
RECOMMENDATION:

(a) That as a result of a formal request for an Inquiry Hearing from one of the subject land owners, being DiCenzo Construction Company Limited, that the Council of the City of Hamilton as the Approving Authority in respect of the expropriation of part of 1073 West 5th, being Part 2 on Plan 62R-15255 (attached hereto as Appendix “A” to Report PW06065), be directed to give notice to the Chief Inquiry Officer of the Ministry of the Attorney General to request the services of a Hearing Officer to examine this matter.

(b) That the costs for the hearing be charged to Capital Budget Item No. 5160480483 West 5th Street Sanitary Sewer.

(c) That the Mayor and City Clerk be authorized and directed to execute any necessary documents in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY:

One of the property owners of lands to be expropriated for the installation of a municipal sewer on West 5th Street has asked for an Inquiry Hearing. Under the regulations of the Expropriations Act, the City of Hamilton as the Approving Authority must forward any
such requests to the Ministry of the Attorney General. This recommendation gives
direction to City Council to make such a request for a review of the proposed
expropriation.

BACKGROUND:
City Council on September 28, 2005 approved Item 6 of Public Works, Infrastructure
and Environment Committee Report 05-013 authorizing the commencement of the
expropriation of various easement interests of lands on West 5th and on Upper James
for the installation of a municipal sanitary sewer. The easements, in the Mewburn
Neighbourhood, are necessary to facilitate the construction of a sanitary sewer for
residents along West 5th Street between Rymal Road West and Stone Church Road
West, many with failing septic systems.

ANALYSIS OF ALTERNATIVES:
Should this recommendation not be approved, the City of Hamilton will be required to
abandon, delay or modify the expropriation of the various lands needed for the
approved sanitary sewer works on West 5th Street.

ANALYSIS/RATIONALE:
Approval of this recommendation will facilitate the processing of the request for the
Inquiry Hearing as legislated under the Expropriations Act.

ALTERNATIVES FOR CONSIDERATION:
City staff could, if directed, attempt to negotiate with the property owner to settle their
concerns outside of the Hearing process, but this would delay the Hearing process and
the construction schedule should staff not be able to negotiate a favourable settlement.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:
Financial: The costs of this Hearing are included in funding of Capital Budget Item
No. 5160480483 West 5th Street Sanitary Sewer.

Staffing: N/A

Legal: Services of Legal Services lawyers will be required to explain and defend
the basis for the terms and location of this municipal expropriation.

POLICIES AFFECTING PROPOSAL:
The City of Hamilton as an Expropriating Authority and as an Approving Authority under
the Expropriations Act, if requested, is required, to confirm the requirements for the
lands or interests to be taken by the City under the Expropriations Act.
RELEVANT CONSULTATION:

Staff from Legal Services, Public Works and Real Estate has been consulted in support of the City’s current position of the need for easements over lands on West 5th to facilitate the construction of the sanitary sewer line.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

The City is required to process the Request for a Hearing to justify the need for the lands to be expropriated. Once completed, the Hearing Officer will present the report confirming or denying the need of the subject lands for municipal purposes.

Environmental Well-Being is enhanced. ☐ Yes ☑ No

N/A.

Economic Well-Being is enhanced. ☐ Yes ☑ No

The facts coming out of the Hearing phase could avoid expenditure of additional costs to the City in the expropriation process.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No
APPENDIX "A" TO REPORT PW06065

KEY MAP

LOCATION PLAN

Request for Inquiry Hearing
Part of 1073 West 5th Street, Part 2 on Plan 62R-15255

CITY OF HAMILTON