

**STAFF REPORT:      LEGAL SERVICES**



**REPORT TO:            Council**  
**MEETING DATE:      March 5, 2007**  
**REPORT NO.:          LS.01.07**  
**SUBJECT:              Georgian View Estates –  
Proposed Expropriation –  
Sanitary Sewer and Highway-  
Blocks 39, 42 and 43 Registered  
Plan 1079 (the “Plan”)**  
**PREPARED BY:        John G. Metras**

**A. Recommendations**

THAT Council:

- (1) Approve and authorize the Mayor and Clerk to sign an agreement, in a form approved by the Town Solicitor, between the Town and Kenneth and Sheila Clare Hoar providing for the withdrawal of their request for a hearing by way of an inquiry under the Expropriations Act.
- (2) Enact a by-law to approve the expropriation of:
  - (a) an easement over part of Block 39 on the Plan for the purposes of installing, operating and maintaining a sanitary sewer and all appurtenances thereto; and
  - (b) Blocks 42 and 43 on the Plan for the purposes of establishing these blocks as part of the highway known as Indian Circle.

AND THAT the Town Clerk be directed to make Offers of Compensation for the expropriated lands to the registered owners in accordance with the recommendation for compensation made by the Director of Special Projects and Treasurer as shown on Attachment 4.

**B. Background**

1. On October 23, 2006, Town Council passed by-law 2006-112 which authorized the commencement of all procedures required by the Expropriations Act (the “Act”) to expropriate a sanitary sewer easement over part of Block 39 on the Plan (the “Easement Lands”) and Blocks 42 and 43 on the Plan for the purpose of establishing these blocks as part of the highway known as Indian Circle. Attachment 1 to this report is a plan which shows the location of the Easement Lands in hatching.

2. The Town Clerk has, in accordance with section 6(1) of the Act, served a Notice of Application for Approval to Expropriate Land upon each registered owner of the Lands to be expropriated and has also caused the Notice to be published in the local newspapers.
3. Kenneth and Sheila Clare Hoar, the owners of Lot 23 and an undivided 1/38<sup>th</sup> interest in Blocks 39, 42 and 43 on the Plan (the “Owners”) notified the Town Clerk through their solicitor that they desired a hearing by way of an inquiry under to Act to consider whether the proposed expropriation was fair, sound and reasonably necessary in the achievement of the objectives of the Town.
4. Town staff and I met with the Owners to discuss their concerns with the expropriation and possible solutions to resolve these concerns. Their principle concern was the removal of mature trees from the Easement Lands in the course of installing the sanitary sewer. I have also discussed these concerns with their solicitor.
5. The Owners understand that it was inevitable that some trees would have to be removed and we have reached an agreement with them to withdraw their request for a hearing on the understanding that the Town will preserve as many of the existing trees as reasonably possible in the course of installing the sanitary sewer.
6. This agreement (Attachment 2):
  - (a) reduces the size of the Easement Lands – see Schedule “A”;
  - (b) confirms the location of the sewer pipe in an area of the Easement Lands reasonably free of mature trees;
  - (c) provides for the protection and preservation of as many of the existing trees as possible by the installation of tree protection fencing in locations determined by the Town after consulting with the Owners; and
  - (d) provides for the planting of trees on the Easement Lands when installation of the sewer is completed.
7. The reduced size of the Easement Lands is satisfactory to Town Staff and our engineers. With the request for a hearing withdrawn, Council can now proceed to pass a by-law (Attachment 3) approving the expropriation. The Town Clerk will then proceed to serve all the notices and other documents required by the Act.

### **C. The Blue Mountains’ Strategic Plan**

The assembly of this easement and the purchase of Blocks 42 and 43 are part of the Town’s goal to address its municipal infrastructure needs.

**D. Budget Impact** (cc: Treasury if required)

1. All of the costs of this expropriation related to the sewer easement will be included in the project costs for the Georgian View Estates sanitary sewer project and recovered from the benefiting owners as provided for by Town policies. In the interim the Town will fund these costs from the unfinanced capital account for the Georgian View Estates sanitary sewer project.
2. All the costs of the expropriation related to the lands for Indian Circle will be funded through the 2007 Roads Related Budget.
3. The Director of Special Projects and Treasurer has obtained appraisals for the expropriated lands and his recommendation for compensation is shown on Attachment 4.

**D. Attached** (Relevant documentation not personal information about an identifiable person)

1. Plan showing the original Easement Lands.
2. Agreement with the Owners – Schedule “A” shows the reduced Easement Lands
3. Proposed By-law approving the expropriation
4. The Director of Special Projects and Treasurer – Proposed Compensation

Respectfully submitted,  
John G. Metras Q.C., Town Solicitor

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