



**City of Kingston
Report to Council
Report Number 16-051**

To:	Mayor and Members of Council
From:	Cynthia Beach, Commissioner, Corporate & Strategic Initiatives
Resource Staff:	Peter Huigenbos, Manager, Real Estate & Land Development
Date of Meeting:	January 26, 2016
Subject:	Sale of Expropriated Lands – Saccon and Graham

Executive Summary:

In 1992, the former Township of Kingston passed By-law 92-27 authorizing the expropriation of an interest in portions of two private properties on Lots 27 and 32 in Concession 5 owned by Marino and Natalia Saccon and Cecil Graham respectively for the purposes of intrusive and non-intrusive testing for a potential landfill. The Expropriation Plans were prepared incorrectly. Upon registration of the plans, the fee simple title of the properties was assumed by the Township instead of only a right to test. Both of the original owners have since passed away, and this report recommends that the City declare surplus and transfer the lands to the family beneficiaries of the original owners in accordance with the provisions of Section 42 of the Expropriations Act.

Recommendation:

That City Council declare surplus and dispose of two parcels of land described as Part 1 on Expropriation Plan FR572392 and Part 1 Expropriation Plan FR572393; and

That the Mayor and Clerk be authorized to execute all necessary agreements and other documents as may be required to sell Part 1 of Expropriation Plan FR572392 to Wilma Saccon, being the family beneficiary of the late owners from which the lands were expropriated in accordance with Section 42 of the Expropriations Act, for the sale price of \$1.00 in a form satisfactory to the Director of Legal Services; and

That the Mayor and Clerk be authorized to execute all necessary agreements and other documents as may be required to sell Part 1 of Expropriation Plan FR572393 to the Estate of Wilma Graham, being the Estate of the wife of the late owner from which the lands were expropriated in accordance with Section 42 of the Expropriations Act, for the sale price of \$1.00 in a form satisfactory to the Director of Legal Services.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER
**Cynthia Beach, Commissioner,
Corporate & Strategic Initiatives**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER
Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Community Services	Not required
Denis Leger, Transportation, Facilities & Emergency Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desiree Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:

In 1992 the former Township of Kingston was investigating potential sites for a new landfill. Council passed By-law 92-27 authorizing the approval to expropriate the right to enter upon certain lands in the Township of Kingston for the purpose of non-intrusive and intrusive testing. The two parcels affected were:

Part of Lot 27, Concession 5, described as Part 1 on 13R-10616 now described as Part 1 of Expropriation Plan FR572393, being a 67 acre parcel in the middle of a 182 acre property owned by the late Marino and Natalia Saccon (Exhibit "A");

Part of Lot 32, Concession 5, described as Part 1 on 13R-10615 now described as Part 1 of Expropriation Plan FR572393, being a 54 acre parcel of in the middle of a 100 acre property owned by the late Cecil Graham (Exhibit "B").

The intent of the Township was to expropriate only a limited interest to test on the properties as described in the by-law; however, the Expropriation Plans were prepared incorrectly. When the two plans were deposited in the registry office in 1992, the plans effectively conveyed the full fee simple interest in the properties to the Township.

Marino and Natalie Saccon subsequently transferred their property to their son Guerrino Saccon. Both Mr. Guerrino Saccon and Mr. Cecil Graham have passed and the ownership of their lands adjacent to the incorrectly expropriated parcels transferred to their wives. Mrs. Wilma Graham passed away in May of 2015. The Estate of Wilma Graham has uncovered the expropriation mistake, and has requested that the land be re-conveyed to the estate.

The Expropriations Act, Section 42, requires that the "expropriating authority", now defined as the City of Kingston, must give the owners from whom the lands were expropriated the first chance to repurchase the lands on the terms of the best offer received. Given the error was created by the municipality, it is recommended that the lands be conveyed directly back to the family beneficiaries of the original owners' estates for \$1.00 and that the City assume the legal costs of the transfer.

Existing Policy/By-Law:

The City's Disposition of Real Property Policy requires that all lands to be disposed of by the City be declared surplus by Council. The Policy also exempts public notice of disposal for lands being resold to owners for whom the land was originally expropriated. For the purposes of the policy, the family of the expropriated owners is deemed to be the original owner and no public notice has been given.

Notice Provisions:

The Expropriations Act does not require any notice be given in advance of the consideration of this motion.

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Accessibility Considerations:

None

Financial Considerations:

The sale of the lands will be for the nominal value of \$1.00 each. The transfer deeds will be prepared by the City of Kingston at its cost and will include the cost of registration estimated at less than \$200.00.

Contacts:

Peter Huigenbos, Manager, Real Estate & Land Development x 3148

Other City of Kingston Staff Consulted:

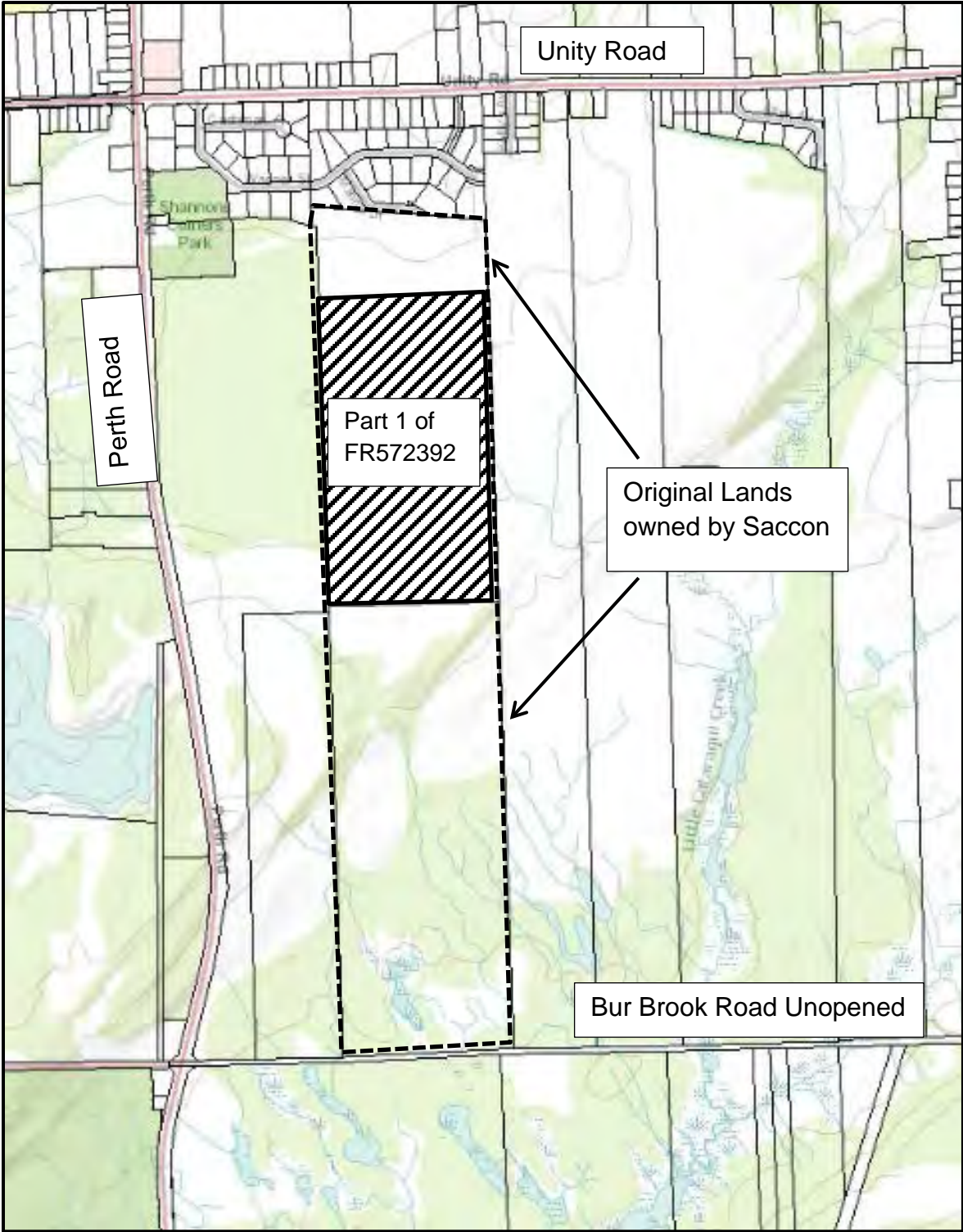
Susan Nicholson, Director of Legal Services and City Solicitor

Exhibits Attached:

Exhibit "A" – Part 1 of Expropriation Plan FR572392 - Saccon

Exhibit "B" – Part 1 of Expropriation Plan FR572393 - Graham

Part 1 of Expropriation Plan FR572392 – Saccon



Part 1 of Expropriation Plan FR572393 - Graham

