

ATTACHMENT 3 TO REPORT LS 10-24

Expropriations Act

DECISION AND REASONS FOR APPROVAL TO EXPROPRIATE LAND

To: **David Modasi**
c/o Micah Goldstein & Dena Givari
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4100 – 66 Wellington Street West, PO Box 35
TD Bank Tower
Toronto, Ontario M5K 1B7

Landowner

And To: **Ontario Land Tribunal**
655 Bay Street, Suite 1500
Toronto, Ontario
M5G 1E5

Attention: Azeem Patel

IN THE MATTER OF an application by the Town of Whitby for approval to expropriate land, being **all right, title and interest** in the lands legally described as Part of Lot 20 Concession 5 (Geographic Township of Whitby) and part of Road Allowance between Lots 20 and 21 Concession 5 (Geographic Township of Whitby) as described in D76143, save and except lands designated as Parts 3 & 4 on Plan 40R-26759, in the Town of Whitby, Regional Municipality of Durham, being all of PIN 16264-0981 (LT) (the “Subject Property”).

AND IN THE MATTER OF a Hearing of Necessity in relation to the proposed expropriation of the Subject Property having been conducted by the Ontario Land Tribunal.

AND IN THE MATTER OF a Report of the Ontario Land Tribunal by Member Debra Arnold, issued on May 17, 2024.

The Council of the Town of Whitby, as the approving authority pursuant to the *Expropriations Act*, has received the Report of the Hearing of Necessity and has considered the Report, including the findings and opinions therein.

The Council of the Town of Whitby has **granted** to the Town of Whitby, on **June 24, 2024**, approval to expropriate all right, title, and interest in the above-noted Lands.

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The Council of the Town of Whitby approved the expropriation of the Subject Property for the following reasons:

1. The objective of The Corporation of the Town of Whitby is to construct a new urban mid-block arterial roadway extending from the intersection of Winchester Road and Cochrane Street in the Town of Whitby to approximately Thornton Road in the City of Oshawa (the “MBA Roadway,” or “MBAR Project”).
2. The MBAR Project will provide additional east-west servicing and traffic volume capacity in central and north Whitby to support future area growth and address growing capacity needs through this portion of the Town.
3. The right-of-way for the MBA Roadway will accommodate four lanes of through traffic, turning lanes at intersections or speed reduction approach curves at roundabouts, a multi-use path on the north side, and a sidewalk on the south side. These features will provide an enhanced pedestrian realm with trees, plantings, benches and pedestrian amenities.
4. The MBAR Project will also accommodate municipal services for both the Town and for Durham Region (storm sewer, sanitary sewer and watermain), and above and below ground utilities.
5. The Subject Property is required for the construction of the new arterial roadway and for facilitating the servicing initiatives in the area. The MBA Roadway will cut through the entirety of the Subject Property in an east-west direction. A “full taking” of the Subject Property avoids the creation of nonviable remnant remainders.
6. There is also a tributary of Pringle Creek that flows southward through the Subject Property. To accommodate this tributary, a crossing will need to be constructed beneath the MBA Roadway, situated approximately at the centre of the Subject Property.
7. The Town anticipates that this crossing will consist of multiple concrete box culverts that are designed to convey the storm flow with a 100-year return period without causing upstream flooding and road overtopping. As the MBAR Project will be constructed above grade at the Subject Property, additional lands beyond the standard road allowance will be required for grading purposes and creek protection work.
8. The intersection of the MBA Roadway at Thickson Road by the Subject Property will initially be constructed as a signalized intersection. The Town anticipates that this intersection will be reconstructed as a roundabout in the future to improve road safety

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when traffic demands align with financial capacity. The Subject Property is required for this future roundabout.

9. The Report of the Ontario Land Tribunal contains the finding that the proposed expropriation of the Lands is reasonably defensible.
10. The lands described herein are required for the MBAR Project and related works.
11. Further delay with respect to the acquisition of the required lands will adversely affect the construction schedule for the undertaking, while prolonging the deficiencies affecting this area of the Town.

DATED at this th day of , 2024.

THE COUNCIL OF THE TOWN OF WHITBY

PER: _____

Town Clerk