

MEMORANDUM

CSC 14-2012

DATE: February 22, 2012

TO: Co-Chairs and Members
of the Corporate Services Committee

FROM: Brian Hutchings, B.Comm, CGA
Commissioner of Corporate Services/Treasurer

SUBJECT: **Market Value in Expropriations**

At the Corporate Services Committee Meeting on January 11, 2012, an inquiry was directed to staff about the Expropriations Act indicating that market value has an upper limit of the appraised value plus 10%. It was staff's recollection at that time that this was not the case.

This memorandum is to clarify that staff's recollection was accurate, that the appraised value plus 10% is not the upper limit of market value in the Expropriations Act. There is no mention in the Expropriations Act of appraised value plus 10%.

The concept of final compensation to the land owner being equal to market value plus 10% to 15% has previously been used by various agencies to entice a negotiated settlement in order to avoid expropriation. The intention is that the compensation value provided by this formula provides an allocation for the market value plus other items that the expropriating authority may be required to pay for without having to cost out each item. Ontario Hydro, Expropriation for Highway 407 and York Region as part of their rapid transit expansion have all used this type of policy and/or benchmarking for compensation to land owners as an incentive to reach a negotiated settlement in order to avoid expropriation.

For clarity and to ensure that the Committee has the correction information going forward, the definition of market value in the Expropriations Act is summarized below.

In the Expropriations Act in Ontario, the market value of land expropriated is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer. In determining the market value of land, no account shall be taken of, (a) the special use to which the expropriating authority will put the land; (b) any increase or decrease in the value of the land resulting from the development or the imminence of the development in respect of which the expropriation is made or from any expropriation or imminent prospect of expropriation; or (c) any increase in the value of the land resulting from the land being put to a use that could be restrained by any court or is contrary to law or is detrimental to the health of the occupants of the land or to the public health.

Where the land expropriated is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, and the owner genuinely intends to

relocate in similar premises, the market value shall be deemed to be the reasonable cost of equivalent reinstatement.

Where only part of the land of an owner is taken and such part is of a size, shape or nature for which there is no general demand or market, the market value and the injurious affection caused by the taking may be determined by determining the market value of the whole of the owner's land and deducting therefrom the market value of the owner's land after the taking.

In addition to market value, the land owner may also be entitled to compensation for special value, disturbance damages, severance damages and interests, and costs. The sum of all these items would be the total compensation paid to the land owner for the expropriation.



Brian Hutchings, B. Comm, CGA
Commissioner Corporate Services/Treasurer