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**EXPROPRIATION OF LAND FOR TEMPORARY EASEMENTS
HIGHWAY 7, VIVA PROJECT 90773
TOWN OF MARKHAM AND THE TOWN OF RICHMOND HILL**

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated April 12, 2012, from the Commissioner of Corporate Services.

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize an application for approval to expropriate a temporary interest in the following lands, within the Town of Markham and Town of Richmond Hill.

Ref No.	Address	Legal Description
5	5 Rockwell Road and 372 Highway 7E	Part of PIN 03119-0018 (LT) Part Lot 31, Plan 2607 designated as Part 6 on Plan YR1349903 Part of PIN 03119-0017 (LT), Part Lot 31, Plan 2607 designated as Part 7 on Plan YR1349903
6	376 Highway 7E	Part of PIN 03119-0016 (LT), Part Lot 32, Plan 2607 designated as Part 8 on Plan YR1349903
7	380 Highway 7E	Part of PIN 03119-0015 (LT), Part Lot 32, Plan 2607 designated as Part 9 on Plan YR1349903
8	382 Highway 7E	Part of PIN 03119-0014 (LT), Part Lot 32, Plan 2607 designated as Part 10 on Plan YR1349903
11	400 Highway 7E	Part of PIN 03119-0011 (LT), Part Lot 11, Conc. 2 RH (MKM) designated as Part 2 on Plan YR1349900
12	404-408 Highway 7E	Part of PIN 03119-0010 (LT), Part Lot 11, Conc. 2 RH (MKM) designated as Part 4 on Plan YR1364637
15	420 Highway 7E	Part of PIN 03124-0544 (LT), Part Block 92, Plan 65M-2579 designated as Part 3 on Plan YR1363978

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Regional Council Meeting of May17, 2012

Ref No.	Address	Legal Description
16	95-115 Times Avenue	Part of PIN 03029-1122 (LT), Part Block 10, Plan 65M-3226 designated as Part 3 on Plan YR1363983
19	300 West Beaver Creek	Part of PIN 03124-0549 (LT), Part Block 1, Plan 65M-2203 designated as Part 3 on Plan YR1372760
21	11-27 Allstate Parkway	Part of PIN 03046-0069 (LT), Part Block 8, Plan 65M-2029 designated as Part 3 on Plan YR1366035
22	S.S. Highway 7E	Part of PIN 03031-0010 (LT), Part Lot 7, Plan 65M-2326 designated as Part 6 on Plan YR1366025
23	S.S. Highway 7E	Part of PIN 03031-0011 (LT), Part Lot 8, Plan 65M-2326 designated as Part 3 on Plan YR1366025
24	75 Frontenac Drive	Part of PIN 03046-0202 (LT), Part Lot 11, Conc. 3, MKM (MKM) designated as Parts 2 & 3 on Plan YR1375521
25	25-71 Cochrane Drive	Part of PIN 03031-0121 (LT), Part Lot 9, Plan 65M-2326 designated as Part 8 on Plan YR1366491
28	8555 Woodbine Avenue	Part of PIN 03045-0402 (LT), Part Block A, Plan 4556 designated as Parts 2 & 3 on Plan YR1366729
29	3088 Highway 7	Part of PIN 03045-0404 (LT), Part of Blocks A and D, Plan 4556 designated as Part 3 on draft Plan YR1366554
30	3085 Highway 7	Part of PIN 03032-0003 (LT), Part West Half Lot 10, Conc. 4 MKM (MKM) designated as Part 2 on Plan YR1372305
31	3130-3150 Highway 7	Part of PIN 03045-0007 (LT), Part Block E, Plan 4556 designated as Part 4 on Plan YR1372824
32 & 33	3265-3275 Highway 7	Part of PIN 03032-0302 (LT), Part Lot 10, Conc. 4 MKM (MKM) designated as Parts 2 & 3 on Plan YR1372931
35A, 35B,	N.S. Highway 7	Part of PIN 03045-0052 (LT), Part Block 1, Plan 65M-2445 designated

Ref No.	Address	Legal Description
36		as Parts 1, 2, 3 & 4 on Plan YR1372307
49, 50, 52	120 South Town Centre Boulevard	Part of PIN 03033-0074 (LT), Part Block 1, Plan 65M-2668 designated as Parts 3 & 4 on draft Plan YR1372304
56	120 South Town Centre Boulevard	Part of PIN 03033-0011 (LT), Part Block 4, Plan 65M-2668 designated as Parts 1 & 3 on draft Plan YR1372523
57	130 South Town Centre Boulevard	Part of PIN 03033-0113 (LT), Part Block 4, Plan 65M-2668 designated as Part 5 on Plan YR1372523
E4	130 Pond Drive	Part of PINs 29489-0001 (LT) to 29489- 0366 (LT), Part of Common Elements YRCP No. 958 designated as Part 1 on Plan YR1364213
E7	500 Highway 7E	Part of PIN 03124-0558 (LT), Part Block 1, Plan 65M-2106 designated as Part 1 on Plan YR1365965
E10	600 Highway 7E and 9009 Leslie Street	Part of PIN 03125-0129 (LT), Part Lot 11, Concession 3, RH (MKM) designated as Parts 1, 2, 3 & 4 on Plan YR1372934
E11	650 Highway 7E	Part of PIN 03125-0186 (LT) Part Blocks 1 and 7, Plan 65M - 2287 and Part Lot 11, Concession 3 RH (MKM) designated as Parts 1, 2, 3, 4, 5, 6, 7, 8, & 9 on Plan YR1373071
E12	255 East Beaver Creek Road	Part of PIN 03125-0185 (LT), Part Block 1, Plan 65M-2287 designated as Parts 1 & 2 on Plan YR1373072
E13	2830 Highway 7	Part of PIN 03046-0070 (LT), Part Lot 11, Concession 3, MKM (MKM) designated as Part 1 on Plan YR1365824
E19	3105-3175 Highway 7	Part of PIN 03032-0207 (LT), Part Lot 10, Concession 4 MKM (MKM) designated as Parts 1 & 2 on Plan YR1372306

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*.

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 held under the *Expropriations Act*.
4. Council authorize the introduction of the necessary bylaws to give effect to these recommendations.

2. PURPOSE

This report seeks Council approval for an application to expropriate temporary easement interests from 30 properties along Highway 7 (H3), in the Town of Markham and the Town of Richmond Hill, in order to implement certain road and intersection improvements for the VIVA transit system (*see Council Attachment 1*). There is a need to extend the duration of easements previously expropriated. The purpose of the limited interests is to facilitate construction and maintenance as more particularly described in *Council Attachment 2*.

While the Region has secured access to commence construction there would need to be assurance this work can continue past the original period. Should negotiations with the landowners not prove successful, the Region would need to commence expropriation proceedings to ensure ongoing construction access.

3. BACKGROUND

The Environmental Assessment was approved in 2006

This project received environmental assessment approval from the Province in 2006.

The vivaNext bus rapid transit network in the Highway 7 corridor is currently being constructed

Although the easements were acquired in 2009, construction did not commence until May of 2011. As a result, the existing easements will expire before construction is complete.

Temporary easements are required to facilitate completion of the construction

On January 22, 2009, Council authorized the commencement of the process to expropriate certain land (Clause 1 of Report 2 of the Rapid Transit Public/Private Partnership Steering Committee) in connection with road and intersection improvements

along Highway 7, in the Towns of Markham and Richmond Hill. The land that was expropriated included 46 temporary easement interests which will expire between July 29, 2012 and September 17, 2012.

It is expected the 30 temporary easements will require an extension of the expiration date until June 30, 2014, to accommodate completion of the construction on Highway 7. No expansion to the area of the temporary easements will be necessary.

Although property acquisition negotiations are currently being carried out, it might be necessary to expropriate real estate interests from those parties where acquisition cannot be achieved through the negotiation process.

4. ANALYSIS AND OPTIONS

Negotiations are proceeding to acquire the temporary easements

Property negotiations to acquire extensions to the temporary easements are ongoing. All 30 temporary easement requirements formed part of the January 22, 2009 report. The success of obtaining amicable agreements is not assured and it is necessary to commence expropriation proceedings.

Initiating expropriation proceedings will ensure the construction schedule will not be compromised

Regional staff anticipates that negotiations will be successfully concluded on many of the outstanding properties. In order to ensure timely acquisition of the extensions to the temporary easements, it is recommended the expropriation process proceed concurrently. If easement extensions are obtained amicably, expropriation will not be necessary.

The first step in the process requires Council, as approving authority, to authorize an application for approval to expropriate. Subsequently, Notices may be served on owners of the subject lands. Receipt of this notice will trigger an owner's right to request a Hearing of Necessity. There is also a statutory obligation to publish the Notices.

Link to Key Council - approved Plans

From Vision to Results: 2011 to 2015 Strategic Plan

Priority Area – Continue to Deliver and Sustain Critical Infrastructure

Continue to prioritize new capital infrastructure projects to support managed growth and optimize community benefit

Improve mobility for users on Regional transportation corridors.

5. FINANCIAL IMPLICATIONS

The initial cost to the Region of the temporary easement, when acquired in 2009, was \$1,290,000, not all of which has been paid out due to disputes over the value of the land. The estimated cost for these further temporary easements is \$420,000, for a total of \$1,710,000 which is recoverable from Metrolinx. This amount has been calculated using the same methodology as in the original expropriations in 2009, with an allowance for estimated changes in property value.

6. LOCAL MUNICIPAL IMPACT

The timely construction of dedicated lanes along Highway 7 for VIVA buses is critical to the business/property owners, improvement of public transit facilities and the overall streetscapes. The project is consistent with the Region's goal for higher density mixed use transit-oriented development, in accordance with approved official plans.

7. CONCLUSION

This report seeks Council approval to initiate the expropriation process for 30 temporary easements from owners along Highway 7, in order to complete construction to implement road and intersection improvements and to provide designated lanes for the vivaNext transit system. To ensure the project is not delayed, it is necessary to initiate the expropriation process. Staff will continue negotiating for the acquisition of the required properties and expropriation will be abandoned in cases where negotiations are successful.

For more information on this report, please contact Barry Crowe, Director, Property Services Branch at Ext. 1684.

The Senior Management Group has reviewed this report.

(The two attachments referred to in this clause are attached to this report.)



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LOCATION PLAN

Expropriation of Land for Temporary Easements

H3 - Highway 7, Project 90773

Town of Markham and Richmond Hill



0 750 1,500 3,000 Metres

PROPERTY SERVICES



**EXPROPRIATION OF LAND FOR TEMPORARY EASEMENTS
HIGHWAY 7, VIVA PROJECT 90773
TOWN OF MARKHAM AND TOWN OF RICHMOND HILL**

Description of the Temporary Limited Interest/Easement

a temporary easement and/or right in the nature or the said easement in, over, along and upon the lands described herein for the municipal purpose of entering on the lands with all vehicles, machinery, workmen and other material to provide for hard and soft landscaping, grading and re-shaping the lands to the limit of the reconstruction of Highway 7 and works ancillary thereto.