

Clause 28 in Report No. 9 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on May 17, 2018.

28

Expropriation of Land  
Viva Bus Rapid Transit Corridor  
4800 Highway 7 West  
City of Vaughan

Committee of the Whole recommends adoption of the following recommendations contained in the report dated April 26, 2018 from the Commissioner of Corporate Services:

1. Council authorize an application for approval to expropriate the lands identified in Attachment 1 (the “Lands”) for the construction of the vivaNext bus rapid transit corridor on Highway 7 West, 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approving authority, approve the expropriation of the Lands provided there is no Hearing of Necessity requested and not withdrawn in accordance with the Act.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 Lands is given, the Commissioner of Corporate Services be authorized to register a certificate of approval and plan of expropriation, and execute and serve any notices required under the Act.
6. Where approval to expropriate the Lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

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Report dated April 26, 2018 from the Commissioner of Corporate Services now follows:

## 1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the lands identified in Attachment 1 (the "Lands") for the construction of the vivaNext bus rapid transit corridor on Highway 7 West, 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 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 Lands is given, the Commissioner of Corporate Services be authorized to register a certificate of approval and plan of expropriation, and execute and serve any notices required under the *Act*.
6. 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 construction of the vivaNext bus rapid transit corridor on Highway 7 West, in the City of Vaughan, as shown in Attachment 2.

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This report further seeks Council approval to expropriate the Lands if no Hearing of Necessity is requested, and which has not otherwise been acquired by the Region through negotiations.

### 3. Background and Previous Council Direction

The Region is constructing dedicated bus rapid transit lanes for vivaNext along Highway 7 West

York Region Rapid Transit Corporation (YRRTC) is undertaking improvements to facilitate public transit along Highway 7 West by constructing dedicated centre lanes for Viva buses, along with enhanced street features and boulevards. The project as a whole is referred to as vivaNext, with this section of the project consisting of lands on Highway 7 West, Centre Street and Bathurst Street in Vaughan. Construction is underway and is scheduled to be completed in December 2019.

The majority of land requirements were acquired from 2015 to 2017

Council approved the expropriation of multiple properties on Highway 7 West, Centre Street and Bathurst Street in [January 2015](#), [March 2015](#) and [October 2015](#). In 2016, the corridor was extended west on Highway 7 West to Bruce Street and Council approved the expropriation of additional properties in [March 2016](#). In 2017, corridor design was completed and Council approved the expropriation of additional properties in [November 2017](#). The approvals secured fee simple lands, permanent easements and temporary easements. To date, 113 properties have been affected by this portion of the vivaNext project.

The Region expropriated the surface fee simple lands from the subject in 2016 to address potential environmental impacts

The subject property is located west of Pine Valley Drive, on the north side of Highway 7 West, in the City of Vaughan. Environmental due diligence was completed in 2016, and as a result the Region expropriated only the surface lands necessary to construct the project. This minimized the potential risk of environmental impacts while allowing the project to proceed without delay. The subsurface lands remain registered in the name of the owner.

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Hydro utility works require further lands to maintain the construction schedule

Although to date the surface lands expropriated by the Region have been sufficient to accommodate construction, it has now been determined that lands located immediately beneath the expropriated lands are required to accommodate the installation of hydro utility poles.

To prevent construction delays, possession of these additional lands is required by March, 2019.

The owner is to convey the lands required to the Region

The owner and the Region are currently finalizing the terms of a site plan agreement for the construction of a condominium building on the owner's remaining lands. The site plan agreement requires the owner to convey to the Region all those lands located beneath the surface of the lands previously expropriated by the Region, including those lands now required for the installation of hydro utility poles.

The terms of the site plan agreement require that, prior to conveying the lands, the owner must obtain a record of site condition and remediate the lands such that they meet Ministry of Environment and Climate Change requirements under O. Reg. 153/04 – *Records of Site Condition*. Due to the uncertainty associated with the work required to successfully file a record of site condition, the date by which the owner will be in a position to convey the lands to the Region cannot be guaranteed.

So as not to incur a construction delay, but also not to take full ownership of lands that have not been remediated to Regional standards, staff recommend the expropriation of a permanent easement required for the installation of hydro utility poles.

The permanent easement will be in place until such time as the owner obtains the record of site condition and transfers the lands in fee simple to the Region.

Alectra has not yet agreed to construct the hydro utility poles in lands that are not owned by the Region in fee simple. Staff continue to negotiate with Alectra to install the hydro utility poles within the permanent easement in 2019.

#### 4. Analysis and Implications

Initiating the expropriation process will secure access to the Lands

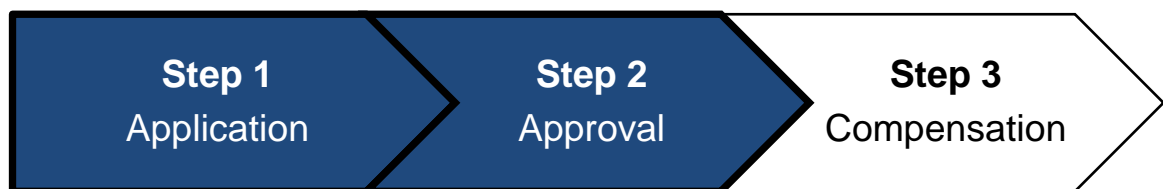
In an effort to secure possession and complete the additional property acquisitions for this project, it is recommended the expropriation process proceed concurrently with the site plan application. The preferred approach to obtaining land is to negotiate a transaction with the property owner. However, in many cases various events affect the timing of negotiations. In this regard, expropriation is necessary to ensure timely possession of the lands for the project.

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 coincides with the 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 if the expropriation proceeds. Possession of the Lands cannot be obtained until the third step has been completed and the owners are served offers of compensation.

**Figure 1**  
**Council Approval Steps**



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

The first step in the expropriation process is to serve owners with notice of intent to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate Land, each owner has 30 days to request an inquiry (Hearing of Necessity) as to whether the taking of the lands by the Region is fair, sound and reasonably necessary.

If an owner requests a Hearing of Necessity, then subsequent to the Hearing, an Inquiry Officer will provide a report with an opinion as to whether the taking is fair, sound and reasonably necessary, including an explanation of the Inquiry Officer's findings.

Registration of expropriation plans will secure sufficient property rights in the Lands

For properties where no Hearings of Necessity are requested, a certificate of approval and plan of expropriation will be registered at the Land Registry Office. This is the second step in the expropriation process, and is anticipated to occur late 2018.

Registration of the expropriation plans is a key step in the expropriation process. It is at this point that the Region acquires property rights in the Lands. However, further steps are required to obtain possession, or the right to access the Lands.

Following the registration of the expropriation plans, the notice of expropriation, election and possession will be served on the owners. 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 owners to obtain possession. This is the third step in the expropriation process, which requires Council approval.

Environmental due diligence is underway on the Lands

The property owner has committed to complete and file a record of site condition for the Lands with the Ministry of the Environment and Climate Change in accordance with the requirements of O. Reg. 153/04 *Records of Site Condition*. The results will be reviewed by staff in consultation with Legal Services. The filing of the record of site condition will address the environmental condition of the Lands and minimize potential exposure to the Region.

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## 5. Financial Considerations

The funding for the property acquisition is included in the 2018 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

## 6. Local Municipal Impact

The construction of dedicated bus lanes and related facilities, as well as road and intersection improvements is critical to achieving the Region's plan for the corridor. This project will improve public transit services and the streetscape on Highway 7 West in Vaughan.

## 7. Conclusion

The Region has acquired possession of multiple property interests through previous expropriations and negotiated agreements to facilitate the vivaNext project along Highway 7 West, Centre Street and Bathurst Street in Vaughan. An additional property requirement has been identified by the project team, which is the subject of this report. Possession is required by March 2019 to maintain the construction schedule.

It is recommended that Council approve the initiation of the expropriation process for the additional property requirement detailed in this 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.

April 26, 2018

Attachments (2)

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Accessible formats or communication supports are available upon request





**Property Schedule  
Expropriation of Land  
Viva Bus Rapid Transit Corridor  
4800 Highway 7 West  
City of Vaughan**

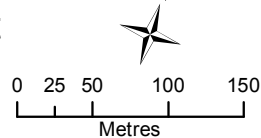
No.	Owner	Municipal Address	Legal Description	Interest Required
1.	2410174 Ontario Inc.	4800 Highway 7 West Vaughan	Part 1, Plan 65R37768	Permanent Easement
<p>The permanent easement is required for the purpose of entering on the lands with all vehicles, machinery, workers and other material to (I) construct and maintain permanent municipal infrastructure which may include installation, maintenance, relocation and/or removal of traffic turning loops and associated signalization equipment and controls, retaining walls, shoring and formwork and/or drainage, erosion or sediment control measures such as water mains and storm sewers; and (II) for construction purposes which may include (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 of Highway 7 West, (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) traffic signals, (vi) fencing, and (vii) handrails, and (7) works ancillary to any of the foregoing and necessary to the works to be performed in association with the purpose of implementing road and intersection improvements along Highway 7 West, including associated local roads, and to provide designated lanes for the vivaNext transit system and works ancillary thereto.</p>				





**Location Plan**  
 Expropriation of Land  
 Viva Bus Rapid Transit Corridor,  
 4800 Highway 7 West  
 City of Vaughan  
 May 10, 2018

- Legend**
-  Subject Property
  -  Interest Required
  -  Parcel
  -  Road



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 (Branch Name), (Department Name)  
 March 2018

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