

Approval of Expropriation - Yellowhead Trail Freeway Conversion Program, Permanent Utility Right-of-Way over 13920 Yellowhead Trail NW

RECOMMENDATION

1. That the expropriation of the Utility Right of Way over the land as shown and legally described in Attachment 1 of the March 14, 2022, Office of the City Manager report OCM01031 (the "Utility Right of Way"), be approved.
2. That all steps under the *Expropriation Act*, RSA 2000, c. E-13 (the "*Expropriation Act*") be taken to complete the expropriation, including but not limited to, registering a certificate of approval of expropriation, and serving the notices of expropriation, notices of proposed payment, and notices of possession.

Report Purpose

Council decision required.

City Council is required to approve or disapprove expropriation of interests in property, which are required for construction of the Yellowhead Trail Freeway Conversion Program.

Executive Summary

- City Council, as approving authority under the *Expropriation Act*, is required to approve or disapprove the expropriation of the interest in the Property, which is required for construction of the Yellowhead Trail Freeway Conversion Program.
- In accordance with section 17(1) of the *Freedom of Information and Protection of Privacy Act*, Personal information has been redacted from Attachment 2: Affidavits of Service and Publication, which evidence proof of service of the notice of intention to expropriate on the owners and publication of the notice of intention to expropriate.

Approval of Expropriation - Yellowhead Trail Freeway Conversion Program, Permanent Utility Right-of-Way over 13920 Yellowhead Trail NW

REPORT

Expropriation Steps

- City Council may expropriate land pursuant to the *Expropriation Act*. On July 5, 2021, Council approved the commencement of the expropriation process to acquire the Utility Right of Way.
- Negotiations with owners did not result in either a voluntary acquisition or a section 30 agreement which is an agreement between the expropriating authority and the owner that allows an owner to provide express consent to the acquisition by the expropriating authority, pursuant to section 30 of the *Expropriation Act*.
- In December 2021, Administration registered a notice of intention to expropriate on the title to the Property shown and described on Attachment 1, served the notice of intention to expropriate on the owners, and published the notice of intention to expropriate in the Edmonton Journal.
- An owner has 21 days after being served with a notice of intention to expropriate to file a notice of objection to expropriation.
- The owners shown in Attachment 1 did not file a notice of objection to expropriation.
- The *Expropriation Act* states that if an owner does not object to the notice of intention to expropriate, City Council shall then approve or disapprove the proposed expropriation upon proof of service and proof of publication of the notice of intention to expropriate.
- Attachment 2 is a copy of the Affidavit of Service and Publication (exhibits excluded but available) evidencing proof of service on the owners and publication of the notice of intention to expropriate.
- If City Council approves the expropriation of the Property, Administration will register a certificate of approval to expropriate the Utility Right of Way on the title to the Property. If a certificate of approval to expropriate is not registered within the timelines in the *Expropriation Act*, the proposed expropriation is deemed abandoned.

Budget/Financial Implications

Funding for the acquisition of lands required for the Yellowhead Trail Freeway Conversion Program is provided from Capital Profile CM-99-0060. Expropriation costs currently identified are within the land budget for the Yellowhead Trail Freeway Conversion Program. Sufficient funding exists within this budget for the land considered in this report.

Legal Implications

1. An owner may object to an expropriation within 21 days of being served with a notice of intention to expropriate.
2. A notice of intention to expropriate is also advertised twice in the Edmonton Journal.
3. If an objection is filed, the Province will appoint an inquiry officer to conduct a hearing into whether the expropriation is fair, sound and reasonably necessary.

Approval of Expropriation - Yellowhead Trail Freeway Conversion Program, Permanent Utility Right-of-Way over 13920 Yellowhead Trail NW

4. Since no objection was filed, City Council may approve or disapprove the proposed expropriation upon proof of service and proof of publication in compliance with the *Expropriation Act*.
5. If City Council approves an expropriation, a certificate of approval of expropriation will be registered, making the City the owner of the land and removing all other Interests from the title. If a certificate of approval is not registered within the timeline in the *Expropriation Act*, the proposed expropriation is deemed abandoned.
6. If an expropriation is abandoned, the City must pay any actual loss sustained by an owner and the reasonable legal, appraisal and other costs incurred by the owner up to the abandonment.
7. After an interest is expropriated, the City must serve the owner with a notice of possession stating the date it must vacate by.
8. Prior to vacating, an owner will receive compensation in accordance with the *Expropriation Act*. The City is required to provide an owner with an appraisal setting out the market value.
9. The Land and Property Rights Tribunal will determine compensation if the parties cannot agree.
10. Reasonable legal, appraisal and other costs actually incurred by an owner in order to determine compensation are paid by the City.

COMMUNITY INSIGHT

Community insights are not available for this report because public engagement was not undertaken as this matter involves private information of third parties and the City and is subject to legal privilege.

GBA+

Acquiring the land necessary to complete the Yellowhead Trail Freeway Conversion Program will provide greater and more efficient access to the City of Edmonton for all Edmontonians.

ATTACHMENTS

1. Map & Legal Description of Subject Property
2. Affidavits of Service & Publication