



## STAFF REPORT INFORMATION ONLY

### City Of Toronto's Planning Authority Relating To Lands In York Region – 2900 Steeles Avenue East in the Town of Markham

<b>Date:</b>	April 24, 2008
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	All
<b>Reference Number:</b>	File No. 08 103198 NPS 00 TM

#### **SUMMARY**

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This report outlines the City of Toronto's planning authority with respect to lands adjacent to Steeles Avenue in York Region and reviews the terms of an Agreement between the City of Toronto (formerly Metropolitan Toronto) and York Region dated April 8, 1974.

As a consequence of owning the full Steeles Avenue right-of-way, which is the boundary between Toronto and York Region, and by agreement with York Region, the City has limited planning authority over lands in York Region located immediately adjacent to Steeles Avenue. The "1974 Agreement" outlines a process for notification and mutual co-operation in the planning and development on both sides of Steeles Avenue. While the City has the ability to zone lands on the north side of Steeles Avenue, it can only do so in compliance with the regional and area municipality's Official Plans and with the agreement of York Region.

#### **FINANCIAL IMPACT**

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There are no financial impacts resulting from this report.

#### **DECISION HISTORY**

At its meeting held April 8, 2008, during consideration of Item NY14.53, <http://www.toronto.ca/legdocs/mmis/2008/ny/bgrd/backgroundfile-11352.pdf> an information report relating to a redevelopment application for lands situated at 2900

Steeles Avenue East in the Town of Markham, North York Community Council requested the City Solicitor to submit a report providing clarification of the City of Toronto's planning authority as it relates to lands in York Region. This report responds to that request and provides some history on the status of Steeles Avenue, including the relationship between the City of Toronto and York Region with respect to planning jurisdiction for lands adjacent to Steeles Avenue and outlines the terms of an Agreement between the Regional Municipality of York and City of Toronto (formerly the Municipality of Metropolitan Toronto) dated April 8, 1974.

## **BACKGROUND**

The northern limit of Steeles Avenue is the boundary between the City of Toronto and York Region. Unlike boundary roads where jurisdiction for the road is divided evenly between the two municipalities, jurisdiction for the Steeles Avenue right-of-way rests entirely with the City of Toronto. Prior to amalgamation, Steeles Avenue was part of the metropolitan road system established pursuant to the *Municipality of Metropolitan Toronto Act* (the "Metro Act"). Between 1975 and 1989 the northern portion of Steeles Avenue was gradually assumed by Metropolitan Toronto as a metro road pursuant to an agreement with York Region (the "1974 Agreement"). An amendment to the agreement in 1975 updated assumption dates for portions of Steeles Avenue which had been delayed due to construction timing.

A good discussion of the history and status of the acquisition of Steeles Avenue by Metropolitan Toronto can be found in a report dated May 25, 1995 from the Metropolitan Commissioner of Transportation, considered by Metro Council on August 16 and 17, 1995 as part of Metro Planning and Transportation Committee Report No. 18 Clause 35.

More recently, in September 2005, the City Solicitor provided an opinion to the Steeles Avenue Sub-Committee in camera confirming the City's ability to enforce its Temporary Signs By-law on signs located on the north portion of the Steeles Avenue right-of-way.

## **COMMENTS**

### **The 1974 Agreement with York Region**

The 1974 Agreement (Attachment 1) resolved York Region's objection to Metro's intention to assume the full right-of-way for Steeles Avenue. It outlines the general responsibilities of both regional municipalities regarding the management and operation of Steeles Avenue and Metro's rights and obligations with respect to its planning authority resulting from ownership of the full right-of-way.

The 1974 Agreement states:

- (1) York Region acknowledges that Metro has the authority to exercise all of the rights and powers and is subject to all of the general duties and obligations related to all other metro roads pursuant to the Metro Act.

- (2) Prior to exercising any powers provided by sections 90, 91 and 92 of the Metro Act that would affect lands within York Region, Metro is required to notify and obtain agreement from York Region.

[These sections from the Metro Act granted Metro (a regional municipality) the zoning authority of a local municipality over land lying within 45 metres (150 feet) of a metro road (s. 90) as well as the ability to control access (s. 91) and to prohibit access from or close both public and private roads intersecting with metro roads (s. 92).]

- (3) Metro and York are both required to circulate and consult with one another as early as possible on all proposed official plans, zoning by-laws, and plans of subdivisions that affect lands adjacent to Steeles Avenue. This is in addition to, not as a substitute for, any rights or procedures available under the Planning Act, the Ontario Municipal Board Act or elsewhere
- (4) The Metro Commissioners of Roads and Traffic and Planning and the York Commissioners of Engineering and Planning and members of their staff are to meet from time to time to discuss improvements to Steeles Avenue and development to be permitted on lands adjacent to Steeles Avenue.
- (5) (a) The Towns of Markham and Vaughan have the right to construct sidewalks, storm sewers or other improvements as they would normally have elsewhere (except that where Regional approval is required, Metro is the approving body); and  
  
(b) York Region has the same rights with respect to Steeles Avenue as though it were an area municipality's road. This allows it to carry out work on and under Steeles Avenue for the construction and maintenance of pipes, sewers etc., on the condition that the road surface be restored to its original condition.

### **The 1974 Agreement – in practice**

Over the years, the following practices have developed in accordance with the 1974 Agreement:

- (i) **Financial Responsibilities:**  
Since the entire Steeles Avenue right-of-way is within the City's jurisdiction, it is financially responsible for the operation (including traffic control signals and policing), maintenance and upgrades to Steeles Avenue itself. Sidewalks, storm sewers and street lighting fall under the jurisdiction of York Region (or the area municipality) and are their financial responsibility.
- (ii) **Access Control:**  
Development applications are circulated to City staff for comment and they will negotiate directly with developers and the local municipalities or York Region

regarding required access to new developments. York Region maintains a one foot reserve adjacent to much of the northerly limit of Steeles Avenue and will assist in reaching a consensus. It is agreed that the City has the ultimate responsibility to ensure that safe and efficient accesses are provided to Steeles Avenue.

(iii) Road Allowance Control:

Road Allowance Control responsibilities include permitting for pavement cuts, shoring, piling, hoarding, excess loads, street furniture, signs and streetscaping. Pedestrian tunnels, encroaching canopies or other structures and any temporary uses of the road allowance not dealt with through permits are referred to City Council and become the subject of encroachment agreements or other legal agreements with the City. York Region and the local municipalities refer applicants to the City routinely in these situations.

(iv) Zoning:

Metro Council never exercised its zoning authority north of Steeles Avenue, but rather Metro staff reviewed proposed official plan or zoning by-law changes to ensure conformity with the Metro Official Plan and to identify any mitigating measures (e.g., traffic signals, turning lanes) required to service the new development. These were secured by development agreement through York Region or the area municipality

These practices have generally continued through amalgamation although, due to the turnover of City and York Region staff, their origin (i.e. the 1974 Agreement) may have been lost. This report will serve as a reminder to Council and staff in the City and York Region of its requirements.

### **Impact of Amalgamation on Metro's Powers and the 1974 Agreement**

At amalgamation, the *City of Toronto Act, 1997* repealed the Metro Act. It provided that the new City of Toronto:

- is a local municipality for all purposes
- stands in the place of the old municipalities for all purposes; and
- retains *all powers* and duties, rights, interests, approvals, status, registrations, entitlements and *contractual benefits and obligations of the old municipalities*.

Therefore, all Metro's powers, including the power to zone lands within 45 metres of Steeles Avenue, were transferred to the new City of Toronto on amalgamation and the contract with York Region remains in force.

We have also reviewed the new *City of Toronto Act, 2006* ("COTA") and while it does not explicitly re-state the Metro Act powers it implicitly continues those powers.

In fact, as a consequence of the City of Toronto being characterized as a local municipality (whereas Metro was a regional or "upper tier" municipality) it also has the

general power given to all local municipalities by s. 34(1) of the *Planning Act* to zone lands adjacent to its roads. Unlike the Metro Act, there is no 45 metre distance limitation and so it would follow that the City can zone the entire adjoining lot. However, this power is subject to both the general *Planning Act* provisions requiring any zoning to conform to the official plan(s) for the area and the contractual obligations set out in the 1974 Agreement.

## **CONCLUSIONS**

The entire right-of-way of Steeles Avenue was assumed by Metro Toronto between 1975 and 1989 and is now a City of Toronto road. In a 1974 Agreement York Region consented to the assumption of Steeles Avenue by Metro and both parties agreed to act in a consultative and co-operative manner to plan development along Steeles Avenue. Planning applications along its length and on both sides of the boundary are to be circulated to the other municipality and senior transportation and planning staff are to meet regularly to address planning issues.

Whether carried over from the Metro Act, or provided by the Planning Act, the City does have authority to zone lands immediately adjacent to Steeles Avenue within York Region. Despite this planning authority, the City is still contractually bound to the process and obligations contained in the 1974 Agreement. Therefore, if the City intends to exercise its power to zone lands within York Region (or impose access restrictions or prohibitions to Steeles Avenue on lands or streets in York Region) it must provide notice and obtain York Region's agreement. The City cannot act unilaterally. In addition, as with any other zoning amendment, the zoning must conform to the local and upper tier official plans.

## **CONTACT**

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Senior Solicitor, Planning and Administrative Tribunal Law  
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## **SIGNATURE**

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Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

1. 1974 Agreement between the Regional Municipality of York and the Municipality of Metropolitan Toronto dated April 8, 1974.

THIS AGREEMENT made in triplicate this 8th day of April, 1974

BETWEEN:

THE REGIONAL MUNICIPALITY OF YORK  
hereinafter called "the Regional Corporation"

OF THE FIRST PART

- and -

THE MUNICIPALITY OF METROPOLITAN TORONTO  
hereinafter called "the Metropolitan Corporation"

OF THE SECOND PART

WHEREAS The Municipality of Metropolitan Toronto Act RSO 1970 c. 295 (hereinafter referred to as "the Act") provides, in effect, that, subject to the approval of the Lieutenant Governor in Council, the Metropolitan Corporation may assume boundary roads between the Metropolitan Area and an adjoining regional municipality on such terms and conditions as may be agreed upon between the Metropolitan Council and council of such regional municipality;

AND WHEREAS the parties hereto have agreed that Steeles Avenue comprising the boundary between The Municipality of Metropolitan Toronto and The Regional Municipality of York shall be assumed by the Metropolitan Corporation as a metropolitan road to form part of the Metropolitan Road System, on such terms and conditions as are hereinafter set out.

NOW THEREFORE THIS AGREEMENT WITNESSETH:

1. The Regional Corporation and the Metropolitan Corporation agree that, subject to approval of the Lieutenant Governor in Council, the Metropolitan Corporation may assume Steeles Avenue, comprising the boundary between The Municipality of Metropolitan Toronto and The Regional Municipality of York and that such assumption shall be effective

APPROVED AS TO FORM  
APR 11 1974  
M. H. H. H.

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the 1st day of January, 1975 for the portion of Steeles Avenue from the east boundary of the Metropolitan Area to Jane Street and shall be effective the 1st day of January, 1976 for the portion of Steeles Avenue from Jane Street to the west boundary of the Metropolitan Area.

2. Subject to paragraph 3, the Metropolitan Corporation shall have and may exercise all of the rights and powers and shall be subject to all of the duties and obligations with respect to the portions of Steeles Avenue assumed pursuant to this agreement as is the case under the Act with respect to roads forming part of the Metropolitan Road System and with respect to the assumption of roads.

3. Notwithstanding paragraph 2, the Metropolitan Corporation prior to exercising any of the powers provided by sections 90, 91 and 92 of the Act affecting lands within The Regional Municipality of York, shall give notice of the proposed exercise of such powers to the Regional Corporation and may thereafter exercise such powers with respect to lands in the Regional Area, insofar as such powers may be otherwise lawfully exercised, by agreement with the Regional Council and not otherwise.

4. The parties shall refer to each other at as early a stage as possible for study and comment all proposed official plans and amendments thereto, all proposed zoning by-laws and amendments thereto and all proposed plans of subdivision affecting lands adjacent to Steeles Avenue. The rights and obligations set out in this paragraph shall be in addition to and not in substitution for any rights provided by The Planning Act or by the rules of procedure of the Ontario Municipal Board or any other agency or department of the provincial government having jurisdiction in planning and zoning matters.

5. It is agreed that Steeles Avenue will have a designed ultimate width of 120 feet and that such width will be achieved generally by widening the existing Steeles Avenue equally on each side, except where realignment is necessary or desirable. Where widenings are to be obtained as a



result of approval of plans or subdivision or zoning by-laws or consents to sever lands (such widenings) shall be conveyed to the Metropolitan Corporation and, with regard to widenings obtained on the north side of Steeles Avenue, a 1 foot reserve will be conveyed to the Regional Corporation.

6. It is understood that it will be an objective of the parties to provide for a building setback of not less than 25 feet from the limits of the ultimate right-of-way of Steeles Avenue on both the north and south sides.

7. The Commissioner of Planning and the Commissioner of Roads and Traffic of the Metropolitan Corporation and the Commissioner of Planning and the Commissioner of Engineering of the Regional Corporation and members of their respective staffs will meet from time to time to discuss improvements to be made to Steeles Avenue and development to be permitted on lands adjacent thereto.

8. After the assumption of Steeles Avenue by the Metropolitan Corporation pursuant to this agreement

(a) the Corporation of the Town of Vaughan and the Corporation of the Town of Markham shall have and enjoy the same rights to construct sidewalks, storm sewers or other improvements or services on Steeles Avenue as they would under section 70 of The Regional Municipality of York Act if Steeles Avenue were a highway forming part of the York Regional Roads System except that all references in such section to approvals, requirements and conditions of the Regional Council shall be read as referring to approvals, requirements and conditions of the Metropolitan Council; and

(b) the Regional Corporation shall have and enjoy the same rights with respect to Steeles Avenue as it enjoys under



section 156 of The Regional Municipality of York Act with respect to highways of an area municipality, subject to the conditions expressed in such section.

IN WITNESS WHEREOF the parties have caused to be affixed their corporate seals, attested by the hands of their proper signing officers in that behalf duly authorized.



THE REGIONAL MUNICIPALITY OF YORK

*Harold Wright*  
Chairman

*[Signature]*  
Clerk

THE MUNICIPALITY OF METROPOLITAN TORONTO

*[Signature]*  
Chairman

*[Signature]*  
Clerk

DEPUTY *[Signature]*  
Treasurer

Authorized by Report No. 2 (3) of the Transportation Committee adopted in Council on the 12th day of January, 1974.  
*[Signature]*  
Metropolitan Clerk  
3/25/74 (74E)

Authorized by Item 14 of Report No. 1 of the Engineering Committee adopted by Council on the 17th day of January, 1974.

*[Signature]*  
Regional Clerk

ATTEST TO FORM  
*[Signature]* OAKM.

TTP

VP

Letter Dec. 4/75 A75022  
File 1624.0

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THIS AGREEMENT made in triplicate this 4th day of  
November, 1975.

B E T W E E N:

THE REGIONAL MUNICIPALITY OF YORK  
hereinafter called "the Regional Corporation"  
OF THE FIRST PART

- and -

THE MUNICIPALITY OF METROPOLITAN  
TORONTO  
hereinafter called "the Metropolitan  
Corporation"  
OF THE SECOND PART

WHEREAS by an agreement dated the 8th day of April, 1974,  
the Parties hereto agreed that the Metropolitan Corporation would  
assume as a Metropolitan Road that portion of Steele's Avenue from  
Jane Street to the west boundary of the Metropolitan Area effective  
the 1st day of January, 1976; and

WHEREAS certain construction work on Steele's Avenue  
between Islington Avenue and the west boundary of the Metropolitan  
Area has been delayed; and

WHEREAS the Parties hereto have agreed that the date for  
the assumption by the Metropolitan Corporation of Steele's Avenue  
as a metropolitan road should be amended as hereinafter set out.

NOW THEREFORE THIS AGREEMENT WITNESSETH:

1. The Regional Corporation and the Metropolitan Corporation  
agree that, subject to the approval of the Lieutenant Governor in  
Council, the Metropolitan Corporation may assume Steele's Avenue  
from Jane Street to the west boundary of the Metropolitan Area and  
that such assumption shall be effective the 1st day of January, 1976,  
for the portion of Steele's Avenue from Jane Street to Islington  
Avenue and shall be effective the 1st day of January, 1979, for the  
portion of Steele's Avenue from Islington Avenue to the west  
boundary of the Metropolitan Area and the said agreement dated the

APPROVED AS TO FORM  
A. B. G. H. I. J. K. L. M. N. O. P. Q. R. S. T. U. V. W. X. Y. Z.

8th day of April, 1974, is hereby amended to give effect thereto:

It is understood and agreed that all the other provisions and conditions of the said agreement dated the 8th day of April, 1974, shall remain as they now are and that this agreement shall amend the said agreement only so far as is stated herein.

IN WITNESS WHEREOF the Parties have caused to be affixed their corporate seals, attested by the hands of their proper signing officers in that behalf duly authorized.

Authorized by Item 10 of Report 15 of the Engineering Committee adopted by Council at its meeting held on the 25th of September, 1975

Regional Clerk 2/11/75

APPROVED AS TO FORM

*Ingram Orves*

Authorized by Report No. 1261 of the Transportation Committee at its meeting on the 24th day of 1975  
Metropolitan Clerk 5/11/75

THE REGIONAL MUNICIPALITY OF YORK

Chairman

Clerk

THE MUNICIPALITY OF METROPOLITAN TORONTO

Chairman

Metropolitan Clerk

Treasurer