

Clause 23 in Report No. 1 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on January 26, 2017.

23

Expropriation of Land

Rutherford Road from Westburne Drive to Peter Rupert Avenue  
City of Vaughan

Committee of the Whole recommends adoption of the following recommendations contained in the report dated December 16, 2016 from the Commissioner of Corporate Services:

1. Council authorize an application for approval to expropriate the following lands set out in Attachment 1, for the widening and reconstruction of Rutherford Road, between Westburne Drive and the Peter Rupert Avenue, in the City of Vaughan.
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 in accordance with the Act.
5. 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.
6. Where approval to expropriate the lands is given, the Commissioner of Corporate Services be authorized to register a plan of expropriation and execute and serve any notices required under the Act.
7. Where approval to expropriate the lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

Report dated December 16, 2016 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the following lands set out in Attachment 1, for the widening and reconstruction of Rutherford Road, between Westburne Drive and the Peter Rupert Avenue, in the City of Vaughan.
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 in accordance with the *Act*.
5. 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*.
6. Where approval to expropriate the lands is given, the Commissioner of Corporate Services be authorized to register a plan of expropriation and execute and serve any notices required under the *Act*.
7. Where approval to expropriate the lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

## 2. Purpose

This report seeks Council approval for an application to expropriate property interests required for the widening and reconstruction of Rutherford Road from Westburne Drive to Peter Rupert Avenue, in the City of Vaughan as shown in Attachment 2.

This report seeks Council approval to expropriate any of the lands for which no Hearing of Necessity is requested, and which have not otherwise been acquired by the Region through ongoing negotiations.

## 3. Background

The Environmental Assessment for improvements to Rutherford Road was completed in mid-2016

The need for improvements to Rutherford Road from Jane Street to Bathurst Street in the City of Vaughan has been identified in the Region's recently updated Transportation Master Plan. These improvements have also been included for implementation phased over various years in the approved 2016 10-Year Roads and Transit Capital Construction Program. The first phase of construction between Jane Street and Keele Street is scheduled to commence in 2019.

The Environmental Assessment (EA) study for improvements to Rutherford Road/Carrville Road from Jane Street to Yonge Street was completed in mid-2016. The EA included a proposed widening of Rutherford road to six lanes to accommodate HOV/transit priority lanes, sidewalks/cycle tracks on both sides, transit bus pads/shelters, and a landscaped median where sufficient space is available.

In addition, the preferred design also includes a grade separation at the Barrie GO Rail/Rutherford Road intersection located between Westburne Drive and Peter Rupert Avenue.

The Region is planning to partner with Metrolinx on the construction of improvements to Rutherford Road from Westburne Drive to Peter Rupert Avenue

The proposed grade separation is one of many planned improvements included in the Regional Express Rail project currently being implemented by Metrolinx.

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Given the overlap of these two initiatives, the Region and Metrolinx have agreed in principle that Metrolinx will undertake the grade separation works as well as the required improvements to Rutherford Road from Westburne Drive to Peter Rupert Avenue as outlined in the approved EA.

As part of its involvement in this partnership, the Region is responsible for acquiring the necessary property so that construction can start in fall 2017.

Possession of the land is required by fall 2017 to ensure Metrolinx has access to the land to begin roadway construction. Securing the property through the expropriation process will provide certainty that construction can proceed as scheduled.

The subject lands are required to accommodate the grade separation at the Barrie Go Rail/Rutherford Road intersection

The subject land requirement is part of a larger project for the widening and reconstruction of Rutherford Road from Jane Street to Bathurst Street. The acquisition of the subject property is being expedited to meet the land requirement timeline for the Metrolinx construction schedule. The acquisitions of additional lands from property owners along this corridor will commence when the survey plans are completed.

Staff will be negotiating with the property owner throughout the expropriation process

Land requirements for the construction of this portion of the project will affect two property owners, represented by one parent company. Staff has commenced discussions with this property owner to acquire the property needed for construction. In accordance with the Region's land acquisition policy, an independent property appraiser has been procured to provide an individual market value appraisal to be used during negotiations.

#### 4. Analysis and Implications

Initiating the expropriation process will secure access to the lands to accommodate timely delivery of infrastructure

The preferred approach to obtaining land is to negotiate a transaction with the property owner. However, in many cases various events affect the timing of negotiations, such as owners who prefer to settle their issues at the completion

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of the project. In this regard, expropriation is deemed a necessary approach to ensure possession of lands in order to facilitate the needs of a project.

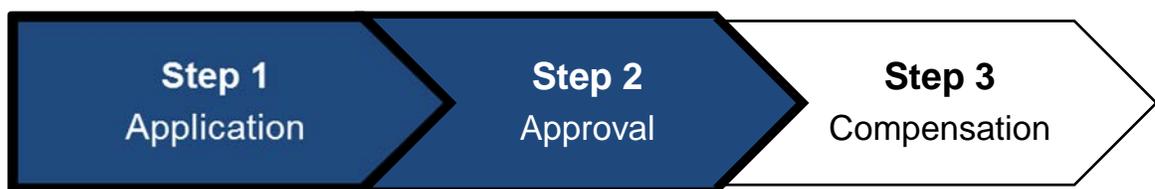
In an effort to secure possession and complete the property acquisition for this corridor, it is recommended that the expropriation process proceed concurrently with ongoing negotiations.

Staff will continue to negotiate agreements of purchase and sale for the required interests concurrently with the expropriation process, until an expropriation plan has been registered.

Approval by Council is required at various 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 lands, the expropriation of the lands, and the offer of compensation made to the former owner of the lands for the losses suffered as a consequence of the expropriation.

In an effort to ensure possession of the lands to meet the coordinated construction schedule, the first and second steps in the Council approval process have been combined for this report, as indicated in the graphic below. The third step will be the subject of a future report to Council, in the event the expropriation proceeds. Possession of the lands cannot be obtained until this third step has been completed and the owner is served an offer of compensation.



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 owners with a notice of intention to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate, each owner has the right within 30 days of receipt to request an inquiry (Hearing of Necessity) as to whether the taking of the lands by the Region is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

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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, including an explanation for the inquiry officer's findings.

Registration of expropriation plans will secure ownership of the Lands 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 granting approval. This is anticipated to be in June, 2017.

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

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 lands is to take place no sooner than three months after registration of the expropriation plans. In addition, offers of compensation must be served on the owner in order to obtain possession.

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

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) will be performed to assess the potential environmental condition of the lands. Based on the results of the Phase One ESA, a Phase Two ESA may be completed to confirm the presence or absence of environmental impacts identified in the Phase One ESA. 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.

## 5. Financial Considerations

The funding required to complete the property acquisition that is the subject of this report is included in the 2017 Capital Budget for Transportation Services, Capital Planning and Delivery.

Under section 25 of the *Act*, the Region is obligated to serve offers of compensation on owners 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 Municipal Impact

Once construction is complete, the widening and reconstruction of Rutherford Road will provide upgraded capacity to improve traffic operations for the travelling public and will support the accommodation of the forecasted growth within this area, as established by “Places to Grow” and reflected in the York Region Official Plan.

## 7. Conclusion

The construction of the widening and reconstruction of Rutherford Road from Westburne Drive to Peter Rupert Avenue, in the City of Vaughan requires the acquisition of interests in land from one property owner.

Negotiations with the property owner to acquire the lands are proceeding concurrently with the expropriation process, in an effort to obtain the lands by fall 2017. To ensure the timely acquisition of the required lands to meet construction timelines, it is necessary to initiate the expropriation process.

Staff will continue to negotiate the acquisition of the required property until expropriation plans are registered. The expropriation proceedings will be abandoned in the event amicable negotiations are successful.

The expropriation process requires various approvals by Council. Upon approval of the recommendations of this report, staff will notify the affected property owner of its intent to expropriate, and will proceed with the expropriation of lands if no Hearing of Necessity is requested. The Region will not take possession of the

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lands until Council approves the offers of compensation to owners, which will be the subject of a future report.

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

The Senior Management Group has reviewed this report.

December 16, 2016

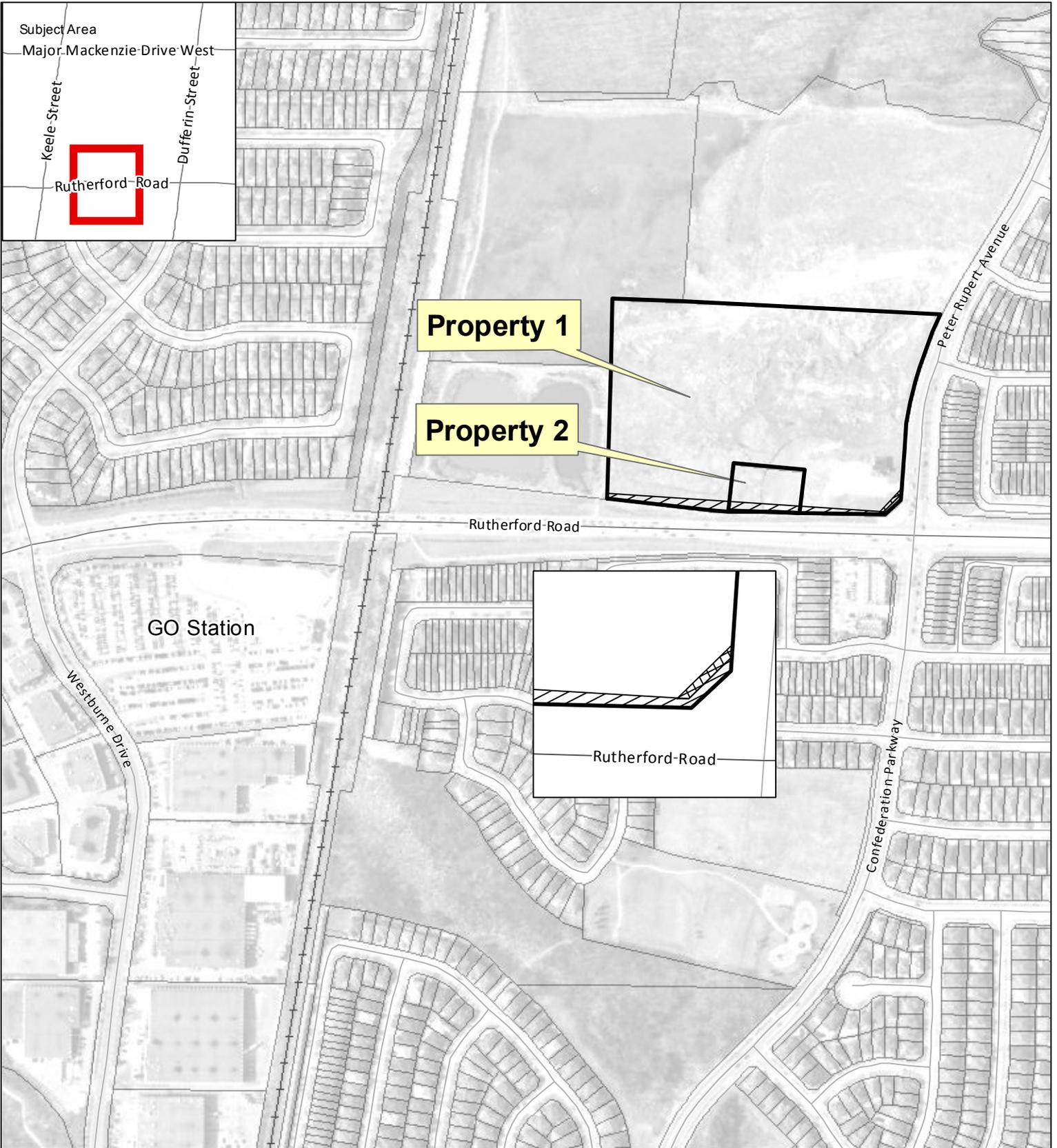
Attachments (2)

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Accessible formats or communication supports are available upon request

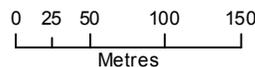
**Property Schedule  
Expropriation of Land  
Rutherford Road from Westburne Drive to Peter Rupert Avenue  
City of Vaughan**

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Block 18 Properties Inc.	N/A Vaughan	Parts 3, 4, 5, 7, 8, 9, 10, 13, 14, 15, 16, 17, 19, 20, 21, Plan 65R36863	Fee Simple
			Parts 6, 18, Plan 65R36863	Temporary Easement
2.	Block 18 (Rutherford) Inc.	N/A Vaughan	Part 11,12, 22, Plan 65R36863	Fee Simple
<p>The temporary easement will run for a term of 60 months, commencing on the date of registration of the easement, and is required for the purpose of 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 right-of-way, (3) staging and storage of materials and equipment, (4) geo-tech testing, borehole testing, and other investigative works, (5) removal, relocation, and/or installation of signage, (6) landscaping, paving, grading and reshaping the lands to the limit of the reconstruction, (7) the installation and removal of temporary infrastructure related to the construction, and (8) works ancillary to any of the foregoing.</p>				



**Location Plan**

Expropriation of Land  
 Rutherford Road from Westburne Drive to  
 Peter Rupert Avenue, City of Vaughan  
 January 19, 2017



**Legend**

- Subject Property
- Fee Simple
- Temporary Easement
- Parcel
- Road
- Railway



Produced by:  
 The Regional Municipality of York  
 Property Services, Corporate Services  
 December 2016

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Imagery:  
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