

Clause 22 in Report No. 1 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on January 25, 2018.

22

Expropriation of Land - 12960 Yonge Street and 57 King Road -
Town of Richmond Hill

Committee of the Whole recommends adoption of the following recommendations contained in the report dated January 4, 2018 from the Commissioner of Corporate Services:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the construction of an Air Management Facility at 57 King Road, in the Town of Richmond Hill.
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 (the "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 (Hearing of Necessity) held under the Act.
4. Council, as approving authority, approve the expropriation of the lands provided there is no Hearing of Necessity requested in accordance with the Act. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the Act.
5. Where approval to expropriate the lands is given, the Commissioner of Corporate Services be authorized to register a plan of expropriation and execute and serve any notices required under the Act.
6. Where approval to expropriate the lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

Report dated January 4, 2018 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the construction of an Air Management Facility at 57 King Road, in the Town of Richmond Hill.
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* (the "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 (Hearing of Necessity) held under the *Act*.
4. Council, as approving authority, approve the expropriation of the lands provided there is no Hearing of Necessity requested in accordance with the *Act*. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the *Act*.
5. Where approval to expropriate the lands is given, the Commissioner of Corporate Services be authorized to register a plan of expropriation and execute and serve any notices required under the *Act*.
6. Where approval to expropriate the lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

2. Purpose

This report seeks Council approval for an application to expropriate property interests needed for the development of an Air Management Facility on Region-owned land municipally known as 57 King Road in the southwest quadrant of Yonge Street and King Road in the Town of Richmond Hill, as shown on Attachment 2.

Expropriation of Land
12960 Yonge Street and 57 King Road
Town of Richmond Hill

This report further seeks Council approval to expropriate any of the lands for which no Hearing of Necessity is requested, and that have not otherwise been acquired by the Region through ongoing negotiations.

3. Background

An Air Management Facility is required to manage odour in the Oak Ridges area

In 2015, the Region's Environmental Services Department completed a detailed study to confirm the causes of odour and identify a permanent solution to address odour emissions in the Oak Ridges area. Following a detailed study, it was determined that the construction of an Air Management Facility will positively improve odour control in the area.

An Air Management Facility will be used to house specialized air handling equipment

The treatment of sewer air requires specialized equipment that is housed inside a freestanding building. Sewer air is drawn in by pipe from the sewer on Yonge Street to be treated in one of two air purifiers in the building.

A short list of potential properties to develop the Air Management Facility was prepared and 57 King Road was selected

Proximity to Yonge Street and the sanitary sewer is a key factor in the selection of a property for an Air Management Facility. Five potential sites were identified and assessed. The Region-owned property at 57 King Road was selected as the best location.

The King Road property was transferred from the Ontario Clean Water Agency to the Region on September 26, 2001. The site previously housed a municipal well. The well is now decommissioned and the property is vacant.

The Region's property is landlocked and can only be accessed from King Road by a Right of Way over an adjoining property to the north as shown in Attachment 2. Access to the Region's property will be retained on the Right of Way.

Expropriation of Land
12960 Yonge Street and 57 King Road
Town of Richmond Hill

The Region also requires an easement to install and maintain infrastructure for the Air Management Facility

The adjacent owner's land, 12960 Yonge Street, borders the Region's property on the east and south sides, and has frontage on Yonge Street. To transfer air from the sewer in the Yonge Street right of way to the Air Management Facility, it is necessary to install and maintain a pipe through the adjacent owner's property. To construct and maintain the pipe, an easement is required along the north limit of the adjacent owner's property at 12960 Yonge Street, as shown in Attachment 2.

The Region requires the release of a right of way registered against the Region's land

The Region's property at 57 King Road is subject to a Right of Way along its westerly limit in favour of the property at 12960 Yonge Street. This Right of Way provides the owner of 12960 Yonge Street a secondary access to its property.

The Right of Way over the Region's property is not currently in use by the adjacent owner but it is registered on title and prevents development of the Air Management Facility on the Region owned lands. The Region's property is vacant and has been fenced for security.

4. Analysis and Implications

Staff is negotiating with the property owner through the expropriation process

Property requirements for the construction of the Air Management Facility at 57 King Road will require two interests from the adjacent property owner at 12960 Yonge Street:

- 1) A five metre wide permanent easement along the north limit of 12960 Yonge for the installation of the pipe that will feed air from the sewer on Yonge Street to the facility at 57 King Road.
- 2) A release of the 66 foot wide Right of Way in favour of 12960 Yonge Street that encumbers 57 King Road. This would enable construction of the Air Management Facility.

Staff has initiated discussions with the property owner to acquire the property interests. In accordance with the Region's land acquisition policy, two

Expropriation of Land
12960 Yonge Street and 57 King Road
Town of Richmond Hill

independent real estate appraisers have been engaged to provide individual market value appraisals to be used during negotiations.

Initiating the expropriation process now will allow access to the lands and timely delivery of the required Air Management Facility

The preferred approach to obtaining land is to negotiate a transaction with the property owner. However, various events affect the timing of negotiations, such as owners not agreeing on the terms of the agreement or issues with clearing title to the property. Expropriation is necessary to ensure timely possession of lands.

In an effort to secure possession and complete the property acquisition for this project, it is recommended that the expropriation process proceed along with ongoing negotiations.

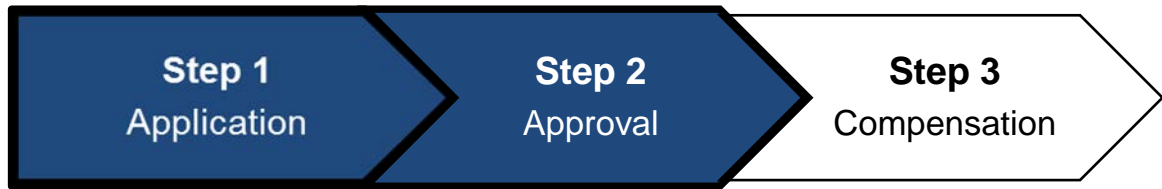
Staff will continue to negotiate the agreement of purchase and sale for the required interests along with the expropriation process, until an expropriation plan has been registered.

Council Approval is required at three stages of the expropriation process

Approval by Council is required at three stages in the expropriation process. These include the request to Council to authorize an application for approval to expropriate the lands, the expropriation itself, and the offer of compensation to the former owner of the lands for losses suffered as a consequence of the expropriation.

In an effort to ensure possession of the lands to meet the construction schedule, the first and second steps in the Council approval process have been combined for this report, as indicated in the graphic below. The third step will be the subject of a future report to Council, in the event the expropriation proceeds. Possession of the lands cannot be obtained until this third step has been completed and the owner is served an offer of compensation.

Figure 1
Council Approval Steps



The owner has the right to request a Hearing of Necessity upon receipt of a Notice of Application for Approval to Expropriate

The first step in the expropriation process is to serve the registered owner with a notice of intention to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate, an owner has the right within 30 days of receipt to request an inquiry (Hearing of Necessity) to determine whether the taking of the lands by the Region is fair, sound and reasonably necessary in achieving the objectives of the expropriating authority.

If an owner requests a Hearing of Necessity, then subsequent to the Hearing, an inquiry officer will provide a report with an opinion as to whether the taking is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority, including an explanation for the Inquiry Officer's findings.

Registration of an expropriation plan will secure ownership of the lands by the Region

If no Hearing of Necessity is requested, an expropriation plan will be registered at the Land Registry Office within three months of Council granting approval of a by-law to proceed with the expropriation. This is the second step in the expropriation process, which is anticipated to be in the spring of 2018.

Registration of the expropriation plan is a key step in the expropriation process. It is at this point that the Region acquires ownership of the lands. However, further steps are required to obtain possession, or the right to access the lands.

Following the registration of the expropriation plan, the notice of expropriation and possession will be served on the owner. Under the *Act*, possession of the lands is to take place no sooner than three months after registration of the expropriation plans. In addition, offers of compensation must be served on the owner to obtain possession.

Expropriation of Land
12960 Yonge Street and 57 King Road
Town of Richmond Hill

Environmental due diligence will be completed prior to the Region taking ownership of the lands

A Contamination Overview Study was completed as part of the Class Environmental Assessment Study and identified areas of potential environmental concern.

A Phase One Environmental Site Assessment (ESA) will be performed to assess the potential environmental condition of the lands. Based on the results of the Phase One ESA, a Phase Two ESA may be required to confirm the presence or absence of environmental impacts identified in the Phase One ESA.

Prior to registration of the expropriation plans, the results of the environmental due diligence conducted for the lands will be reviewed by staff, including consultation with Legal Services. In the event environmental impacts are identified, staff will take the necessary steps to minimize the Region's exposure to environmental risk and liability and may report to Council with recommendations.

5. Financial Considerations

Funding required to complete the property acquisition that is the subject of this report is included in the 2018 Capital Budget for Environmental Services.

Under section 25 of the Act, the Region is obligated to serve offers of compensation on owners within three months of the registration of the expropriation plan. The appraisal required to support this offer will be prepared and the proposed offer will be the subject of a further report to Council.

6. Local Municipal Impact

The Air Management Facility is important local infrastructure that will improve the air quality for local residents and businesses affected by sewer odour in the Oak Ridges neighbourhood. The acquisition of the property interests will enable the construction of a facility that will treat sewer air that has been a source of concerns.

Expropriation of Land
12960 Yonge Street and 57 King Road
Town of Richmond Hill

7. Conclusion

The purpose of the Air Management Facility is to manage air and odour from the sanitary sewer operating on Yonge Street in the community of Oak Ridges.

The Region owns a parcel of land that has been determined to be the most appropriate location for the development of a facility to treat air from the sewer. To use that land, two property interests are required.

The first requirement is a permanent easement over the adjacent property at 12960 Yonge Street that will allow the installation of a pipe that will bring in air from the sewer to be treated.

The second requirement is the release of the Right of Way that encumbers 57 King Road and impedes the development of the building that will house the air management equipment. That Right of Way is in favour of 12960 Yonge Street and provides a second access to that property.

For more information on this report, please contact Michael Shatil, Director, Property Services Branch at 1-877-464-9675 ext. 71684.

The Senior Management Group has reviewed this report.

January 4, 2018

Attachments (2)

eDOCS #8120953

Accessible formats or communication supports are available upon request

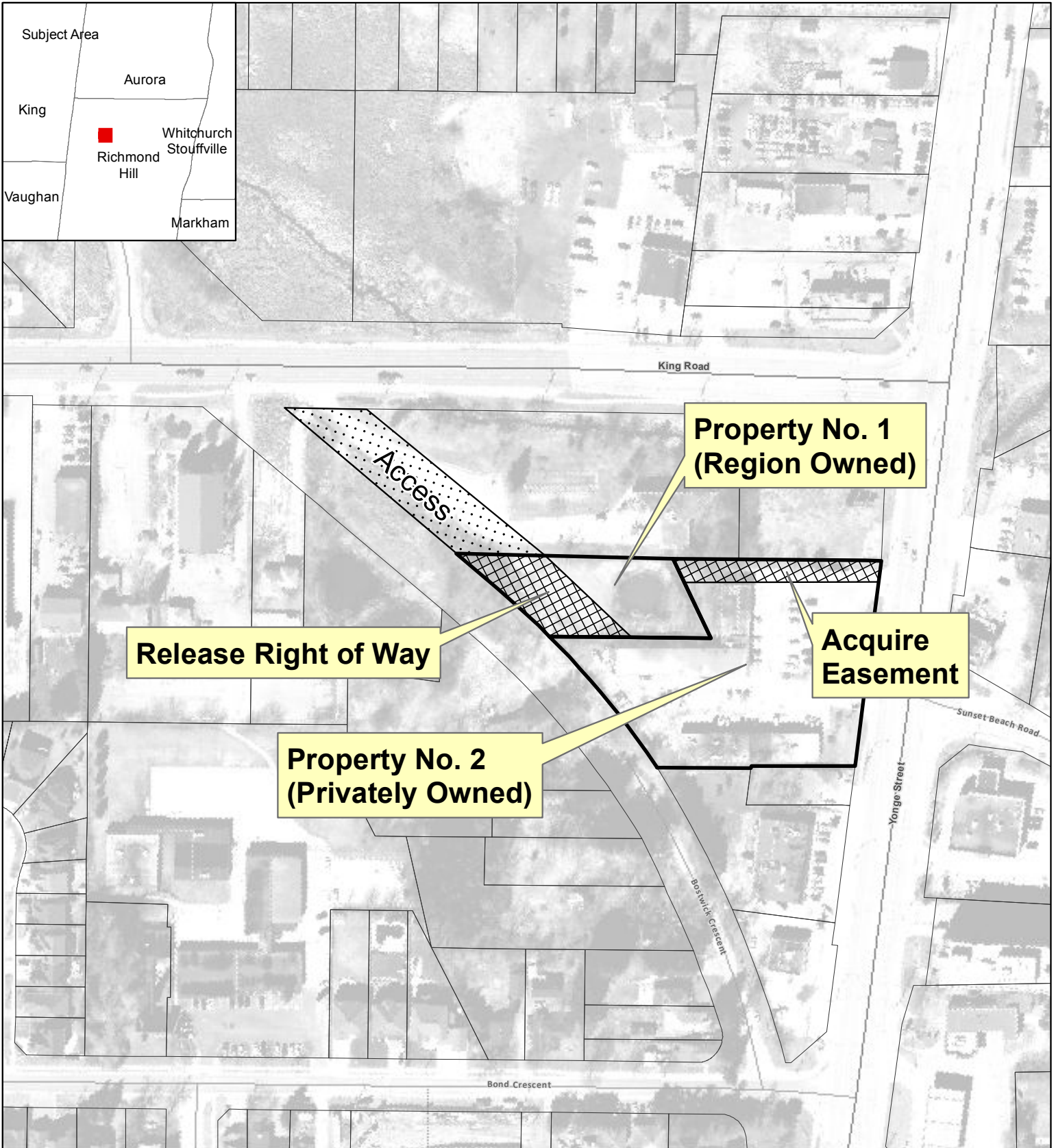
**Property Schedule
Expropriation of Land
12960 Yonge Street and 57 King Road
Town of Richmond Hill**

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	The Regional Municipality of York	57 King Road, Richmond Hill	Parts 1, 2, Plan 65R37193	Release of ROW in favour of 12960 Yonge Street
2.	E, Mollicone Realty Limited	12960 Yonge Street Richmond Hill	Parts 3, 4, Plan 65R37193	Permanent Easement

There is an existing right of way over the Region owned property in favour of 12960 Yonge Street that is 66 feet in width (Part 1, 65R-37193) and provides access to King Road. The Region is seeking a release of that interest to develop the property with an air management facility.

The proposed permanent easement over 12960 Yonge Street (Parts 3 and 4, 65R-37193) will provide access to the sewer on Yonge Street for the installation and maintenance of an underground pipe.

The permanent easement is described as a limited interest in perpetuity in, under, over, along and upon the land for municipal purposes including, but not limited to, entering on the lands with all vehicles, machinery, workmen and other material (i) to construct and maintain permanent municipal infrastructure and appurtenances which may include installation, maintenance, alteration, inspection, repair, operation, shoring and formwork; and (ii) for construction purposes which include, but are not limited to, (1) staging and storage of materials and equipment, (2) geotech testing, borehole testing, and other investigative works, (3) removal, relocation and/or installation of signage, (4) hard and soft landscaping, paving, grading and reshaping the lands to the limit of the reconstruction, (5) the installation and removal of temporary (i) pedestrian access and walkways, (ii) parking measures including re-stripping of aisles, lanes, and parking stalls, (iii) shoring and formwork, (iv) drainage and erosion/sediment control measures, and (6) works ancillary to any of the foregoing and necessary to the works to be performed.



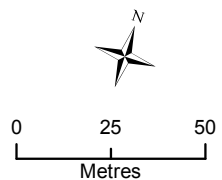
York Region

Produced by:
The Regional Municipality of York
(Branch Name), (Department Name)
January 2018

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Location Plan
Expropriation of Land
12960 Yonge Street and
57 King Road
Town of Richmond Hill
January 18, 2018



Legend

	Subject Property
	Interest Required
	Right of Way For Access
	Parcel
	Road