



## BY-LAW 2007-30

**A by-law to approve the expropriation of a permanent and temporary easement in land being Part of Lot 9, Concession 5 (formerly Township of Markham), designated as Parts 3 and 4, on Plan 65R-29253, in the Town of Markham, in the Regional Municipality of York.**

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WHEREAS, the Council of The Corporation of the Town of Markham enacted By-Law No. 2006-343 authorizing commencement of the expropriation of the above-described lands for the public utility purposes set out as follows:

- a free, uninterrupted and unobstructed right and easement in perpetuity, to enter on and construct, repair, replace, operate, maintain, and monitor municipal utilities including, but not limited to, an underground heating and cooling supply system including all necessary ductwork, service wires and cables, buried conduits, markers, fixtures and equipment as the Town of Markham ("Town") and/or any future assignee including Markham District Energy Inc. ("MDEI"), may from time to time or at any time hereafter deem requisite, in, over, along, across and upon the lands described as being Part of PIN 02988-0075 (LT) being Part of Lot 9, Concession 5 Markham, designated as Part 3 on Plan 65R-29253; and
- a one year temporary easement or right in the nature of a temporary easement in, across, over, along and upon the land described as: Part of PIN 02988-0075 (LT) being Part of Lot 9 in Concession 5, Markham, designated as Part 4 on Plan 65R-29253 commencing on the date of registration of a conveyance thereof or of a plan of expropriation and expiring twelve (12) months later for the Town and/or any future assignee including MDEI its employees, agents and independent contractors to enter upon the lands with all necessary machinery, equipment and material required to facilitate the construction of the said municipal utilities including, but not limited to, an underground heating and cooling supply system.

AND WHEREAS an inquiry was held to determine whether the proposed expropriation is fair, sound and reasonably necessary to accomplish the objectives set out in the Notice of Grounds served upon the Owner in accordance with the *Expropriations Act*.

AND WHEREAS, after hearing the evidence presented, the Inquiry Officer concluded that the proposed expropriation is fair, sound and reasonably necessary, which conclusion is contained in a written report dated January 8, 2007.

AND WHEREAS Council has received and reviewed the said report of the Inquiry Officer.

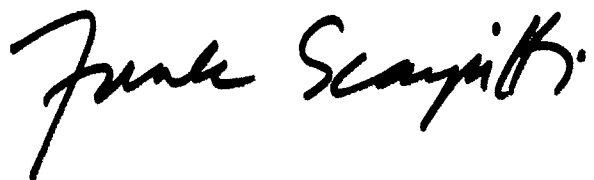
NOW THEREFORE, the Council of The Corporation of the Town of Markham ENACTS AS FOLLOWS:

1. That expropriation of the above mentioned lands, more particularly described in the Certificate of Approval attached as Schedule "A" to this by-law, is hereby approved for the written reasons attached hereto as Schedule "B" to this by-law.

2. That the decision of the Council of The Corporation of the Town of Markham to approve the expropriation and the written reasons therefore be served upon the parties to the inquiry and upon the Inquiry Officer.
3. That the Mayor and Clerk are hereby authorized and directed to sign and execute on behalf of the Council of The Corporation of the Town of Markham and affix the corporate seal to the Certificate of Approval attached hereto as Schedule "A" and all other notices and documents which are necessary to carry out the provisions to this by-law.
4. That a Plan of Expropriation be prepared and registered in the proper land registry office.
5. That a Notice of Expropriation be served upon the registered owners together with a copy of the Expropriation Plan and a Notice of Election, relating to the date of assessment of compensation.
6. That an appraisal report estimating the market value of the above mentioned lands, be obtained from an accredited appraiser.
7. That an offer of an amount in full compensation for the registered owner's interest in the mentioned lands, and an offer for immediate payment of 100% of market value as estimated by the expropriating authority, all in accordance with s. 25 of the *Expropriations Act*, be served, together with a copy of the appraisal report on which the offer of compensation is based.
8. That a Notice of Possession be served requiring possession of the above mentioned lands at least three months after the date of service of said notice.
9. That the staff and authorized representatives of The Corporation of the Town of Markham are authorized and directed to do all things required arising from the authorizations provided for by this By-law.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
13<sup>TH</sup> DAY OF FEBRUARY, 2007.

  
SHEILA BIRRELL, TOWN CLERK

  
FRANK SCARPITTI, MAYOR

SCHEDULE "A"

Expropriations Act

**CERTIFICATE OF APPROVAL**

IN THE MATTER OF AN APPLICATION BY

THE CORPORATION OF THE TOWN OF MARKHAM

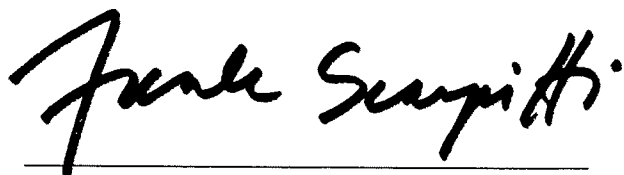
For approval to expropriate land being Part of Lot 9 in Concession 5 (formerly Township of Markham), designated as Parts 3 and 4 on Plan 65R-29253, in the Town of Markham, in the Regional Municipality of York.

The Council of The Corporation of the Town of Markham hereby certifies that approval was given to The Corporation of the Town of Markham on the 13th day of February, 2007 to expropriate the following lands:

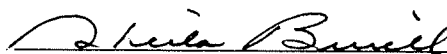
a free, uninterrupted and unobstructed right and easement in perpetuity, to enter on and construct, repair, replace, operate, maintain, and monitor municipal utilities including, but not limited to, an underground heating and cooling supply system including all necessary ductwork, service wires and cables, buried conduits, markers, fixtures and equipment as the Town of Markham ("Town") and/or any future assignee including Markham District Energy Inc. ("MDEI"), may from time to time or at any time hereafter deem requisite, in, over, along, across and upon the lands described as being Part of PIN 02988-0075 (LT) being Part of Lot 9, Concession 5 Markham, designated as Part 3 on Plan 65R-29253; and

a one year temporary easement or right in the nature of a temporary easement in, across, over, along and upon the land described as: Part of PIN 02988-0075 (LT) being Part of Lot 9 in Concession 5, Markham, designated as Part 4 on Plan 65R-29253 commencing on the date of registration of a conveyance thereof or of a plan of expropriation and expiring twelve (12) months later for the Town and/or any future assignee including MDEI its employees, agents and independent contractors to enter upon the lands with all necessary machinery, equipment and material required to facilitate the construction of the said municipal utilities including, but not limited to, an underground heating and cooling supply system.

The Council of The Corporation of the Town of  
Markham



Frank Scarpitti, Mayor



Sheila Birrell, Town Clerk

SCHEDULE "B"

IN THE MATTER OF AN APPLICATION TO EXPROPRIATE LAND BEING PART OF LOT 9 IN CONCESSION 5 (FORMERLY TOWNSHIP OF MARKHAM), DESIGNATED AS PARTS 3 AND 4 ON PLAN 65R-29253, IN THE TOWN OF MARKHAM, IN THE REGIONAL MUNICIPALITY OF YORK.

**Reasons for the Decision to Approve the Expropriation**

After considering the decision of Inquiry Officer Gillian Burton dated January 8, 2007 from the inquiry relating to the proposed taking, the Council of the Corporation of the Town of Markham agrees that the expropriation of the lands set out above is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority for the following reasons:

1. The expropriation will extend vital public utilities to municipally planned infrastructure in an environmentally sound and efficient manner taking advantage of the existing district energy system.
2. The expropriation will accommodate population growth within the Town of Markham by providing public utilities to a planned high school.
3. The expropriation will ensure the timely and cost effective delivery of essential services to the planned high school before winter construction in November 2007 and the scheduled opening of the school in September 2008.