

Clause 14 in Report No. 14 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on September 24, 2015.

14

Compensation for Expropriation
 Bayview Avenue - Elgin Mills Road to Stouffville Road
 Town of Richmond Hill

Committee of the Whole recommends adoption of the recommendations contained in the following report dated June 15, 2015 from the Commissioner of Corporate Services:

1. Recommendation

It is recommended that:

1. Council authorize the Commissioner of Corporate Services to make an offer of compensation to the owner of the following lands in the Town of Richmond Hill, which were acquired in accordance with the *Expropriations Act* (the "Act").

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Devon Lane Construction Ltd.	East side of Bayview Avenue, north of Elgin Mills Road, opposite Holy Trinity School, in Richmond Hill	Parts 1, 2, 4, 5, 7, 8, 10, 11, 13 and 14, Plan 65R33991	Fee Simple
			Parts 3, 6, 9, 12 and 15, Plan 65R33991	Temporary Easement

The temporary easement will commence upon registration of the expropriation plan and expire on November 30, 2018, and is required for the purpose of entering on the land 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) geotechnical testing, borehole

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No.	Owner	Municipal Address	Legal Description	Interest Required
				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 Bayview Avenue.

2. Purpose

This report seeks Council approval to serve an offer of compensation under section 25 of the *Act* to an owner whose land has been expropriated for the reconstruction of Bayview Avenue from Elgin Mills Road to Stouffville Road, in the Town of Richmond Hill. The location of this property is shown in Attachment 1.

3. Background

An Environmental Assessment for the reconstruction of Bayview Avenue from Elgin Mills Road to Stouffville Road was completed in 2008

Bayview Avenue from Elgin Mills Road to Stouffville Road will be urbanized and widened from two to four lanes. The project includes installation of storm water drainage, curbs, intersection improvements, and the construction of a new channel on the east side of Bayview Avenue that will protect a colony of cold-water fish, brook trout in particular, established in the existing storm water ditch on the east side of Bayview Avenue.

A sustainable cold water fishery evolved since the late 1960's due to the presence of an artesian spring near Bayview and 19th Avenue. The cold water fishery has been colonized by fish moving up-river from a tributary of the Rouge River near Elgin Mills Road. The Toronto Region Conservation Authority has taken a strong interest in preserving this unique fishery, and the Region's engineering design drawings call for a new channel to be created on the east side of Bayview Avenue. The Environmental Assessment study for the widening and reconstruction of Bayview Avenue was completed in 2008.

Devon Lane Construction Ltd. agreed to transfer to the Region lands required to reconstruct Bayview Avenue

Devon Lane Construction Group Inc. ("**Devon Lane**") owned lands adjacent to Bayview Avenue required by the Region to reconstruct Bayview Avenue (the "**Devon Lane Lands**").

On July 18, 2012, the Region entered into Minutes of Settlement (the "**Minutes of Settlement**") with the North Leslie Residential Landowners Group Inc. to settle its appeal of the York Region Official Plan - 2010. Devon Lane is a member of the North Leslie Residential Landowners Group.

Pursuant to the Minutes of Settlement, the North Leslie Residential Landowners Group agreed to convey to the Region lands required by the Region to reconstruct Bayview Avenue, including the Devon Lane Lands.

In return for the Devon Lane Lands, the Region agreed to construct a driveway and servicing

The Minutes of Settlement, along with an associated Memorandum of Understanding (the "**MOU**") executed by Devon Lane, provide that:

- (a) the Region, for Devon Lane's benefit, would construct:
 - (i) servicing;
 - (ii) a driveway; and
- (b) Devon Lane would convey the Devon Lane Lands at no cost to the Region.

The Region would construct the servicing at Devon Lane's cost and the driveway at the Region's cost.

Devon Lane was required to obtain approval for the servicing

The Minutes of Settlement and the MOU provided that it was Devon Lane's responsibility to obtain all the approvals necessary for the Region to construct the servicing, including obtaining Richmond Hill's approval pursuant to its Urban Master Environmental Servicing Plan (the "**MESP**").

Devon Lane was required to obtain approval for the servicing by the time the Region was ready to let the tender for the reconstruction of Bayview Avenue, failing which the Region was not obligated to construct the servicing.

The cost to construct the servicing would depend, in part, on the location of the servicing.

The Region and Devon Lane would execute a cost sharing agreement for the driveway and the servicing

The Minutes of Settlement and the MOU required Devon Lane to convey the Devon Lane Lands to the Region by December 31, 2012, provided that the Region and Devon Lane first executed a cost sharing agreement related to the costs to construct the driveway and the servicing.

Devon Lane has not obtained approval for the servicing

Devon Lane has not been able to reach an agreement with Richmond Hill concerning the location of the servicing, including obtaining MESP approval.

Accordingly, the Region is not obligated to construct the servicing.

Devon Lane did not convey the Devon Lane Lands

Despite the fact that the Region is not required to construct the servicing, the Region proposed to Devon Lane that if:

- (a) by June 1, 2016 Devon Lane determined the location of the servicing (provided that it is within the Bayview Avenue road allowance) and obtained the required approvals; and
- (b) Devon Lane immediately conveyed the Devon Lane Lands to the Region;

the Region would construct the servicing. Devon Lane did not agree to the Region's proposal, refused to execute the cost sharing agreement, and refused to convey the Lands to the Region.

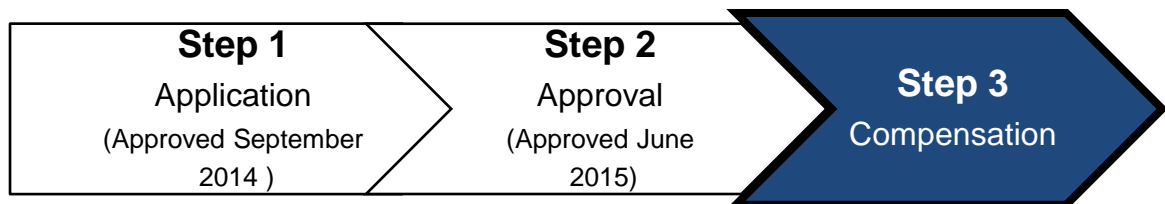
The Region requires possession of the Lands by October 15, 2015

The Region requires possession of the Lands by October 15, 2015 in order to commence the reconstruction of Bayview Avenue. Accordingly, it was necessary to expropriate the lands. On June 25, 2015, Council approved the expropriation of the lands. The Region acquired title to the lands when the expropriation plan was registered on July 16, 2015.

The *Act* requires the Region to serve an offer of compensation upon the owner.

The Region can take possession on the date set out in the notice of possession, a minimum of three months after service of the notice, but only after the statutory offer of compensation has been made.

This is Step 3 in the Council approval process for property expropriation as indicated in the graphic below.



4. Analysis and Options

An independent appraisal report provided the value forming the basis of the offer of compensation

An independent appraiser was commissioned to prepare a report appraising the market value of the Devon Lane Lands.

It is necessary to serve an offer of compensation to obtain possession of the Devon Lane Lands

Although ownership of the Devon Lane Lands is now in the name of the Region, possession is yet to be obtained. In accordance with the *Act* and upon Council approval, notices of expropriation and possession were served upon Devon Lane, with possession anticipated by mid-October 2015. In accordance with the *Act*, it is necessary to make an offer of compensation to Devon Lane in order to obtain possession of the Devon Lane Lands.

In serving the offer of compensation Staff is consulting with external legal counsel in order to protect the Region's rights under the Minutes of Settlement.

Link to key Council-approved plans

The proposed acquisition for the Bayview Avenue project supports the objectives of Vision 2051, the Regional Official Plan and the 2015 to 2019 Strategic Plan.

The project addresses a key goal of Vision 2051: Interconnected Systems for Mobility. A network of complete streets supports the efficient movement of goods, providing an interconnected network for mobility that links people to jobs.

As well, the Bayview Avenue project supports one of the objectives of the Regional Official Plan, which is to ensure streets support all modes of transportation including walking, cycling, transit, automobile use, and the efficient movement of goods.

Lastly, one of the Strategic Priority Areas of the 2015 to 2019 Strategic Plan is Strengthen the Region's Economy. Focusing on networks and systems that connect people, goods and services is one of the strategic objectives of this priority area that is supported by the proposed acquisition.

5. Financial Implications

The funding required to complete the property acquisition for this project has been included in the 2015 Capital Budget for Transportation Services, Capital Delivery – Roads.

6. Local Municipal Impact

Once construction is complete, the widening and reconstruction of Bayview Avenue, in the Town of Richmond Hill, will provide upgraded capacity to improve traffic operations for the travelling public and will meet the planned growth in this area, as well as improved active transportation opportunities through the construction of a sidewalk and a multi-use path in this part of the overall project.

7. Conclusion

On July 16, 2015, an expropriation plan was registered with respect to the Devon Lane Lands, which are required for the reconstruction of Bayview Avenue. Construction is currently scheduled for 2016. The *Act* requires that an offer of compensation for the Devon Lane Lands be served on Devon Lane in order to obtain possession. The proposed offer is based on an appraisal provided by an independently commissioned appraiser. It is recommended that the offer set out in this report be served in accordance with the *Act*.

For more information on this report, please contact Michael Shatil, Director, Property Services Branch at ext. 71684.

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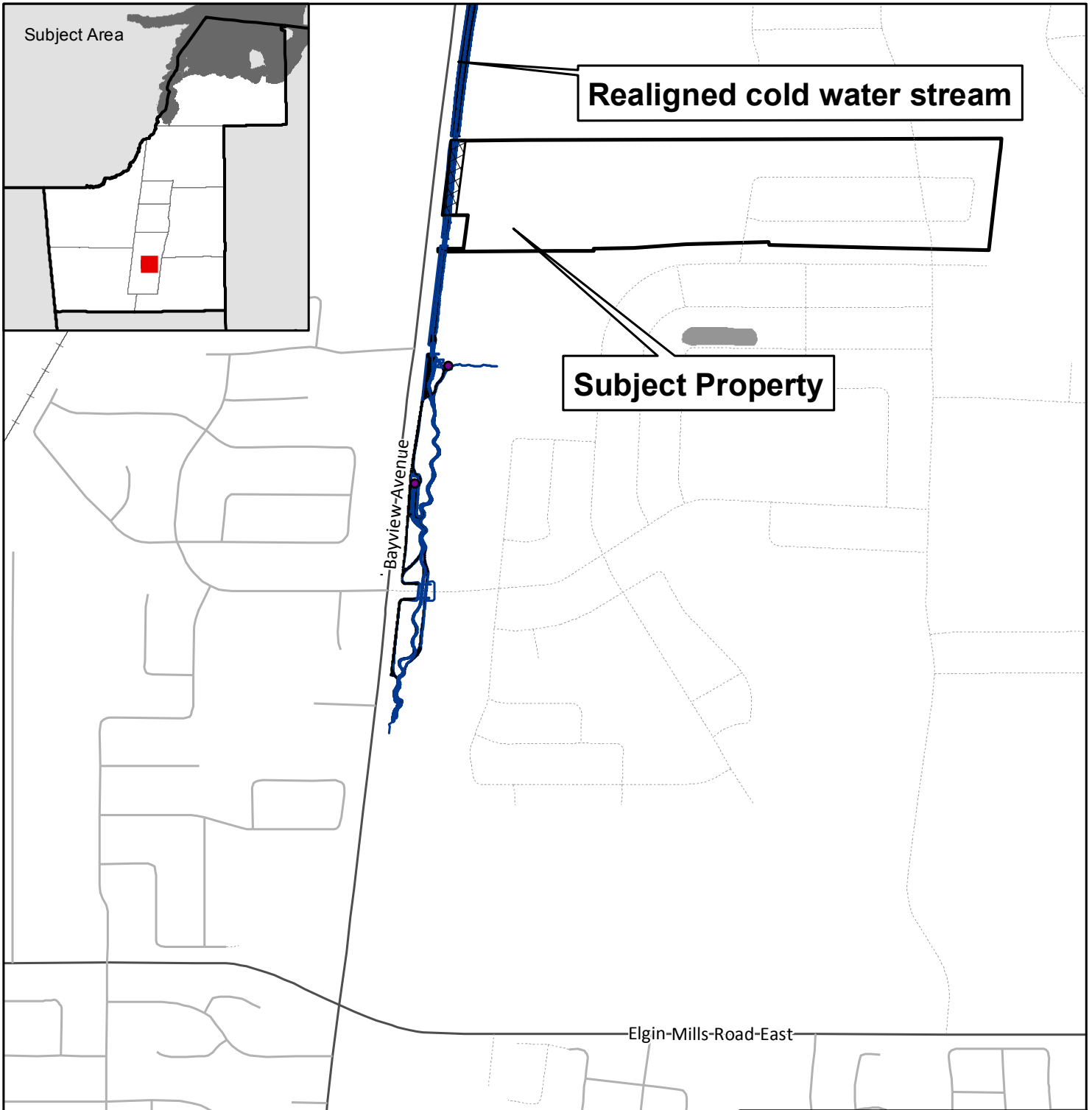
The Senior Management Group has reviewed this report. June 15, 2015

Attachments (1)

Private Attachments (1)

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Accessible formats or communication supports are available upon request

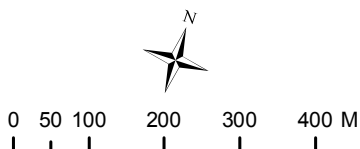


LOCATION PLAN






Compensation for Expropriation
 Bayview Avenue - Elgin Mills Road to Stouffville Road
 Town of Richmond Hill

Produced by:
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 Property Services, Corporate Services
 May 2015
 Data Sources:
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Legend

-  Subject Property
-  Interest Required
-  Parcel
-  Road
-  Railway