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EXPROPRIATION SETTLEMENTS TOWN OF MARKHAM

The Transportation and Works Committee recommends the adoption of the recommendations contained in the following report, January 20, 2006, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. The following agreements be accepted and that the Commissioner of Corporate Services be authorized to complete these transactions in accordance with the terms of the agreements.
2. Regional Council declare surplus and give notice of its intention to sell under the provisions of Section 42 of the *Expropriations Act*:
 - a) 1.604 acres of land described as being Parts 4 and 5, Expropriation Plan D832 in the Town of Markham to the owners, Jeni G. Nihda and James V. Nihda, from whom it was expropriated, or to any third party designated by the owners in writing, for the sum of \$209,550;
 - b) 2.143 acres of land described as being Parts 21 and 22, Expropriation Plan D834 in the Town of Markham to the owners, Kire and Icanu Dimovski and Blagojo and Lillian Panizivski, from whom it was expropriated, or to any third party designated by the owners in writing, for the sum of \$286,850;
 - c) 4.29 acres of land described as being Parts 9 and 10, Expropriation Plan D834 in the Town of Markham to the owner, Empave Holdings Ltd., from whom it was expropriated, or to any third party designated by the owner in writing, for the sum of \$587,000;
 - d) 2.88 acres of land described as being Parts 19 and 20, Expropriation Plan D834 in the Town of Markham to the owners, Settimio and Clelia Iannucci, from whom it was expropriated, or to any third party designated by the owners in writing, for the sum of \$380,360.

2. PURPOSE

The purpose of this report is to:

1. Obtain Regional Council's approval to accept the following expropriation settlements for the property required for the construction of the Markham By-pass in the Town of Markham.
2. Declare the lands described in Recommendation 2 above as surplus to the Region's requirements and give notice of the intention to sell the land back to the owners from whom the land was expropriated or to any third party designated by the owners in writing.
3. Authorize the sale of surplus lands to the owners from whom the land was expropriated or to any third party designated by the owners in writing (*see Attachment 1*).

1.1 Property No. 1

OWNERS:	Jeni G. Nihda and James V. Nihda
PROJECT:	The construction of the Markham By-pass, in the Town of Markham
SUBJECT PROPERTY:	Part of Lot 20, Concession 8, in the Town of Markham, in the Regional Municipality of York
AUTHORITY:	By-law No. R-1269-2002-011
TOTAL OWNERSHIP:	4.050 ha (10.008 acres)
AREA TAKEN:	Fee simple interest in Parts 1, 2, 3, 4 and 5, Expropriation Plan D832, being 1.044 ha (2.579 acres)
SURPLUS LAND TAKEN:	Fee simple interest in Parts 4 and 5, Expropriation Plan D832, being 0.6494 ha (1.602 acres)
COMMENTS:	The subject property is an improved rural residential parcel located on the south side of Major Mackenzie Drive East between Highway 48 and the Ninth Line. The new Markham By-pass crosses the southerly portion of the subject property.
PROJECT NUMBER:	8070

1.2 Property No. 2

OWNERS:	Kire and Icanu Dimovski and Blagojo and Lillian Panizovski
PROJECT:	The construction of the Markham By-pass, in the Town of Markham
SUBJECT PROPERTY:	Part of Lot 20, Concession 8, in the Town of Markham, in the Regional Municipality of York
AUTHORITY:	By-law No. R-1269-2002-011
TOTAL OWNERSHIP:	4.051 ha (10.011 acres)
AREA TAKEN:	Fee simple interest in Parts 21, 22, 23, 24, 25 and 26, Expropriation Plan D834, being 1.296 ha (3.201 acres)
SURPLUS LAND TAKEN:	Fee simple interest in Parts 21 and 22, Expropriation Plan D834, being 0.8672 ha (2.143 acres)
COMMENTS:	The subject property is a vacant rural residential parcel located on the south side of Major Mackenzie Drive East between Highway 48 and the Ninth Line. The new Markham By-pass crosses the southerly portion of the subject property.
PROJECT NUMBER:	8070

1.3 Property No. 3

OWNER:	Empave Holdings Ltd.
PROJECT:	The construction of the Markham By-pass, in the Town of Markham
SUBJECT PROPERTY:	Part of Lot 20, Concession 8, in the Town of Markham, in the Regional Municipality of York
AUTHORITY:	By-law No. R-1269-2002-011
TOTAL OWNERSHIP:	4.047 ha (10 acres)
AREA TAKEN:	Fee simple interest in Parts 9, 10, 11, 12, 13 and 14, Expropriation Plan D834, being 2.384 ha (5.890 acres)

SURPLUS LAND TAKEN: Fee simple interest in Parts 9 and 10, Expropriation Plan D834, being 1.7357 ha (4.29 acres)

COMMENTS: The subject property is a vacant rural residential parcel located on the south side of Major Mackenzie Drive East between Highway 48 and the Ninth Line. The new Markham By-pass crosses the centre portion of the subject property.

PROJECT NUMBER: 8070

1.4 Property No. 4

OWNER: Settimio and Clelia Iannucci

PROJECT: The construction of the Markham By-pass, in the Town of Markham

SUBJECT PROPERTY: Part of Lot 20, Concession 8, in the Town of Markham, in the Regional Municipality of York

AUTHORITY: By-law No. R-1269-2002-011

TOTAL OWNERSHIP: 4.048 ha (10.003 acres)

AREA TAKEN: Fee simple interest in Parts 15, 16, 17, 18, 19 and 20, Expropriation Plan D834, being 1.709 ha (4.224 acres)

SURPLUS LAND TAKEN: Fee simple interest in Parts 19 and 20, Expropriation Plan D834, being 1.667 ha (2.88 acres)

COMMENTS: The subject property is a vacant rural residential parcel located on the south side of Major Mackenzie Drive East between Highway 48 and the Ninth Line. The new Markham By-pass crosses the centre portion of the subject property.

PROJECT NUMBER: 8070

3. BACKGROUND

Regional Council, at its meeting held on February 21, 2002, approved the by-law that authorized the expropriation of the necessary lands to construct Phase 2 of the Markham

By-pass. The new Markham By-pass dissects the properties, which are the subject of this report. The lands on the north side front onto Major Mackenzie Drive; however, the land on the south side, due to the 0.3 metre reserve along the By-pass frontage are land locked, and therefore, the Region expropriated this portion in order to avoid litigation and a large injurious affection claim. The construction of this portion of the By-pass has been completed and the affected owners have been approached to settle the outstanding expropriation. The owners have requested that the compensation for the road be set at \$175,000 per acre based on independent appraisals and that the surplus be sold to them based on \$160,000 per acre being the price paid by the Region. The land is being returned to the owners as per Section 42 of the *Expropriations Act*.

3.1 Property No. 1

Parts 1 – 5 inclusive on Expropriation Plan D832 were expropriated from Jeni G. Nihda and James V. Nihda. Parts 4 and 5 on Expropriation Plan D832 are now surplus to the Region's road needs and under Section 42 of the *Expropriations Act* must be offered back to the original owner. In consideration of the payment of \$206,550.00, the Region agrees to transfer the surplus lands, Parts 4 and 5, back to the Nihda's, the original owners, or to a third party designated by them in writing. The Region agrees to pay all legal, appraisal and consulting fees incurred by Nihda's in connection with this settlement.

3.2 Property No. 2

Parts 21 – 26 inclusive on Expropriation Plan D834 were expropriated from Kire and Icanu Dimovski and Blagojo and Lillian Panizivski. Parts 21 and 22 on Expropriation Plan D834 are now surplus to the Region's road needs and under Section 42 of the *Expropriations Act* must be offered back to the original owner. In consideration of the payment of \$286,850.00, the Region agrees to transfer the surplus lands, Parts 21 and 22, back to the Kimovski's and Panizovski's the original owners, or to a third party designated by them in writing. The Region agrees to pay all legal, appraisal and consulting fees incurred by Kimovski's and Panizovski's in connection with this settlement.

3.3 Property No. 3

Parts 9 – 14 inclusive on Expropriation Plan D834 were expropriated from Empave Holdings Ltd. Parts 9 and 10 on Expropriation Plan D834 are now surplus to the Region's road needs and under Section 42 of the *Expropriations Act* must be offered back to the original owner. In consideration of the payment of \$587,000.00, the Region agrees to transfer the surplus lands, Parts 9 and 10, back to Empave Holdings Ltd. the original owners or to a third party designated by them in writing. The Region agrees to pay all legal, appraisal and consulting fees incurred by Empave Holdings Ltd. in connection with this settlement.

3.4 Property No. 4

Parts 15 – 20 inclusive on Expropriation Plan D834 were expropriated from Settimio and Clelia Iannucci. Parts 19 and 20 on Expropriation Plan D834 are now surplus to the Region's road needs and under Section 42 of the *Expropriations Act* must be offered back

to the original owner. In consideration of the payment of \$380,360.00, the Region agrees to transfer the surplus lands, Parts 19 and 20, back to the Iannucci's, the original owners, or to a third party designated by them in writing. The Region agrees to pay all legal, appraisal and consulting fees incurred by Iannucci's in connection with this settlement.

4. FINANCIAL IMPLICATIONS

The deeding back of these properties to the original owners will revert \$1,460,760.00 to the Markham By-pass project account.

5. LOCAL MUNICIPAL IMPACT

There is no local municipal impact associated with this report.

6. CONCLUSION

The agreements, which are the subject of this report, are expropriation settlements for property for the construction of the Markham By-pass in the Town of Markham. Negotiations have been ongoing to settle these outstanding expropriations and it is now in order to declare these lands surplus and authorize the sale of the surplus lands back to the property owners from whom it was expropriated, as provided for in the expropriation settlement agreements.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the March 1, 2006 Committee meeting.)