



Report to: Development Services Committee

Report Date: November 20, 2012

| | |
|---------------------|---|
| SUBJECT: | Information on the Potential Removal of Heritage Easement Agreements from Heritage Properties |
| PREPARED BY: | Regan Hutcheson, Manager, Heritage Planning, ext 2080 |

RECOMMENDATION:

- 1) That the staff report entitled "Information on the Potential Removal of Heritage Easement Agreements from Heritage Properties", dated November 20, 2012, be received;
- 2) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not applicable

PURPOSE:

To provide information regarding the potential removal of a Heritage Easement Agreement from title to a property if a financial assistance program in which the property owner is participating (such as the Heritage Property Tax Reduction Program) is cancelled.

BACKGROUND:

The Town created a Heritage Property Tax Reduction Program

The Town has implemented a Heritage Property Tax Reduction Program effective January 1, 2003, to provide tax relief for eligible heritage properties. Council passed By-law 2003-241, the Heritage Tax Reduction Program By-law, on December 16, 2003. The purpose of the tax relief program is to provide an incentive for owners to preserve and maintain significant heritage properties in the Town.

One of the eligibility criteria for the Program is a Heritage Easement Agreement

Provincial legislation that permits heritage tax relief programs requires that eligible properties be subject to a Heritage Easement Agreement. Section 5 (ii) of By-law 2003-241 also requires that, in order to be eligible to apply for a heritage tax reduction, the owner of the property must provide proof that the property is subject to a heritage easement, under s. 22 or 37 of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18.

Staff were directed to report on the status of the easement agreement if the Heritage Property Tax Reduction Program was discontinued

During the approval of Heritage Easement Agreements for the 2011 tax year, a member of Development Services Committee noted that residents may be hesitant to apply for the program due to concerns that the Easement Agreement may remain in effect in the event that Council cancels the program in the future. Staff was asked to report back on this issue.

OPTIONS/ DISCUSSION:**The City has 110 Heritage Easement Agreements**

The City currently holds 110 Heritage Easement Agreements on property in Markham. These agreements have been secured as a condition of development approval, as a condition of financial grant assistance of over \$5,000, and as a requirement to participate in the Heritage Property Tax Reduction Program.

Of the properties subject to these Agreements, approximately 50% currently participate in the Heritage Property Tax Reduction Program (54 properties).

Agreement remain on title in perpetuity

According to the City Solicitor, if the Heritage Property Tax Reduction Program is cancelled, the Easement Agreement would remain in place on the property, unless otherwise directed by Council. The easement would have been secured as a condition of and in exchange for public financial compensation. If a property owner was to request that Council remove the Easement Agreement, the removal would be at Council's discretion.

Heritage Easements are useful preservation tools

Over the years, Staff has found the Heritage Easement Agreement to be a valuable tool to protect cultural heritage resources in Markham. There have been instances where a new owner purchased a property subject to an Easement Agreement and then requested to demolish the cultural heritage resource. In these cases, the municipality exercised its rights under the Agreement to deny the demolition and the resources were later incorporated into a new development. Also, many properties subject to these Agreements have been the recipient of considerable financial assistance in the form of grants or tax rebates from the public purse. It would be staff's recommendation that once a Heritage Easement Agreement is secured by the municipality, it generally not be removed. However, as noted above, the removal of the Agreement would be subject to Council's approval.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

Not applicable

HUMAN RESOURCES CONSIDERATIONS

Not applicable


ALIGNMENT WITH STRATEGIC PRIORITIES:

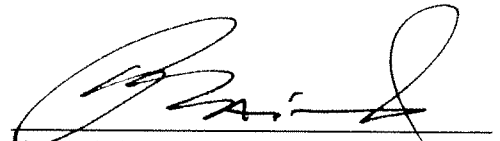
The protection and preservation of cultural heritage resources is part of the Town's Growth Management strategy.

BUSINESS UNITS CONSULTED AND AFFECTED:

The City Solicitor was consulted for a legal opinion.

RECOMMENDED BY:


Rino Mostacci, M.C.I.P., R.P.P.
Director of Planning and Urban Design


Jim Baird, M.C.I.P., R.P.P.
Commissioner of Development Services.

ATTACHMENTS:

Appendix 'A' Extract from Development Services Committee
(November 22, 2011)



APPENDIX A

THE CORPORATION OF THE CITY OF MARKHAM

EXTRACT CONTAINING ITEM #0006 OF THE DEVELOPMENT SERVICES COMMITTEE OF (Nov 22, 2011)

6. HERITAGE EASEMENT AGREEMENTS FOR HERITAGE PROPERTY TAX REDUCTION PROGRAM (16.11)

Report

A Committee member noted that residents may be hesitant to apply for the program due to concerns that the easement may remain in effect in the event Council cancels the program in the future. Staff were directed to report back on this issue.

Moved by: Councillor Alex Chiu

Seconded by: Councillor Carolina Moretti

- 1) That the Mayor and Clerk be authorized to execute Heritage Easement Agreements with the property owners identified on Schedule "A" attached to the report dated November 22, 2011, and any other documents required to give effect thereto, in a form satisfactory to the Town Solicitor; and,
- 2) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

CARRIED

Moved by: Councillor Valerie Burke

Seconded by: Councillor Colin Campbell

- 3) That Staff prepare a report for an upcoming Development Services Committee meeting regarding the status and impact on Heritage Easement Agreements, in the event Council discontinues the Heritage Property Tax Reduction Program in the future.

CARRIED

ADJOURNMENT

The Development Services Committee meeting adjourned at 12:15 PM.

Alternate formats for this document are available upon request.