



Town of Whitby

By-law # 8105-24

DRAFT Expropriation Approval By-law for 5345 Thickson Road N

Being a By-law to approve the expropriation of lands by the Corporation of the Town of Whitby (the “**Corporation**”) being 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), municipally known in 2023 as 5345 Thickson Road North, Whitby (the “**Subject Property**”) for the purposes of constructing the Mid-Block Arterial roadway project and works ancillary thereto;

Whereas pursuant to Section 6(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, 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 (the “**Expropriations Act**”); and

Whereas by adoption of Resolution #171-23 by Council of the Corporation at its meeting dated July 26, 2023, the Council of the Corporation directed the approval of the commencement of expropriation proceedings for the Subject Property, for the purposes of constructing the Mid-Block Arterial roadway project and works ancillary thereto; and

Whereas a Notice of Application for Approval to Expropriate Land for the Subject Property was served and published, as required by the *Expropriations Act*; and

Whereas a Hearing of Necessity was requested by an owner of the Subject Property and such Hearing of Necessity was held before the Ontario Land Tribunal (“**Tribunal**”); and

Whereas the Council of the Corporation considered the Report of the Tribunal dated May 17, 2024 respecting the Hearing of Necessity and deems it necessary to acquire the Subject Property for the purposes of constructing the Mid-Block Arterial roadway project and works ancillary thereto; and

Whereas the Corporation now seeks approval for the expropriation of the Subject Property;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. General

- 1.1. That, as the approving authority in accordance with the *Expropriations Act*, approval is hereby granted for the expropriation by the Corporation of the

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Town of Whitby of all right, title and interest (fee simple) in the Subject Property for the above-described purposes.

- 1.2. That the Mayor and Town Clerk are hereby authorized to execute, on behalf of the Council of the Corporation of the Town of Whitby, the Certificate of Approval and all other notices, plans and documents which are necessary to carry out the provisions of this By-law, complete the expropriation and take possession of the expropriated lands.
- 1.3. That a plan of expropriation be prepared and registered in the Land Registry Office for the Land Titles Division of Durham (No. 40) and thereby effect the expropriation of the Subject Property.
- 1.4. 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.
- 1.5. That an appraisal report estimating the market value of the Subject Property be obtained from an accredited appraiser.
- 1.6. That a Notice of Possession be served upon the registered owners specifying the date the Corporation requires possession of the Subject Property, which shall be at least three (3) months after the date of service of said notice.
- 1.7. That an offer of an amount in full compensation for the registered owners' interests in the Subject Property, and an offer in the alternative for immediate payment of 100% of market value as estimated by the expropriating authority without prejudice to other claims under the *Expropriations Act* be served, together with a copy of the appraisal report on which the offer of compensation is based, all in accordance with s. 25 of the *Expropriations Act*.
- 1.8. That compensation be paid to the owners following the acceptance of the offer made pursuant to s. 25 of the *Expropriations Act*.
- 1.9. That all necessary steps be taken to complete the expropriation process and obtain possession of the Subject Property.
- 1.10. That the officers and authorized agents of the Corporation of the Town of Whitby are authorized and directed to do all things required arising from the authorizations provided by this By-law.

2. Short Title

- 2.1. The short title of this by-law shall be "Expropriation Approval By-law for 5345 Thickson Road N"

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By-law read and passed this 24th day of June, 2024.

Elizabeth Roy, Mayor

Christopher Harris, Town Clerk

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