



By-law 2017-105

A BY-LAW TO APPROVE THE EXPROPRIATION OF LAND IN FEE SIMPLE, IN THE CITY OF MARKHAM, IN THE REGIONAL MUNICIPALITY OF YORK, AS MORE PARTICULARLY DESCRIBED IN SCHEDULE "A" TO THIS BY-LAW

WHEREAS The Corporation of the City of Markham requires the lands more particularly described in Schedule "A" appended hereto (the "Lands") for parkland and trail purposes, and in particular for the construction and maintenance of the Mixed-Use Pathway east of Markham Road in the City of Markham and works ancillary thereto;

AND WHEREAS The Corporation of the City of Markham has been unable to purchase the Lands and must, therefore, expropriate the Lands;

AND WHEREAS pursuant to Section 6(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended (hereinafter referred to as the "*Municipal Act, 2001*"), the power of a municipality to acquire land under this or any other Act includes the power to expropriate land in accordance with the *Expropriations Act*, R.S.O. 1990, c.E.26, as amended (hereinafter referred to as the "*Expropriations Act*");

AND WHEREAS pursuant to Section 5(3) of the *Municipal Act, 2001*, a municipal power shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS the Council of the Corporation of the City of Markham on May 9, 2017, by passing By-law 2017-29, authorized an application for approval to expropriate the Lands for parkland and trail purpose and in particular for the construction and maintenance of the Mixed-Use Pathway east of Markham Road and works ancillary thereto;

AND WHEREAS Notice of Application for Approval to Expropriate Land has been served on the registered owners of the Lands and interest holders in the Lands in accordance with the provisions of the *Expropriations Act* and Ontario Regulation 363, R.R.O. 1990 as amended;

AND WHEREAS one request for a hearing of necessity was received and subsequently withdrawn prior to the scheduled date of the hearing of necessity, resulting in the cancellation of the hearing of necessity;

AND WHEREAS no hearing of necessity was held or required to be held;

AND WHEREAS pursuant to Section 4 of the *Expropriations Act*, an expropriating authority, in this case, The Corporation of the City of Markham, shall not expropriate land without the approval of the approving authority, in this case, the Council of The Corporation of the City of Markham;

AND WHEREAS The Corporation of the City of Markham shall conduct the expropriation in accordance with the *Expropriations Act*.


NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. THAT the Council of The Corporation of the City of Markham hereby approves expropriation of the Lands by The Corporation of the City of Markham.

2. THAT the Clerk is hereby authorized and directed to sign and execute a Certificate of Approval as required by the *Expropriations Act*.
3. THAT a plan of expropriation be prepared and registered in the proper land registry office.
4. THAT the City Solicitor is hereby authorized and directed to execute and serve all Notices and other documents which are necessary to carry out the provisions of this By-law and/or required by the *Expropriations Act*.
5. THAT a Notice of Expropriation be served upon the registered owners, together with a Notice of Election form as to the date of the assessment of compensation and a Notice of Possession as to the date the expropriating authority requires possession of the expropriated lands, all in accordance with the *Expropriations Act*.
6. THAT an appraisal report be obtained in respect of the market value of the expropriated Lands and, if applicable, damages for injurious affection and other compensation.
7. THAT an offer of full compensation and an offer for immediate payment of 100 per cent of the market value of the expropriated Lands as estimated by the expropriating authority be served, together with a copy of the appraisal report, all in accordance with section 25 of the *Expropriations Act*.
8. THAT compensation be paid to owner(s) following the acceptance of the offer made pursuant to section 25 of the *Expropriations Act*.
9. THAT all necessary steps be taken to obtain possession of the expropriated lands.
10. THAT the Officers and authorized agents of The Corporation of the City of Markham be and they are hereby otherwise authorized and directed to do all things required arising from the authorizations provided for by this By-law.
11. THAT this By-law comes into force on the day it is passed.

Read a first, second, and third time and passed on November 14, 2017.


Kimberley Kitteringham
City Clerk


Frank Scarpitti
Mayor

SCHEDULE "A" - BY-LAW NO. 2017-105

Those lands in the City of Markham, Regional Municipality of York described as follows:

1. Part of Lots 40, 41, 42 and 43 in Block M on Registered Plan 173 designated as Parts 5, 6, 7, 8, 9 and 11 on Reference Plan 65R-36046, in the City of Markham, Regional Municipality of York being part of PIN 02936-0377 (LT).