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ABANDONMENT OF EXPROPRIATED PROPERTY TOWN OF MARKHAM

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, August 16, 2004, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. Subject to the former owners executing the required election to take back the hereinafter described lands, Regional Council abandon the 0.001 acres of land described as being Parts 4 and 5 on Expropriation Plan D849 in the Town of Markham in accordance with Section 41 of the *Expropriations Act*.
2. Authority be granted for the execution of the Notice of Abandonment and the Declaration of Abandonment pursuant to Section 41 of the *Expropriations Act* and the introduction of the necessary bill in Council to give effect to the foregoing.
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. Abandon the lands described in Recommendation 1 above pursuant to Section 41 of the *Expropriations Act*.

3. BACKGROUND

Regional Council, at its meeting held on June 27, 2002 by its enactment of By-Law No. R-1288-2002-052 authorized the expropriation of the necessary lands for the widening and reconstruction of Warden Avenue in the Town of Markham. Pursuant to this by-law, by the registration of Expropriation Plan D849 on September 9, 2002, the Region expropriated Parts 1 to 9 inclusive from Markham Gate Investments Limited. The subject property is improved with two professional office buildings and one industrial building. The concrete wall of the underground parking garage encroaches onto Parts 4 and 5 on Expropriation Plan D849. The access to the subject property is from Alden Road.

Subsequent to the registration of Expropriation Plan D849, the road design and boulevard layout at this location were changed to avoid the encroachment of the underground

parking garage located on Parts 4 and 5 on Expropriation Plan D849. As a result of the change of design, these lands are no longer necessary for our purpose.

Compensation for the expropriation of Parts 4 and 5 on Expropriation Plan D849 has not been paid in full and Markham Gate Investments Limited has advised that its acceptance of compensation for the balance of the lands expropriated from it is conditional upon The Regional Municipality of York abandoning Parts 4 and 5. Section 41 of the *Expropriations Act* provides for the abandonment of expropriated land where compensation has not yet been paid in full. When expropriated land is abandoned by the expropriating authority, it reverts in the owner from whom it was expropriated.

4. ANALYSIS AND OPTIONS

This matter is an outstanding expropriation that the owner is willing to settle. As part of the settlement, Markham Gate Investments Limited wants Parts 4 and 5 on Expropriation Plan D849 abandoned back to it, at no cost. Because of the encroachment of the underground parking garage and the subsequent change in road design, staff in the Transportation and Works Department has advised that these lands are no longer necessary for our purposes.

5. FINANCIAL IMPLICATIONS

The abandonment of this property will give effect to the final settlement of an outstanding expropriation. The settlement will avoid the cost of injurious affection; therefore, it is recommended that as part of the final settlement with Markham Gate Investments Limited, the 0.001 acres be returned to them.

6. LOCAL MUNICIPAL IMPACT

There is no municipal impact associated with this report.

7. CONCLUSION

There is an outstanding expropriation with Markham Gate Investments Limited on Warden Avenue. Parts 4 and 5 on Expropriation Plan D849, which are the subject of this report, are no longer required by the Region due to a change in design. Markham Gate Investments Limited has, as part of its expropriation settlement, requested that this parcel be transferred back to them, free of all costs.

In order to settle this outstanding expropriation it is recommended that the parcel described as Parts 4 and 5 on Expropriation Plan D849 be abandoned back to Markham

Gate Investments Limited. This would also be in compliance with Section 41 of the *Expropriations Act*.

The Senior Management Group has reviewed this report.

(A copy of the attachment referred to in this Clause has been forwarded to each Member of Council with the September 9, 2004, Finance and Administration Committee agenda and a copy is on file in the Regional Clerk's office.)