

6

DISPOSAL OF EXPROPRIATED PROPERTY TOWN OF MARKHAM

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, January 30, 2004, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council declare surplus and give notice of its intention to sell 0.78 acres of land described as being Parts 7 and 8, Expropriation Plan D834 in the Town of Markham.
2. Regional Council, in accordance with Section 42 of the *Expropriations Act*, authorize the sale of these lands to Markville Tree Farm Ltd., being the owner from which the lands were expropriated, for the sum of \$70,200.00.
3. The appropriate Regional Officials perform all acts necessary to give effect to the foregoing.

2. PURPOSE

The purpose of this report is to obtain Council's approval to:

1. Declare the lands described in Recommendation 1 above as surplus to the Region's requirements.
2. To sell the lands located at the southeast corner of the Markham By-Pass and Major Mackenzie Drive East (YR 25) in the Town of Markham (*see Attachment No. 1*), to Markville Tree Farm Ltd., the owner from which the lands were expropriated for the sum of \$70,200.00.

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 part of the Markham By-pass. One of the owners affected by the expropriation was Markville Tree Farm Ltd. This was an active landscaping business that supplied and planted trees and shrubs and also sold wholesale to other landscapers. The property had a frontage of 106.75 metres (350 feet) on Major Mackenzie Drive East and an area of 10 acres. There was a residence on the property together with out buildings that were appurtenant to the landscaping business. Part of the land was used for growing various types of trees and

shrubs. The Region expropriated a strip of land diagonally through the front section of the property for the Markham By-Pass. The total land expropriated was 3.313 acres. Part of this was a triangular shaped parcel of land that was severed from the remaining property. It is located on the north side of the Markham By-pass and has a frontage on Major Mackenzie Drive as well as the Markham By-pass and has an area of 0.78 acres. It is legally described as being Parts 7 and 8 on Expropriation Plan D834 (*see Attachment No. 2*). A 0.3 meter reserve is located on both frontages thus landlocking this parcel and therefore could not be used as a building lot by itself.

The remainder of the property, where the house and buildings are located, is located on the south side of Major Mackenzie Drive.

Negotiations are presently being carried out to try to settle this outstanding expropriation. The owner, as part of the settlement, has requested that the Region return the 0.78 acres since he has been approached by the owner to the east of the property to sell it. Under Section 42 of the *Expropriations Act* the expropriating authority must give the owner, from whom the land was expropriated, the first chance to purchase the property back. The Region, under Section 25 of the *Act* offered \$90,000.00 an acre for this land and the owner wishes to adjust the final expropriation settlement based on this value and have the property deeded back.

4. ANALYSIS AND OPTIONS

This matter is an outstanding expropriation that the owner wishes to settle. As part of the settlement Markville Tree Farm Ltd. wants the parcel that was severed by the Markham By-pass deeded back and the final compensation will reflect the conveyance. The parcel is landlocked by the 0.3 meter reserve that is across both of its road frontages and therefore its highest and best use is to add it to the property to the east. The landowner to the east has approached Markville and wishes to purchase it. The Region must, under the *Expropriation Act*, offer the property back to the party that it was expropriated from.

5. FINANCIAL IMPLICATIONS

The deeding back of this property will give effect to the final settlement of an outstanding expropriation. The settlement will avert a costly O.M.B. hearing that will involve several consultants and solicitors for both sides. The Region will have to cover the entire cost of the hearing for both sides. Therefore, it is recommended that as part of the final settlement with Markville Tree Farm Ltd., the 0.78 acres be returned to it.

6. LOCAL MUNICIPAL IMPACT

The expropriation from Markville Tree Farm Ltd. was for land that was required for the Markham By-pass that will, upon completion of construction, relieve some of the congestion on the local north/south roads in Markham.

7. CONCLUSION

In order to settle this outstanding expropriation and to avoid a possible costly O.M.B. hearing it is recommended that the parcel described as Parts 7 and 8 on Expropriation Plan D834 be declared surplus and deeded back to Markville Tree Farm Ltd. This would also be in compliance with Section 42 of the *Expropriations Act*.

The Senior Management Group has reviewed this report.

(A copy of the attachments referred to in the foregoing has been forwarded to each Member of Council with the March 4, 2004 Finance and Administration Committee agenda and a copy thereof is on file in the Office of the Regional Clerk.)