainage and erosion/sediment control measures, (v) fencing, and (vi) handrails, and (7) works ancillary to any of the foregoing and necessary to the works



Location Plan
 Compensation for Expropriation
 York Durham Sewage
 System Modifications
 Town of Aurora and
 Town of Newmarket
 September 6, 2018

- Legend**
- Subject Property
 - Parcel
 - Road
 - Railway



York Region

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 The Regional Municipality of York
 Property Services, Corporate Services
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